

CR96-2687 DC-0900084396-001  
STATE VS. FRANK MILFORD PECK 1 Page  
District Court 04/17/2017 03:10 PM  
Washoe County  
VINTAGE

Code 2515  
Frank M. Peck 57106  
H.D.S. P Box 650  
Indian Springs, Nv. 89070  
Petitioner prose - LFP

FILED

2017 APR 17 PM 3:10

JACQUELINE BRYANT  
CLERK OF THE COURT

Electronically Filed  
Apr 20 2017 08:50 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

Frank M. Peck, CASE NO CR 96-2687  
Petitioner,  
vs.  
State of Nevada, NOTICE OF APPEAL  
Respondent.

NOTICE is hereby given that the Petitioner  
Frank M. Peck, hereby Appeals the ORDER  
DISMISSING SUCCESSIVE PETITIONS FOR WRIT OF  
HABEAS CORPUS (POST CONVICTION) ENTERED HEREIN ON  
April 7, 2017 to the Nevada Supreme Court.

Dated April 13, 2017

Electronic service on registered parties via the Clerk's NOTICE W.R.C.P. Rule  
5 (b)(2)(D) & N.C.F.C.R. RULES 9(b)(4).  
Affirmation: Contains no social security numbers of any person NRS 239B.030.

Frank Peck  
Frank Peck Pet prose.

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**Code 1310**

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE**

**STATE OF NEVADA,**

**Plaintiff,**

**Case No. CR96-2687**

**vs.**

**Dept. No. 6**

**FRANK M. PECK,**

**Defendant.**

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**CASE APPEAL STATEMENT**

This case appeal statement is filed pursuant to NRAP 3(f).

1. Appellant is Frank M. Peck.
2. This appeal is from an order entered by the Honorable Judge Lynne Simons.
3. Appellant is representing himself in Proper Person on appeal. The Appellant's address is:  
  
Frank M. Peck, #57106  
HDSP Box 650  
Indian Springs, NV 89070
4. Respondent is the State of Nevada. Respondent is represented by the Washoe County District Attorney's Office:  
  
Terrance McCarthy, Esq., SBN: 2745  
P.O. Box 11130  
Reno, Nevada 89520
5. Respondent's attorney is not licensed to practice law in Nevada: NA

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- 6. Appellant was not represented by appointed counsel in District Court.
- 7. Appellant is not represented by appointed counsel on appeal.
- 8. Appellant was denied leave to proceed in forma pauperis in the District Court filed on April 7, 2017.
- 9. Proceeding commenced by the filing of an Information filed on December 9, 1996.
- 10. This is a criminal proceeding and the Appellant is appealing an Order Dismissing Successive Petitions for Writ of Habeas Corpus (Post-Conviction) filed on April 7, 2017.
- 11. The case has been the subject of a previous appeal to the Supreme Court: Supreme Court No: 32031, 65521, 71021, and 72680.
- 12. This case does not involve child custody or visitation.
- 13. This is not a civil case involving the possibility of a settlement.

Dated this 18th day of April, 2017.

Jacqueline Bryant  
Clerk of the Court

By: /s/ Phillip Sewell  
Phillip Sewell  
Deputy Clerk

**SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE**

Case History - CR96-2687

DEPT. D6

HON. LYNNE K. SIMONS

Report Date & Time

4/18/2017

2:19:00PM

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**Case Description: STATE VS. FRANK MILFORD PECK (D6)**

**Case ID:** CR96-2687      **Case Type:** CRIMINAL      **Initial Filing Date:** 12/9/1996

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**Parties**

ATTY	DENNIS E. WIDDIS - @701416
RESL	STATE OF NEVADA - STATE
APPD	FRANK M. PECK - @503904
PNP	Div. of Parole & Probation - DPNP
DA	Terrence P. McCarthy, Esq. - 2745
DEFT	FRANK M. PECK - @503904

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**Charges**

<i>Charge No.</i>	<i>Charge Code</i>	<i>Charge Date</i>	<i>Charge Description</i>
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**Plea Information**

<i>Charge No.</i>	<i>Plea Code</i>	<i>Plea Date</i>	<i>Plea Description</i>
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**Release Information**

*Custody Status*

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**Hearings**

<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
1	D6 Request for Submission	11/19/2013	14:45:00	12/18/2013

Event Extra Text: PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION), NOTICE AND EXHIBITS

**Disposition:**  
S200 12/18/2013  
ORDER

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<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
2	D6 Request for Submission	12/19/2013	14:25:00	1/14/2014

Event Extra Text: PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)

**Disposition:**  
S200 1/14/2014  
order requesting response from the state.

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<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
3	D6 Request for Submission	2/20/2014	16:20:00	4/9/2014

Event Extra Text: MOTION TO DISMISS PETITION FOR WRIT OF HABEAS

**Disposition:**  
S200 4/9/2014  
ORDER

**Case Description: STATE VS. FRANK MILFORD PECK (D6)**

**Case ID: CR96-2687 Case Type: CRIMINAL Initial Filing Date: 12/9/1996**

Department	Event Description	Sched. Date & Time	Disposed Date
4 D6	Tickle Start Code	3/10/2014 07:00:00	3/10/2014

Event Extra Text: HAS STATE RESPONDED TO PETITION?

**Disposition:**  
T200 3/10/2014

Department	Event Description	Sched. Date & Time	Disposed Date
5 D6	Request for Submission	7/7/2016 10:48:00	7/14/2016

Event Extra Text: DEFENDANT'S MOTION FOR MODIFICATION OF SENTENCE (PAPER ORDER NOT PROVIDED)

**Disposition:**  
S200 7/14/2016  
ORDER

Department	Event Description	Sched. Date & Time	Disposed Date
6 D6	Request for Submission	1/19/2017 09:39:00	4/7/2017

Event Extra Text: MOTION FOR ORDER TO SHOW CAUSE WHY PETITIONER SHOULD NOT BE IMMEDIATELY RELEASED FROM HIS ILLEGAL RESTRAINT FILED DECEMBER 29, 2016.

**Disposition:**  
S200 4/7/2017  
order

Department	Event Description	Sched. Date & Time	Disposed Date
7 D6	Request for Submission	2/13/2017 16:07:00	4/7/2017

Event Extra Text: PETITION FOR WRIT OF HC

**Disposition:**  
S200 4/7/2017  
order

**Agency Cross Reference**

Code	Agency Description	Case Reference I.D.
SC	Supreme Court	SCN 72680
SC	Supreme Court	SCN 32031
SC	Supreme Court	SCN 65521
SC	Supreme Court	SCN 71021

**Actions**

Action Entry Date	Code	Code Description	Text
1/1/1996	1315	** Case Closed	
12/9/1996	1800	Information	
12/9/1996	1250	Application for Setting	12/13/96 ARRAIGNMENT
12/13/1996	MIN	***Minutes	DECEMBER 13, 1996 ARRAIGNMENT
12/27/1996	3700	Proceedings	
1/6/1997	4185	Transcript	DECEMBER 13, 1996 ARRAIGNMENT
1/23/1997	4075	Substitution of Counsel	SUBSTITUTING DENNIS WIDDIS, ESQ. IN PLACE OF PUBLIC DEFENDER VAUN HALL
2/4/1997	3370	Order ...	SEALING MOTION REQUESTING DEFENSE SERVICES AND TRANSCRIPTS AT PUBLIC EXPENSE AS WEL
2/5/1997	1670	Ex-Parte Mtn...	SEALED - EX PARTE MOTION FOR AUTHORIZATION OF DEFENSE SERVICES AT PUBLIC EXPENSE; AND
2/5/1997	2777	Ord Approving ...	ORDER PROVIDING DEFENSE SERVICES AND TRANSCRIPTS AT PUBLIC EXPENSE
3/10/1997	2490	Motion ...	MOTION TO AMEND INFORMATION TO ADD WITNESS
3/10/1997	2490	Motion ...	MOTION TO CONTINUE TRIAL
3/10/1997	2490	Motion ...	MOTION TO CONTINUE TRIAL
3/13/1997	3370	Order ...	ORDER TO AMEND INFOMRATION TO ADD WITNESS

**Case Description: STATE VS. FRANK MILFORD PECK (D6)**

<b>Case ID:</b>	<b>CR96-2687</b>	<b>Case Type:</b>	<b>CRIMINAL</b>	<b>Initial Filing Date:</b>	<b>12/9/1996</b>
3/19/1997	MIN	***Minutes		MARCH 19, 1997 MOTION TO CONFIRM TRIAL DATE	
4/2/1997	2490	Motion ...		MOTION FOR SEIZURE ORDER	
4/3/1997	1270	Application ...		IN THE MATTER OF THE APPLICATION FOR A SEIZURE ORDER FOR FRANK M. PECK	
4/16/1997	2490	Motion ...		MOTION TO AMEND INFORMATION TO ADD WITNESS	
4/17/1997	4185	Transcript		MARCH 19, 1997 MOTION TO CONTINUE	
4/22/1997	3897	Return		RETURN OF SERVICE (SEIZURE ORDER)	
5/6/1997	2490	Motion ...		MOTION TO AMEND INFORMATION TO ADD WITNESSES	
5/7/1997	3370	Order ...		ORDER TO AMEND INFORMATION TO INCLUDE WITNESS	
5/12/1997	2280	Mtn to Continue		DEFENDANT'S SECOND MOTION TO CONTINUE TRIAL	
5/13/1997	MIN	***Minutes		MAY 13, 1997 MOTION TO CONTINUE TRIAL DATE	
5/14/1997	2490	Motion ...		MOTON TO AMEND INFORMATION TO ADD WITNESS	
5/19/1997	3980	Stip and Order...		STIPULATION AND ORDER RE: DISCOVERY	
5/19/1997	3370	Order ...		ORDER TO AMEND INFORMATION TO INCLUDE WITNESSES	
5/22/1997	3370	Order ...		ORDER TO AMEND INFORMATION TO ADD WITNESS	
6/18/1997	4185	Transcript		MAY 13, 1997 MOTION TO CONFIRM TRIAL DATE	
8/1/1997	MIN	***Minutes		AUGUST 1, 1997 PRE-TRIAL MOTIONS	
8/1/1997	2480	Mtn to Suppress...		DEFENDANT'S MOTION TO SUPPRESS	
8/1/1997	2245	Mtn in Limine		DEFENDANT'S MOTION IN LIMINE REGARDING CHARACTER EVIDENCE	
8/13/1997	4185	Transcript		AUGUST 1, 1997 PRE-TRIAL MOTIONS	
8/28/1997	4105	Supplemental ...		DEFENDANT'S SUPPLEMENTAL POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO SUPPRESS	
8/29/1997	MIN	***Minutes		AUGUST 29, 1997 MOTION TO SUPPRESS	
9/2/1997	MIN	***Minutes		09/02/97 - 09/05/97 JURY TRIAL (MISTRIAL-HUNG JURY)	
9/2/1997	2245	Mtn in Limine		DEFENDANT'S MOTION IN LIMINE TO EXCLUDE REFERENCES TO HIS INCARCERATION	
9/2/1997	2245	Mtn in Limine		DEFENDANT'S MOTION IN LIMINE TO EXCLUDE REFERENCES TO HIS MARITAL STATUS	
9/4/1997	3373	Other ...		DEFENDANT'S PROPOSED JURY INSTRUCTIONS WITH SUPPORTING POINTS AND AUTHORITIES	
9/5/1997	1885	Jury Instructions		JURY INSTRUCTIONS 1-29	
9/5/1997	3755	Refused Instructions-Deft		DEFENDANT'S REFUSED INSTRUCTIONS A-D	
9/6/1997	4235	Unused Verdict Form(s)...		ONE (1) FORM -COUNT II	
9/6/1997	4235	Unused Verdict Form(s)...		ONE (1) FORM - COUNT I	
9/6/1997	4235	Unused Verdict Form(s)...		ONE (1) FORM -COUNT I	
9/6/1997	4235	Unused Verdict Form(s)...		ONE (1) FORM - COUNT II	
9/6/1997	4235	Unused Verdict Form(s)...		RE: VOLUNTARINESS OF STATEMENTS	
9/7/1997	1890	Jury Question, Court Response		JURY QUESTIONS DURING TESTIMONY AND DELIBERATIONS	
9/11/1997	1250	Application for Setting		09/23/97 MOTION TO SET TRIAL @ 8:30 A.M.	
9/11/1997	4185	Transcript		AUGUST 29, 1997 MOTIONS	
9/23/1997	MIN	***Minutes		SEPT. 23, 1997 MOTION TO SET TRIAL	
9/26/1997	1250	Application for Setting		MOTION TO SET TRIAL 10/02/97 @ 8:30	
9/30/1997	4185	Transcript		SEPTEMBER 23, 1997 MOTION TO CONTINUE	
10/2/1997	MIN	***Minutes		OCT. 2, 1997 MOTION TO SET TRIAL DATE	

**Case Description: STATE VS. FRANK MILFORD PECK (D6)**

<b>Case ID:</b>	<b>CR96-2687</b>	<b>Case Type:</b>	<b>CRIMINAL</b>	<b>Initial Filing Date:</b>	<b>12/9/1996</b>
10/8/1997	4185	Transcript		OCTOBER 2, 1997 MOTION TO SET TRIAL DATE	
10/16/1997	4185	Transcript		SEPTEMBER 3, 1997 JURY TRIAL VOLUME II	
11/4/1997	1670	Ex-Parte Mtn...		*SEALED* - DEFENDANT'S EX PARTE CLAIM FOR EXPENSES	
11/4/1997	3980	Stip and Order...		STIPULATION AND ORDER RE: SUBPOENAS	
11/6/1997	3370	Order ...		*SEALED* ORDER FOR PAYMENT OF INVESTIGATOR'S FEES AND COSTS	
11/17/1997	4185	Transcript		JURY TRIAL SEPTEMBER 4, 1997 VOLUME III	
11/17/1997	4185	Transcript		JURY TRIAL SEPTEMBER 21, 1997 VOLUME I	
11/17/1997	4185	Transcript		SEPTEMBER 4, 1997 MOTIONS	
11/17/1997	4185	Transcript		JURY TRIAL SEPTEMBER 5, 1997 VOLUME IV	
12/5/1997	MIN	***Minutes		DEC. 5, 1997 MOTION TO CONFIRM TRIAL DATE	
12/10/1997	2245	Mtn in Limine		DEFENDANT'S MOTION IN LIMINE FOR RECONSIDERATION OF RULING CONCERNING USE OF PRIVILEGE	
12/11/1997	2315	Mtn to Dismiss ...		DEFENDANT'S MOTION TO DISMISS	
12/12/1997	2245	Mtn in Limine		DEFENDANT'S MOTION IN LIMINE CONCERNING PVIOUS JURY VERDICTS	
12/12/1997	3870	Request		DEFENDANT'S REQUEST TO HAVE JURY INSTRUCTED ON LESSER-RELATED OFFENSES	
12/12/1997	2490	Motion ...		DEFENDANT'S MOTION FOR PERMISSION TO EXAMINE PROSPECTIVE JURORS CONCERNING AREAS OF	
12/15/1997	MIN	***Minutes		DEC. 15, 1997 - DEC. 19, 1997 JURY TRIAL	
12/15/1997	2645	Opposition to Mtn ...		OPPOSITION TO MOTION IN LIMINE RE: PRIVILEGED INFORMATION AND MATERIALS	
12/15/1997	1695	** Exhibit(s) ...		STATE'S EXHIBITS - EXHIBIT 43 CONTAINS SOCIAL SECURITY NUMBERS AND IS SEALED	
12/15/1997	1695	** Exhibit(s) ...		DEFENDANTS EXHIBITS	
12/17/1997	4185	Transcript		DECEMBER 5, 1997 MOTION TO CONFIRM	
12/18/1997	4185	Transcript		DECEMBER 17, 1997 PARTIAL TRANSCRIPT OF JURY TRIAL (PARTIAL RE-CROSS EXAMINATION OF LES	
12/19/1997	1960	Memorandum ...		DEFENDANT'S MEMORANDUM IN SUPPORT OF AGAIN SUBMITTING A SPECIAL VERDICT FORM CONCE	
12/19/1997	3755	Refused Instructions-Deft		DEFENDANT'S REFUSED INSTRUCTION A	
12/19/1997	4245	Verdict(s)...		FINDING DEFENDANT GUILTY OF COUNT I	
12/19/1997	3755	Refused Instructions-Deft		DEFENDANT'S REJECTED INSTRUCTION D	
12/19/1997	4235	Unused Verdict Form(s)...		UNUSED VERDICT FORM (1) COUNT II	
12/19/1997	4235	Unused Verdict Form(s)...		UNUSED VERDICT FORM (1) COUNT I	
12/19/1997	3755	Refused Instructions-Deft		DEFENDANT'S REJECTED INSTRUCTION C	
12/19/1997	4245	Verdict(s)...		FINDING DEFENDANT GUILTY OF COUNT II	
12/19/1997	4245	Verdict(s)...		FINDING NOVEMBER 16-17 1996 POLICE STATEMENTS OF THE DEFENDANT VOLUNTARY	
12/19/1997	1885	Jury Instructions		JURY INSTRUCTIONS 1-28	
12/19/1997	3755	Refused Instructions-Deft		DEFENDANT'S REJECTED INSTRUCTION B	
2/4/1998	3370	Order ...		ORDER CONTINUANCE SENTENCING FROM FEBRUARY 6, 1998 TO MARCH 17, 1998	
2/5/1998	3980	Stip and Order...		STIPULATION AND ORDER VACATING AND CONTINUANCE SENTENCING	
3/13/1998	4505	Crt Ord Psych Eval - Conf.		DEFENDANT'S MATERIALS FOR CONSIDERATION AT SENTENCING (INCLUDING NEURO PSYCHOLOGIA	
3/17/1998	4500	PSI - Confidential			
3/17/1998	MIN	***Minutes		MARCH 17, 1998 SENTENCING	
3/17/1998	1850	Judgment of Conviction			
3/19/1998	1310	Case Appeal Statement			

**Case Description: STATE VS. FRANK MILFORD PECK (D6)**

<b>Case ID:</b>	<b>CR96-2687</b>	<b>Case Type:</b>	<b>CRIMINAL</b>	<b>Initial Filing Date:</b>	<b>12/9/1996</b>
3/19/1998	2515	Notice of Appeal Supreme Court			
3/19/1998	4300	Withdrawal of Counsel	DENNIS WIDDIS, ESQ.		
3/23/1998	1350	Certificate of Clerk			
3/23/1998	1670	Ex-Parte Mtn...	SEALED - DEFENDANT'S EX PARTE CLAIM FOR EXPENSES		
3/23/1998	1365	Certificate of Transmittal			
3/25/1998	4185	Transcript	MARCH 17, 1998 SENTENCING		
4/14/1998	1270	Application ...	VERIFIED APPLICATION FOR ADMISSION TO PRACTICE UNDER NEVADA SUPREME COURT RULE 42 (JL		
4/27/1998	3370	Order ...	ORDER FOR PAYMENT OF MENTAL HEALTH CONSULTANT FEES		
9/1/1998	1930	Letters ...	LETTER FROM DEFENDANT		
9/16/1998	1930	Letters ...	LETTER FROM DEFENDANT		
10/1/1998	4150	Supreme Ct Rule 42 Statement	JULIUS A. DIX, ESQ.		
10/1/1998	4150	Supreme Ct Rule 42 Statement	JULIUS A. DIX, ESQ.		
10/1/1998	1290	Association of Counsel	ASSOCIATING LLOYD DOUGAS DIX, ESQ. WITH THE LAW OFFICES OF KRAVITZ, SNITZER & SLOAN		
10/1/1998	2777	Ord Approving ...	ORDER APPROVING ADMISSION OF COUSNEL PRO HAEC VICE		
10/5/1998	1930	Letters ...	LETTER FROM DEFENDANT		
10/28/1998	1930	Letters ...	FROM DEFENDANT		
11/5/1998	4185	Transcript	DECEMBER 15 & 16, 2997 JURY TRIAL VOLUME I OF IV		
11/5/1998	4185	Transcript	DECEMBER 17, 1997 JURY TRIAL VOLUME II OF IV		
11/5/1998	4185	Transcript	DECEMBER 18, 1997 JURY TRIAL VOLUME III OF IV		
11/5/1998	4185	Transcript	DECEMBER 19, 1997 JURY TRIAL VOLUME IV OF IV		
5/6/1999	4185	Transcript	SEPTEMBER 6, 1997 TRIAL		
9/19/2000	1930	Letters ...	FROM DEFENDANT		
9/25/2000	4111	Supreme Ct Clk's Cert & Judg			
9/25/2000	4120	Supreme Court Opinion			
9/25/2000	4145	Supreme Court Remittitur			
10/31/2000	2840	Ord Denying ...	DEFENDANT'S MOTION FOR TRIAL RECORDS		
1/30/2001	1930	Letters ...	FROM DEFENDANT		
3/21/2003	2665	Ord Accepting Reassignment			
12/3/2003	IMG	**Entered/Imaged on Wrong Case	DEC. 3, 2003 EVIDENTIARY HEARING (NO EXHIBIT LIST ATTACHED)		
12/19/2007	3760	Refused Instructions-Pltf	STATE'S REJECTED INSTRUCTION 1		
11/6/2009	PAYRC	**Payment Received	A Payment of -\$25.00 was made on receipt DCDC253576.		
9/18/2012	NEF	Proof of Electronic Service	Transaction 3224393 - Approved By: NOREVIEW : 09-18-2012:13:43:21		
9/18/2012	4128	Supreme Court Order Denying	SUPREME COURT CASE NO. 61202/ORDER DENYING PETITION - Transaction 3224302 - Approved By: NOI		
10/11/2013	1477	**Consolidated With...	CONSOLIDATED WITH CR96P2687. PLEASE FILE ALL FUTURE PLEADINGS IN THIS CASE.		
11/19/2013	3860	Request for Submission	DOCUMENT TITLE: PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION), NOTICE AND EXHI		
12/5/2013	4100	Supplemental Petition	SUPPLEMENTAL PETITION FOR WRIT OF HABEAS (POST-CONVICTION) RELIEF		
12/18/2013	1325	** Case Reopened			
12/18/2013	S200	Request for Submission Complet	ORDER		
12/18/2013	3370	Order ...	Transaction 4206649 - Approved By: NOREVIEW : 12-18-2013:11:52:33		

**Case Description: STATE VS. FRANK MILFORD PECK (D6)**

Case ID:	CR96-2687	Case Type:	CRIMINAL	Initial Filing Date:	12/9/1996
12/18/2013	NEF	Proof of Electronic Service	Transaction 4206689 - Approved By: NOREVIEW : 12-18-2013:12:00:31		
12/18/2013	3860	Request for Submission	DOCUMENT TITLE: PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)		
1/14/2014	S200	Request for Submission Complet	order requesting response from the state.		
2/3/2014	2610	Notice ...	JUDICIAL NOTICE AND MOTION		
2/3/2014	NEF	Proof of Electronic Service	Transaction 4287625 - Approved By: NOREVIEW : 02-03-2014:16:29:17		
2/3/2014	2300	Mtn to Dismiss Pet	MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) - Transaction 4287		
2/3/2014	1130	Answer ...	ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) - Transaction 4287507 - App		
2/14/2014	3795	Reply...	REPLY TO ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)		
2/14/2014	2645	Opposition to Mtn ...	OPPOSITION TO MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)		
2/20/2014	NEF	Proof of Electronic Service	Transaction 4313204 - Approved By: NOREVIEW : 02-20-2014:16:00:55		
2/20/2014	3860	Request for Submission	- Transaction 4313039 - Approved By: SHAMBRIG : 02-20-2014:15:59:28		
2/20/2014	3795	Reply...	REPLY TO OPPOSITION TO MOTION TO DISMISS - Transaction 4313039 - Approved By: SHAMBRIG : 02-20-		
3/10/2014	T200	Tickle End Code			
4/9/2014	S200	Request for Submission Complet	ORDER		
4/9/2014	NEF	Proof of Electronic Service	Transaction 4379432 - Approved By: NOREVIEW : 04-09-2014:09:40:33		
4/9/2014	2922	Ord Dismiss Post Conviction	Transaction 4379421 - Approved By: NOREVIEW : 04-09-2014:09:37:40		
4/21/2014	2515	Notice of Appeal Supreme Court	Appellant, Frank Peck, proper		
4/21/2014	2490	Motion ...	MOTION FOR MEET AND CONFIR AND OR SCHEDULING ORDER PRCP 16, 16.1		
4/23/2014	NEF	Proof of Electronic Service	Transaction 4399929 - Approved By: NOREVIEW : 04-23-2014:14:43:23		
4/23/2014	2540	Notice of Entry of Ord	Transaction 4399925 - Approved By: NOREVIEW : 04-23-2014:14:42:27		
4/24/2014	1350	Certificate of Clerk	CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 4401597 - Approved By: N		
4/24/2014	NEF	Proof of Electronic Service	Transaction 4401603 - Approved By: NOREVIEW : 04-24-2014:11:08:29		
4/24/2014	1310E	Case Appeal Statement	Transaction 4401597 - Approved By: NOREVIEW : 04-24-2014:11:07:11		
4/28/2014	2515	Notice of Appeal Supreme Court			
5/1/2014	NEF	Proof of Electronic Service	Transaction 4413066 - Approved By: NOREVIEW : 05-01-2014:15:42:41		
5/1/2014	1188	Supreme Court Receipt for Doc	SUPREME CT NO. 65521/RECEIPT FOR DOCUMENTS - Transaction 4413061 - Approved By: NOREVIEW : 0		
5/12/2014	FIE	**Document Filed in Error	FIE- filed in wrong case, asmith 05/14/14		
5/14/2014	NEF	Proof of Electronic Service	Transaction 4431456 - Approved By: NOREVIEW : 05-14-2014:10:58:44		
5/14/2014	1310E	Case Appeal Statement	Transaction 4431445 - Approved By: NOREVIEW : 05-14-2014:10:57:44		
5/14/2014	1350	Certificate of Clerk	CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 4431445 - Approved By: N		
5/20/2014	NEF	Proof of Electronic Service	Transaction 4439403 - Approved By: NOREVIEW : 05-20-2014:09:23:06		
5/20/2014	1188	Supreme Court Receipt for Doc	SUPREME COURT NO. 65521/RECEIPT FOR DOCUMENTS - Transaction 4439389 - Approved By: NOREVIEW		
6/11/2014	NEF	Proof of Electronic Service	Transaction 4471433 - Approved By: NOREVIEW : 06-11-2014:09:17:32		
6/11/2014	4126	Supreme Ct Order Directing...	SUPREME COURT NO. 65521/ORDER DIRECTING TRANSMISSION OF RECORD - Transaction 4471429 - A		
7/25/2014	NEF	Proof of Electronic Service	Transaction 4533187 - Approved By: NOREVIEW : 07-25-2014:09:21:22		
7/25/2014	1350	Certificate of Clerk	CERTIFICATE OF CLERK AND TRANSMITTAL - RECORD ON APPEAL - Transaction 4533185 - Approved By:		
12/1/2014	NEF	Proof of Electronic Service	Transaction 4715319 - Approved By: NOREVIEW : 12-01-2014:13:44:45		
12/1/2014	4134	Supreme Court Order Affirming	SUPREME COURT NO. 65521/ORDER OF AFFIRMANCE - Transaction 4715314 - Approved By: NOREVIEW :		
12/31/2014	NEF	Proof of Electronic Service	Transaction 4755490 - Approved By: NOREVIEW : 12-31-2014:10:06:39		

**Case Description: STATE VS. FRANK MILFORD PECK (D6)**

<b>Case ID:</b>	<b>CR96-2687</b>	<b>Case Type:</b>	<b>CRIMINAL</b>	<b>Initial Filing Date:</b>	<b>12/9/1996</b>
12/31/2014	4128	Supreme Court Order Denying	SUPREME COURT NO. 65521/ORDER DENYING REHEARING - Transaction 4755484 - Approved By: NOREV		
3/31/2015	4128	Supreme Court Order Denying	SUPREME COURT NO. 65521/ORDER DENYING EN BANC RECONSIDERATION - Transaction 4885732 - Ap		
3/31/2015	NEF	Proof of Electronic Service	Transaction 4885738 - Approved By: NOREVIEW : 03-31-2015:14:16:18		
4/24/2015	4128	Supreme Court Order Denying	SUPREME COURT NO. 65521 / ORDER DENYING EN BANC RECONSIDERATION - Transaction 4922284 - A		
4/24/2015	4111	Supreme Ct Clk's Cert & Judg	SUPREME COURT NO. 65521 / CLERK'S CERTIFICATE & JUDGMENT - Transaction 4922284 - Approved By:		
4/24/2015	NEF	Proof of Electronic Service	Transaction 4922288 - Approved By: NOREVIEW : 04-24-2015:10:17:02		
4/24/2015	4145	Supreme Court Remittitur	SUPREME COURT NO. 65521 / REMITTITUR - Transaction 4922284 - Approved By: NOREVIEW : 04-24-2015		
4/24/2015	4128	Supreme Court Order Denying	SUPREME COURT NO. 65521 / ORDER DENYING REHEARING - Transaction 4922284 - Approved By: NORE		
4/24/2015	4134	Supreme Court Order Affirming	SUPREME COURT NO. 65521 / ORDER OF AFFIRMANCE - Transaction 4922284 - Approved By: NOREVIEW		
6/16/2016	2490	Motion ...	NOTICE OF MOTION /MOTIONS FOR MODIFICATION OF SENTENCE		
6/16/2016	3862	**Criminal Submit	DOCUMENT TITLE: NOTICE OF MOTION/MOTIONS FOR MODIFICATION OF SENTENCE		
6/23/2016	NEF	Proof of Electronic Service	Transaction 5576159 - Approved By: NOREVIEW : 06-23-2016:10:02:31		
6/23/2016	2645	Opposition to Mtn ...	OPPOSITION TO MOTION FOR MODIFICATION OF SENTENCE - Transaction 5575777 - Approved By: CSUL		
7/5/2016	3795	Reply...	REPLY TO OPPOSITION TO MOTION FOR MODIFICATION OF SENTENCE		
7/7/2016	NEF	Proof of Electronic Service	Transaction 5596809 - Approved By: NOREVIEW : 07-07-2016:09:32:41		
7/7/2016	3860	Request for Submission	DEFENDANT'S MOTION FOR MODIFICATION OF SENTENCE (PAPER ORDER NOT PROVIDED) - Transacti		
7/14/2016	S200	Request for Submission Complet	ORDER		
7/14/2016	NEF	Proof of Electronic Service	Transaction 5607958 - Approved By: NOREVIEW : 07-14-2016:09:43:28		
7/14/2016	2842	Ord Denying Motion	FOR MODIFICATION OF SENTENCE - Transaction 5607952 - Approved By: NOREVIEW : 07-14-2016:09:42:2		
8/8/2016	2515	Notice of Appeal Supreme Court	Appellant, Frank Peck		
8/9/2016	NEF	Proof of Electronic Service	Transaction 5650499 - Approved By: NOREVIEW : 08-09-2016:16:37:09		
8/9/2016	1350	Certificate of Clerk	CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 5650496 - Approved By: N		
8/9/2016	1310E	Case Appeal Statement	Transaction 5650496 - Approved By: NOREVIEW : 08-09-2016:16:34:20		
8/16/2016	2515	Notice of Appeal Supreme Court	Appellant, Frank M. Peck		
8/18/2016	1350	Certificate of Clerk	CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 5666343 - Approved By: N		
8/18/2016	1310E	Case Appeal Statement	Transaction 5666343 - Approved By: NOREVIEW : 08-18-2016:14:01:25		
8/18/2016	1188	Supreme Court Receipt for Doc	Transaction 5664933 - Approved By: NOREVIEW : 08-18-2016:09:15:09		
8/18/2016	NEF	Proof of Electronic Service	Transaction 5664944 - Approved By: NOREVIEW : 08-18-2016:09:16:17		
8/18/2016	NEF	Proof of Electronic Service	Transaction 5666346 - Approved By: NOREVIEW : 08-18-2016:14:02:26		
8/29/2016	NEF	Proof of Electronic Service	Transaction 5681721 - Approved By: NOREVIEW : 08-29-2016:11:27:44		
8/29/2016	1188	Supreme Court Receipt for Doc	SUPREME COURT NO. 71021 / RECEIPT FOR DOCUMENTS - Transaction 5681714 - Approved By: NOREVII		
10/4/2016	2385	Mtn Proceed Forma Pauperis	APPLICATION TO PROCEED INFORMA PAUPERIS		
10/4/2016	3585	Pet Writ Habeas Corpus	PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)		
10/11/2016	4127	Supreme Ct Ord Dismis Appeal	SUPREME COURT NO. 71021 / ORDER DISMISSING APPEAL - Transaction 5751922 - Approved By: NOREV		
10/11/2016	NEF	Proof of Electronic Service	Transaction 5751931 - Approved By: NOREVIEW : 10-11-2016:15:47:30		
10/25/2016	1955	Memorandum Points&Authorities	MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORF		
12/29/2016	2145	Mtn Ord to Show Cause	NOTICE OF MOTION AND MOTION FOR ORDER TO SHOW CAUSE WHY PETITIONER SHOULD NOT BE IN		
1/19/2017	3860	Request for Submission	DOCUMENT TITLE: MOTION FOR ORDER TO SHOW CAUSE WHY PETITIONER SHOULD NOT BE IMMED		
1/26/2017	3585	Pet Writ Habeas Corpus			

**Case Description: STATE VS. FRANK MILFORD PECK (D6)**

<b>Case ID:</b>	<b>CR96-2687</b>	<b>Case Type:</b>	<b>CRIMINAL</b>	<b>Initial Filing Date:</b>	<b>12/9/1996</b>
1/27/2017	3373	Other ...	RULE 60 (a) CLERICAL MISTAKE CORRECTION		
2/13/2017	3860	Request for Submission	PETITIONER FRANK M PECK PROSE HEREBY REQUEST THAT HIS PETITION FOR WRIT OF HABEAS CO		
3/30/2017	NEF	Proof of Electronic Service	Transaction 6025144 - Approved By: NOREVIEW : 03-30-2017:12:06:18		
3/30/2017	1188	Supreme Court Receipt for Doc	SUPREME COURT NO. 72680 / RECEIPT FOR DOCUMENTS - Transaction 6025134 - Approved By: NOREVII		
4/7/2017	2540	Notice of Entry of Ord	Transaction 6041129 - Approved By: NOREVIEW : 04-07-2017:15:53:05		
4/7/2017	2922	Ord Dismiss Post Conviction	SUCCESSIVE PETITIONS FOR WRIT OF HC - Transaction 6040592 - Approved By: NOREVIEW : 04-07-2017:		
4/7/2017	NEF	Proof of Electronic Service	Transaction 6040598 - Approved By: NOREVIEW : 04-07-2017:13:54:15		
4/7/2017	NEF	Proof of Electronic Service	Transaction 6041134 - Approved By: NOREVIEW : 04-07-2017:15:54:09		
4/7/2017	F230	Other Manner of Disposition			
4/7/2017	S200	Request for Submission Complet	order		
4/7/2017	S200	Request for Submission Complet	order		
4/17/2017	NEF	Proof of Electronic Service	Transaction 6054117 - Approved By: NOREVIEW : 04-17-2017:10:59:36		
4/17/2017	4133	Supreme Court Notice	SUPREME COURT NO. 72680 / NOTICE OF TRANSFER TO COURT OF APPEALS - Transaction 6054113 - Aj		
4/17/2017	2515	Notice of Appeal Supreme Court	Appellant Frank Peck		
4/18/2017	1310E	Case Appeal Statement	Transaction 6057475 - Approved By: NOREVIEW : 04-18-2017:14:17:38		
4/18/2017	1365	Certificate of Transmittal	CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 6057475 - Approved By: N		

**SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE**

Case History - CR96P2687

DEPT. D6

HON. LYNNE K. SIMONS

Report Date & Time

4/18/2017

2:19:52PM

<b>Case ID:</b>	<b>CR96P2687</b>	<b>Case Type:</b>	<b>Case Description: Consolidated into CR96-2687 POST CONVICTION</b>	<b>Initial Filing Date:</b>	<b>9/19/2001</b>
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**Parties**

PATY	ROBERT E. GLENNEN - 2143
PETR	FRANK MILFORD PECK - @3461
APPP	FRANK MILFORD PECK - @3461
RESP	STATE OF NEVADA - STATE
RESD	STATE OF NEVADA - STATE
APPE	FRANK MILFORD PECK - @3461
DA	Christopher J. Hicks, Esq. - 7747
DA	Terrence P. McCarthy, Esq. - 2745
DATY	Gary Howard Hatlestad, Esq. - 1525
DATY	ROBERT E. GLENNEN - 2143

**Charges**

<i>Charge No.</i>	<i>Charge Code</i>	<i>Charge Date</i>	<i>Charge Description</i>
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**Plea Information**

<i>Charge No.</i>	<i>Plea Code</i>	<i>Plea Date</i>	<i>Plea Description</i>
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**Release Information**

*Custody Status*

**Hearings**

<b>1</b>	<b>Department</b>	<b>Event Description</b>	<b>Sched. Date &amp; Time</b>		<b>Disposed Date</b>
	D6	EVIDENTIARY HEARING	12/3/2003	13:30:00	12/3/2003
	Event Extra Text: EVIDENTIARY HEARING REQUESTED BY COURT 3 HRS ROBERT GLENNON - 702-384-8981 TERRENCE MCCARTHY - 337-5750		<b>Disposition:</b> D355 12/3/2003 PETITIONER'S CLAIM IS DENIED		
<b>2</b>	D6	Request for Submission	12/17/2010	11:10:00	2/9/2011
	Event Extra Text: FIRST AMENDED PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) (NO PAPER ORDER)		<b>Disposition:</b> S200 2/9/2011 order		

**Case Description: Consolidated into CR96-2687**

**Case ID: CR96P2687 Case Type: POST CONVICTION Initial Filing Date: 9/19/2001**

<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>	<i>Disposed Date</i>
3 D6	Request for Submission	12/17/2010 11:15:00	2/9/2011
Event Extra Text: EX PARTE MOTION FOR APPOINTMENT OF COUNSEL AND REQUEST FOR EVIDENTIARY HEARING (NO PAPER ORDER)		<b>Disposition:</b> S200 2/9/2011 order	

<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>	<i>Disposed Date</i>
4 D6	Request for Submission	12/22/2011 16:50:00	2/10/2012
Event Extra Text: MOTION FOR LEAVE TO FILE SUPPLEMENTAL POINTS AND AUTHORITIES IN SUPPORT OF THE PENDING WRIT OF HABEAS CORPUS (POST CONVICTION)		<b>Disposition:</b> S200 2/10/2012 ORDER	

<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>	<i>Disposed Date</i>
5 D6	Request for Submission	12/22/2011 16:50:00	2/10/2012
Event Extra Text: SUPPLEMENTAL MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF WRIT OF HABEAS CORPUS (POST CONVICTION)		<b>Disposition:</b> S200 2/10/2012 ORDER	

**Agency Cross Reference**

<i>Code</i>	<i>Agency Description</i>	<i>Case Reference I.D.</i>
SC	Supreme Court	SCN 60878
SC	Supreme Court	SCN 60343
SC	Supreme Court	SCN 38835
SC	Supreme Court	SCN 57968
SC	Supreme Court	SCN 42672
SC	Supreme Court	SCN 60040

**Actions**

<i>Action Entry Date</i>	<i>Code</i>	<i>Code Description</i>	<i>Text</i>
9/19/2001	1955	Memorandum Points&Authorities	PET'S APPENDIX TO PET FOR WRIT
9/19/2001	3585	Pet Writ Habeas Corpus	
9/25/2001	3862	**Criminal Submit	DOCUMENT TITLE: PET FOR WRIT
10/19/2001	3370	Order ...	DENYING PET FOR WRIT
10/19/2001	2535	Notice of Entry of Judgment	
10/19/2001	1315	** Case Closed	
11/5/2001	2490	Motion ...	TO RECONSIDER ORDER DENYING POST CONVICTION WRIT
11/19/2001	2650	Opposition to ...	MOTION TO RECONSIDER ORDER DENYING POST CONVICTION
11/21/2001	1350	Certificate of Clerk	
11/21/2001	1365	Certificate of Transmittal	
11/21/2001	2515	Notice of Appeal Supreme Court	
11/21/2001	1310	Case Appeal Statement	
11/28/2001	1187	**Supreme Court Case No. ...	FOR ISSUE NO. 38835
3/5/2003	4125	Supreme Court Order...	SUPREME COURT CASE NO. 38835
3/6/2003	1330	**Case Submitted Random Assign	DOCUMENT TITLE: CASE SUBMITTED TO D6 FOR CONSIDERATION OF REASSIGNMENT
3/21/2003	1312	Case Assignment Notification	
3/21/2003	3370	Order ...	ACCEPTING RANDOM ASSIGNMENT

Case ID:	CR96P2687	Case Type:	Case Description: Consolidated into CR96-2687 POST CONVICTION	Initial Filing Date:	9/19/2001
5/7/2003	4128	Supreme Court Order Denying	SUPREME COURT CASE NO. 38835		
6/4/2003	4134	Supreme Court Order Affirming	SUPREME COURT CASE NO. 38835		
6/4/2003	4145	Supreme Court Remittitur	SUPREME COURT CASE NO. 38835		
6/4/2003	4128	Supreme Court Order Denying	SUPREME COURT CASE NO. 38835		
6/4/2003	4111	Supreme Ct Clk's Cert & Judg	SUPREME COURT CASE NO. 38835		
6/24/2003	3862	**Criminal Submit	DOCUMENT TITLE: ORDER AFFIRMING IN PART, REVERSING IN PART AND REMAND		
7/14/2003	3370	Order ...	TO SET HEARING		
7/14/2003	1325	** Case Reopened			
7/25/2003	1250	Application for Setting	EVIDENTIARY HEARING - 12/3/03		
8/27/2003	3340	Ord to Produce Prisoner	TO APPEAR ON 12-3-03		
8/27/2003	1260	Application Produce Prisoner			
12/1/2003	2592	Notice of Witnesses	PETITIONER'S LIST OF WITNESSES		
12/3/2003	1695	** Exhibit(s) ...	DEFENSE EXHIBITS		
12/3/2003	MIN	***Minutes	12/03/03 EVIDENTIARY HEARING		
12/8/2003	4185	Transcript	12/03/03 - EVIDENTIARY HEARING		
12/31/2003	1750	Findings, Conclusions & Judg	PETITION FOR WRIT OF HABEAS CORPUS DISMISSED		
12/31/2003	2540	Notice of Entry of Ord			
12/31/2003	1315	** Case Closed			
1/12/2004	2515	Notice of Appeal Supreme Court			
1/15/2004	1350	Certificate of Clerk			
1/15/2004	1365	Certificate of Transmittal			
1/20/2004	3980	Stip and Order...	THAT PETITIONER MAY PROCEED IN FORMA PAUPERIS		
1/20/2004	1310	Case Appeal Statement			
1/21/2004	1187	**Supreme Court Case No. ...	SUPREME COURT CASE NO. 42672		
1/21/2004	1188	Supreme Court Receipt for Doc	SUPREME COURT CASE NO. 42672		
1/27/2004	3370	Order ...	FOR PAYMENT OF TRANSCIRTION FEES		
7/12/2005	4134	Supreme Court Order Affirming	SUPREME COURT CASE NO. 42672		
8/9/2005	4134	Supreme Court Order Affirming	SUPREME COURT CASE NO. 42672		
8/9/2005	4145	Supreme Court Remittitur	SUPREME COURT CASE NO. 42672		
8/9/2005	4111	Supreme Ct Clk's Cert & Judg	SUPREME COURT CASE NO. 42672		
8/7/2008	2385	Mtn Proceed Forma Pauperis	MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS		
8/7/2008	1325	** Case Reopened			
8/7/2008	1670	Ex-Parte Mtn...	EX PARTE MOTION FOR APPOINTMENT OF COUNSEL AND REQUEST FOR EVIDENTIARY HEARING		
8/7/2008	3862	**Criminal Submit	DOCUMENT TITLE: IFP/ POST-CONVICTION / EX PARTE MOTION FOR APPOINTMENT OF COUNSEL AN		
8/7/2008	1030	Affidavit in Support...	AFFIDAVIT IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS		
8/7/2008	3585	Pet Writ Habeas Corpus	PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)		
8/7/2008	1955	Memorandum Points&Authorities	MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF WRIT OF HABEAS CORPUS/POST-CON		
8/15/2008	3035	Ord Grant in Forma Pauperis			
8/16/2008	1315	** Case Closed			

Case ID:	CR96P2687	Case Type:	Case Description: Consolidated into CR96-2687 POST CONVICTION	Initial Filing Date:	9/19/2001
11/5/2008	2225	Mtn for Transfer ...	MOTION TO TRANSFER BACK TO DEPT 8: FRANK PECK		
8/13/2009	3860	Request for Submission	DOCUMENT TITLE: PETITION FOR WRIT OF HABEAS CORPUS		
10/26/2009	2525	Notice of Change of Address			
4/28/2010	1955	Memorandum Points&Authorities	MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF WRIT OF HABEAS CORPUS/POST-CON		
4/28/2010	3565	Pet Post-Conviction Relief	1ST AMENDED PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)		
6/24/2010	2490	Motion ...	MOTION TO RENEW PREVIOUSLY FILED MOTIONS		
12/16/2010	3860	Request for Submission	DOCUMENT TITLE: EX PARTE MOTION FOR APPOINTMENT OF COUNSEL AND REQUEST FOR EVIDENT		
12/16/2010	3860	Request for Submission	DOCUMENT TITLE: FIRST AMENDED PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) (N		
12/17/2010	1325	** Case Reopened			
2/9/2011	2842	Ord Denying Motion	FOR APPOINTMENT OF COUNSEL; DISMISSING PETITION - Transaction 2022652 - Approved By: NOREVIEW		
2/9/2011	S200	Request for Submission Complet	order		
2/9/2011	S200	Request for Submission Complet	order		
2/9/2011	NEF	Proof of Electronic Service	Transaction 2022660 - Approved By: NOREVIEW : 02-09-2011:09:23:00		
2/9/2011	1315	** Case Closed			
3/1/2011	2540	Notice of Entry of Ord	Transaction 2061346 - Approved By: NOREVIEW : 03-01-2011:14:26:46		
3/1/2011	NEF	Proof of Electronic Service	Transaction 2061351 - Approved By: NOREVIEW : 03-01-2011:14:28:21		
3/16/2011	1365	Certificate of Transmittal	Transaction 2095469 - Approved By: LMATHEUS : 03-16-2011:08:56:50		
3/16/2011	1350	Certificate of Clerk	Transaction 2095469 - Approved By: LMATHEUS : 03-16-2011:08:56:50		
3/16/2011	1215	Application Appoint Counsel	Transaction 2095469 - Approved By: LMATHEUS : 03-16-2011:08:56:50		
3/16/2011	2610	Notice ...	EX PARTE JUDICIAL NOTICE - Transaction 2096996 - Approved By: LMATHEUS : 03-16-2011:14:36:32		
3/16/2011	2515	Notice of Appeal Supreme Court	Frank Peck - Transaction 2096996 - Approved By: LMATHEUS : 03-16-2011:14:36:32		
3/16/2011	2515	Notice of Appeal Supreme Court	FRANK PECK, APPELLANT - Transaction 2095469 - Approved By: LMATHEUS : 03-16-2011:08:56:50		
3/16/2011	1310E	Case Appeal Statement	Transaction 2095469 - Approved By: LMATHEUS : 03-16-2011:08:56:50		
3/16/2011	NEF	Proof of Electronic Service	Transaction 2095484 - Approved By: NOREVIEW : 03-16-2011:08:58:48		
3/16/2011	NEF	Proof of Electronic Service	Transaction 2097006 - Approved By: NOREVIEW : 03-16-2011:14:38:17		
3/17/2011	4109	Supreme Ct Accept - eFile Doc	SUPREME COURT CASE NO. 57968/NOTICE OF APPEAL Transaction 2099238 - Approved By: NOREVIEW :		
3/17/2011	NEF	Proof of Electronic Service	Transaction 2099248 - Approved By: NOREVIEW : 03-17-2011:14:20:37		
3/21/2011	NEF	Proof of Electronic Service	Transaction 2104253 - Approved By: NOREVIEW : 03-21-2011:12:52:45		
3/21/2011	1188	Supreme Court Receipt for Doc	SUPREME COURT CASE NO. 57968/RECEIPT FOR DOCUMENTS - NOTICE OF APPEAL - Transaction 2104;		
3/31/2011	4126	Supreme Ct Order Directing...	SUPREME COURT CASE NO. 57968/ORDER DIRECTING TRANSMISSION OF RECORD - Transaction 2129;		
3/31/2011	NEF	Proof of Electronic Service	Transaction 2129517 - Approved By: NOREVIEW : 03-31-2011:12:45:51		
4/20/2011	FIE	**Document Filed in Error	5-3-11 - LMATHEUS		
4/20/2011	FIE	**Document Filed in Error	5-4-11 - LMATHEUS		
5/11/2011	NEF	Proof of Electronic Service	Transaction 2217900 - Approved By: NOREVIEW : 05-11-2011:09:28:13		
5/11/2011	1350	Certificate of Clerk	CERTIFICATE OF CLERK AND TRANSMITTAL - RECORD ON APPEAL - Transaction 2217850 - Approved By:		
5/23/2011	NEF	Proof of Electronic Service	Transaction 2241246 - Approved By: NOREVIEW : 05-23-2011:09:31:50		
5/23/2011	1188	Supreme Court Receipt for Doc	SUPREME COURT CASE NO. 57968/RECEIPT FOR DOCUMENTS VOLS 1 through 3 - Transaction 2241239 -		
7/19/2011	NEF	Proof of Electronic Service	Transaction 2354687 - Approved By: NOREVIEW : 07-19-2011:13:25:21		
7/19/2011	4134	Supreme Court Order Affirming	SUPREME COURT CASE NO. 57968/ORDER OF AFFIRMANCE - Transaction 2354675 - Approved By: NORE		

**Case Description: Consolidated into CR96-2687**

<b>Case ID:</b>	<b>CR96P2687</b>	<b>Case Type:</b>	<b>POST CONVICTION</b>	<b>Initial Filing Date:</b>	<b>9/19/2001</b>
9/21/2011	4128	Supreme Court Order Denying	SUPREME COURT CASE NO 57968/ORDER DENYING REHEARING - Transaction 2482700 - Approved By: N		
9/21/2011	NEF	Proof of Electronic Service	Transaction 2482740 - Approved By: NOREVIEW : 09-21-2011:10:02:40		
11/21/2011	2490	Motion ...	MOTION TO SUPPLEMENT ADDITIONAL ARGUMENT AND GROUNDS OF INEFFECTIVE ASSISTANCE OF I		
11/21/2011	4105	Supplemental ...	SUPPLEMENTAL MEMO OF POINTS AND AUTHORITIES IN SUPPORT OF WRIT OF HABEAS CORPUS/PO:		
12/12/2011	4105	Supplemental ...	SUPPLEMENTAL MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF WRIT OF HABEAS COF		
12/12/2011	2490	Motion ...	MOTION FOR LEAVE TO FILE SUPPLEMENTAL POINTS AND AUTHORITIES IN SUPPORT OF THE PENDIN		
12/13/2011	2490	Motion ...	MOTION TO RENEW PREVIOUSLY FILED MOTIONS		
12/13/2011	2610	Notice ...	EX PARTE JUDICIAL NOTICE		
12/22/2011	1325	** Case Reopened			
12/22/2011	3860	Request for Submission	DOCUMENT TITLE: MOTION FOR LEAVE TO FILE SUPPLEMENTAL POINTS AND AUTHORITIES IN SUPPO		
12/22/2011	3860	Request for Submission	DOCUMENT TITLE: SUPPLEMENTAL MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF W		
12/23/2011	NEF	Proof of Electronic Service	Transaction 2666959 - Approved By: NOREVIEW : 12-23-2011:16:30:15		
12/23/2011	4128	Supreme Court Order Denying	SUPREME COURT CASE NO. 57968/ORDER DENYING EN BANC RECONSIDERATION - Transaction 26669:		
1/20/2012	3645	Petition ...	PETITION FOR WRIT OF MANDAMUS		
1/23/2012	4111	Supreme Ct Clk's Cert & Judg	SUPREME COURT CASE NO. 57968 - CLERK'S CERTIFICATE AND JUDGMENTS - Transaction 2712863 - A		
1/23/2012	NEF	Proof of Electronic Service	Transaction 2712871 - Approved By: NOREVIEW : 01-23-2012:09:35:33		
1/23/2012	4128	Supreme Court Order Denying	SUPREME COURT CASE NO. 57968 - ORDER DENYING EN BANC RECONSIDERATION - Transaction 2712:		
1/23/2012	4134	Supreme Court Order Affirming	SUPREME COURT CASE NO. 57968 - ORDER OF AFFIRMANCE - Transaction 2712863 - Approved By: NORI		
1/23/2012	4145	Supreme Court Remittitur	SUPREME COURT CASE NO. 57968 - REMITTITUR - Transaction 2712863 - Approved By: NOREVIEW : 01-2		
1/23/2012	4128	Supreme Court Order Denying	SUPREME COURT CASE NO. 57968 - ORDER DENYING EN BANC RCONSIDERATION - Transaction 27128:		
2/10/2012	2840	Ord Denying ...	MTN FOR LEAVE TO FILE SUPPLEMENTAL WRIT; SUPPLEMENTAL PETITION IS DISMISSED - Transaction		
2/10/2012	S200	Request for Submission Complet	ORDER		
2/10/2012	1315	** Case Closed			
2/10/2012	S200	Request for Submission Complet	ORDER		
2/10/2012	NEF	Proof of Electronic Service	Transaction 2757095 - Approved By: NOREVIEW : 02-10-2012:09:54:01		
2/15/2012	NEF	Proof of Electronic Service	Transaction 2766643 - Approved By: NOREVIEW : 02-15-2012:11:33:00		
2/15/2012	2540	Notice of Entry of Ord	Transaction 2766640 - Approved By: NOREVIEW : 02-15-2012:11:31:24		
2/24/2012	2515	Notice of Appeal Supreme Court	APPELLANT, FRANK M. PECK		
2/24/2012	1310	Case Appeal Statement			
2/29/2012	1350	Certificate of Clerk	CERTIFICATE OF CLERK AND TRANSMITTAL - Transaction 2793948 - Approved By: NOREVIEW : 02-29-201:		
2/29/2012	NEF	Proof of Electronic Service	Transaction 2793957 - Approved By: NOREVIEW : 02-29-2012:10:00:48		
2/29/2012	NEF	Proof of Electronic Service	Transaction 2793955 - Approved By: NOREVIEW : 02-29-2012:10:00:06		
2/29/2012	2515	Notice of Appeal Supreme Court			
2/29/2012	1310E	Case Appeal Statement	Transaction 2793950 - Approved By: NOREVIEW : 02-29-2012:09:59:05		
2/29/2012	1350	Certificate of Clerk	CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 2793950 - Approved By: N		
3/5/2012	1188	Supreme Court Receipt for Doc	SUPREME COURT ORDER NO. 60343/RECEIPT FOR DOCUMENTS - Transaction 2802821 - Approved By: N		
3/5/2012	NEF	Proof of Electronic Service	Transaction 2802831 - Approved By: NOREVIEW : 03-05-2012:11:03:48		
3/5/2012	NEF	Proof of Electronic Service	Transaction 2802833 - Approved By: NOREVIEW : 03-05-2012:11:04:19		
3/5/2012	1188	Supreme Court Receipt for Doc	SUPREME COURT ORDER NO. 60343/RECEIPT FOR DOCUMENTS - Transaction 2802818 - Approved By: N		

**Case Description: Consolidated into CR96-2687**

Case ID:	CR96P2687	Case Type:	POST CONVICTION	Initial Filing Date:	9/19/2001
3/6/2012	2515	Notice of Appeal Supreme Court	APPELLANT, FRANK PECK		
3/6/2012	1310E	Case Appeal Statement	Transaction 2807268 - Approved By: NOREVIEW : 03-06-2012:14:58:07		
3/6/2012	1350	Certificate of Clerk	CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 2807268 - Approved By: N		
3/6/2012	NEF	Proof of Electronic Service	Transaction 2807288 - Approved By: NOREVIEW : 03-06-2012:15:00:32		
3/13/2012	1188	Supreme Court Receipt for Doc	SUPREME COURT CASE NO. 60343/RECEIPT FOR DOCUMENTS - Transaction 2821105 - Approved By: NO		
3/13/2012	NEF	Proof of Electronic Service	Transaction 2821178 - Approved By: NOREVIEW : 03-13-2012:15:36:34		
3/20/2012	4126	Supreme Ct Order Directing...	SUPREME COURT CASE NO. 60343/ORDER DIRECTING TRANSMISSION OF RECORD - Transaction 28366		
3/20/2012	NEF	Proof of Electronic Service	Transaction 2836813 - Approved By: NOREVIEW : 03-20-2012:12:09:01		
3/26/2012	2490	Motion ...	MOTION FOR PERMISSION TO FILE IN PROPER PERSON DOCUMENTS		
4/18/2012	NEF	Proof of Electronic Service	Transaction 2897912 - Approved By: NOREVIEW : 04-18-2012:15:55:40		
4/18/2012	4129	Supreme Ct Order Granting ...	SUPREME COURT CASE NO. 60040/ORDER GRANTING PETITION - Transaction 2897850 - Approved By: Nt		
4/20/2012	NEF	Proof of Electronic Service	Transaction 2902898 - Approved By: NOREVIEW : 04-20-2012:12:18:10		
4/20/2012	NEF	Proof of Electronic Service	Transaction 2903139 - Approved By: NOREVIEW : 04-20-2012:13:47:27		
4/20/2012	1350	Certificate of Clerk	CERTIFICATE OF CLERK AND TRANSMITTAL - RECORD ON APPEAL - Transaction 2903137 - Approved By:		
4/20/2012	FIE	**Document Filed in Error	4-20-12 - LMATHEUS		
4/26/2012	1188	Supreme Court Receipt for Doc	SUPREME COURT CASE NO. 60343 - Transaction 2915441 - Approved By: NOREVIEW : 04-26-2012:15:29:14		
4/26/2012	NEF	Proof of Electronic Service	Transaction 2915479 - Approved By: NOREVIEW : 04-26-2012:15:34:42		
4/26/2012	1188	Supreme Court Receipt for Doc	SUPREME COURT CASE NO. 60343 - Transaction 2915441 - Approved By: NOREVIEW : 04-26-2012:15:29:14		
5/3/2012	NEF	Proof of Electronic Service	Transaction 2927771 - Approved By: NOREVIEW : 05-03-2012:10:04:04		
5/3/2012	1750	Findings, Conclusions & Judg	Transaction 2927759 - Approved By: NOREVIEW : 05-03-2012:10:01:20		
5/8/2012	2545	Notice of Entry ...	Transaction 2938564 - Approved By: NOREVIEW : 05-08-2012:11:44:18		
5/8/2012	NEF	Proof of Electronic Service	Transaction 2938575 - Approved By: NOREVIEW : 05-08-2012:11:47:10		
5/15/2012	1350	Certificate of Clerk	CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 2952705 - Approved By: N		
5/15/2012	1310E	Case Appeal Statement	Transaction 2952705 - Approved By: NOREVIEW : 05-15-2012:08:58:15		
5/15/2012	2515	Notice of Appeal Supreme Court	APPELLANT, FRANK PECK		
5/15/2012	NEF	Proof of Electronic Service	Transaction 2952709 - Approved By: NOREVIEW : 05-15-2012:08:59:48		
5/22/2012	1188	Supreme Court Receipt for Doc	SUPREME COURT CASE NO. 60878 - Transaction 2971120 - Approved By: NOREVIEW : 05-22-2012:14:46:44		
5/22/2012	NEF	Proof of Electronic Service	Transaction 2971137 - Approved By: NOREVIEW : 05-22-2012:14:48:52		
5/22/2012	4131	Supreme Ct Not/Lieu/Remittitur	SUPREME COURT CASE NO. 60040 - Transaction 2971120 - Approved By: NOREVIEW : 05-22-2012:14:46:44		
6/26/2012	1350	Certificate of Clerk	CERTIFICATE OF CLERK AND TRANSMITTAL - RECORD ON APPEAL - Transaction 3043433 - Approved By:		
6/26/2012	4126	Supreme Ct Order Directing...	SUPREME COURT CASE NO. 60878/ORDER DIRECTING TRANSMISSION OF RECORD - Transaction 30417		
6/26/2012	NEF	Proof of Electronic Service	Transaction 3043442 - Approved By: NOREVIEW : 06-26-2012:14:19:53		
6/26/2012	NEF	Proof of Electronic Service	Transaction 3041744 - Approved By: NOREVIEW : 06-26-2012:09:04:09		
6/28/2012	1188	Supreme Court Receipt for Doc	SUPREME COURT CASE NO. 60878/RECEIPT FOR DOCUMENTS - Transaction 3050197 - Approved By: NO		
6/28/2012	NEF	Proof of Electronic Service	Transaction 3050210 - Approved By: NOREVIEW : 06-28-2012:14:15:00		
7/2/2012	3645	Petition ...	PETITION FOR WRIT OF MANDAMUS		
11/15/2012	NEF	Proof of Electronic Service	Transaction 3349377 - Approved By: NOREVIEW : 11-15-2012:16:57:17		
11/15/2012	4128	Supreme Court Order Denying	SUPREME COURT CASE NO. 61202/ORDER DENYING REHEARING - Transaction 3349308 - Approved By: f		
12/17/2012	4134	Supreme Court Order Affirming	SUPREME COURT ORDER NO. 60343/ORDER OF AFFIRMANCE - Transaction 3410727 - Approved By: NOR		

Case ID:	CR96P2687	Case Type:	Case Description: Consolidated into CR96-2687 POST CONVICTION	Initial Filing Date:	9/19/2001
12/17/2012	NEF	Proof of Electronic Service	Transaction 3410859 - Approved By: NOREVIEW : 12-17-2012:11:21:37		
1/10/2013	NEF	Proof of Electronic Service	Transaction 3456422 - Approved By: NOREVIEW : 01-10-2013:13:43:27		
1/10/2013	4145	Supreme Court Remittitur	SUPREME COURT NO. 60343/REMITTITUR - Transaction 3456412 - Approved By: NOREVIEW : 01-10-2013:		
1/10/2013	4134	Supreme Court Order Affirming	SUPREME COURT NO. 60343/ORDER OF AFFIRMANCE - Transaction 3456412 - Approved By: NOREVIEW :		
1/10/2013	4111	Supreme Ct Clk's Cert & Judg	SUPREME COURT NO. 60343/CLERK'S CERTIFICATE AND JUDGMENT - Transaction 3456412 - Approved B		
1/24/2013	NEF	Proof of Electronic Service	Transaction 3487717 - Approved By: NOREVIEW : 01-24-2013:15:41:43		
1/24/2013	4134	Supreme Court Order Affirming	SUPREME COURT NO. 60878/ORDER OF AFFIRMANCE - Transaction 3487695 - Approved By: NOREVIEW :		
5/29/2013	4128	Supreme Court Order Denying	SUPREME COURT CASE NO 60878/ORDER DENYING EN BANC RECONSIDERATION - Transaction 375154		
5/29/2013	NEF	Proof of Electronic Service	Transaction 3751554 - Approved By: NOREVIEW : 05-29-2013:09:58:14		
6/25/2013	NEF	Proof of Electronic Service	Transaction 3813347 - Approved By: NOREVIEW : 06-25-2013:11:26:55		
6/25/2013	4128	Supreme Court Order Denying	SUPREME COURT CASE NO 60878/ORDER DENYING EN BANC RECONSIDERATION - Transaction 381325		
6/25/2013	4128	Supreme Court Order Denying	SUPREME COURT NO. 60878/ORDER DENYING REHEARING - Transaction 3813254 - Approved By: NORE\		
6/25/2013	4134	Supreme Court Order Affirming	SUPREME COURT CASE NO 60878/ORDER OF AFFIRMANCE - Transaction 3813254 - Approved By: NORE\		
6/25/2013	4111	Supreme Ct Clk's Cert & Judg	SUPREME COURT NO. 60878/CLERKS CERTIFICATE AND JUDGMENT - Transaction 3813254 - Approved B:		
6/25/2013	4145	Supreme Court Remittitur	SUPREME COURT NO. 60878/REMITTITUR - Transaction 3813254 - Approved By: NOREVIEW : 06-25-2013:		
8/30/2013	3585	Pet Writ Habeas Corpus	PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) RELIEF		
9/16/2013	2610	Notice ...	JUDICIAL NOTICE OF ADJUDICATIVE FACTS		
10/1/2013	4105	Supplemental ...	SUPPLEMENTAL EXHIBIT IN SUPPORT OF EVIDENTIARY HEARING		
10/11/2013	1478	**Consolidated To...	CONSOLIDATED INTO CR96-2687. PLEASE FILE ALL FUTURE PLEADINGS INTO CR96-2687.		

1 CODE NO. 2840  
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5

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE  
8

9 STATE OF NEVADA,

Case No. CR96-2687

10 Plaintiff,

Dept. No. 6

11 vs.  
12

13 FRANK M. PECK,

14 Defendant.  
15 \_\_\_\_\_ /

16 **ORDER DISMISSING SUCCESSIVE PETITIONS**  
17 **FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)**

18 Before this Court are the following documents filed by Petitioner FRANK M. PECK, a  
19 self-represented litigant: *Petition for Writ of Habeas Corpus (Post-Conviction)* filed October  
20 4, 2016 ("Petition"); *Motion to Proceed in Forma Pauperis* filed October 4, 2016;  
21 *Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus*  
22 *(Post-Conviction)* filed October 25, 2016; *Motion for Order to Show Cause Why Petitioner*  
23 *Should Not Be Immediately Released From His Illegal Restraint* filed December 29, 2016;  
24 *First Amended Petition for Writ of Habeas Corpus (Post-Conviction)* filed January 26, 2017  
25 ("Amended Petition"); and, "Rule 60(a) Clerical Mistake Correction" to the *First Amended*  
26 *Petition for Writ of Habeas Corpus (Post-Conviction)* filed January 27, 2017. For reasons  
27  
28 stated herein, the Court finds the successive Petitions for relief must be dismissed and the

1 Motion for Order to Show Cause denied.

2 **PROCEDURAL HISTORY**

3 These are Mr. Peck's seventh and eighth, respectively, petitions for post-conviction  
4 relief arising from his 1998 Judgment of Conviction for two counts of sexual assault entered  
5 after a trial by jury.<sup>1</sup> After his conviction, Mr. Peck filed a direct appeal to the Nevada  
6 Supreme Court on March 19, 1998. *Notice of Appeal to Supreme Court*. Mr. Peck's  
7 conviction was affirmed. *Peck v. State*, Order of Affirmance, Docket No. 32031, filed in  
8 Second Judicial District Court Case Number CR96-2687 on September 25, 2000.  
9

10 Mr. Peck concedes the instant Petitions are untimely but asserts he may bring an  
11 untimely Petition because he challenges the Court's jurisdiction over his sentence.  
12 Specifically, in his Petition and Amended Petition, Mr. Peck sets forth the oft-repeated claim  
13 that the Court lacked jurisdiction because the Nevada Revised Statutes were not lawfully  
14 and constitutionally created and ratified. Therefore, he asserts, his judgment and the  
15 sentence pronounced therein are void and he should be immediately released.  
16 Interestingly, however, Mr. Peck's Memorandum of Points and Authorities in support of his  
17 Petition assert a claim of actual innocence. Mr. Peck asserts his trial counsel, Dennis  
18 Widdis, offered a "dying declaration" to Mr. Peck alleging, *inter alia*, various acts of  
19 corruption by the prosecutor and the trial judge at Mr. Peck's trial. Further, he asserts Mr.  
20 Widdis admitted he was ineffective for failing to object to certain evidence and testimony at  
21 trial. Mr. Peck asserts Mr. Widdis' dying declaration constitutes good cause to present this  
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26 <sup>1</sup> See Petition for Writ of Habeas Corpus (Post-Conviction) filed September 19, 2001; Petition for  
27 Writ of Habeas Corpus (Post-Conviction) filed August 7, 2008; First Amended Petition for Writ of  
28 Habeas Corpus (Post-Conviction) filed April 28, 2010; Supplemental Petition for Writ of Habeas  
Corpus (Post-Conviction) filed November 21, 2011; Petition for Writ of Habeas Corpus (Post-  
Conviction) filed August 30, 2013; and Supplemental Petition for Writ of Habeas Corpus filed  
December 5, 2013.

1 untimely Petition. Mr. Peck contends he is prejudiced because he is actually innocent, and,  
2 the new evidence he presents diminishes the strength of the evidence at trial,  
3 demonstrating a gateway claim to actual innocence.  
4

5 Mr. Peck's Amended Petition nearly restates his Petition verbatim but includes  
6 several lines of additional argument supporting his contention the Nevada Revised Statutes  
7 are invalid. Mr. Peck's Amended Petition also corrects a typographical error in his Petition,  
8 as he cited the incorrect statute in his Petition.  
9

### 10 STANDARD OF REVIEW AND APPLICABLE LAW

11 Successive petitions such as Mr. Peck's seventh and eighth Petitions are subject to  
12 mandatory dismissal pursuant to Chapter 34 of the Nevada Revised Statutes. "Application  
13 of the statutory procedural default rules to post-conviction habeas petitions is mandatory."  
14 State v. Eighth Judicial Dist. Court ex rel. County of Clark, 121 Nev. 225, 231, 112 P.3d  
15 1070, 1074 (2005). Second or successive petitions such as Mr. Peck's must be dismissed  
16 pursuant to NRS 34.810 if the grounds for the petition were already raised on direct appeal  
17 or in a prior petition for writ of habeas corpus and considered on the merits or the grounds  
18 **could have been raised in a prior petition**. NRS 34.810 (emphasis added); Brown v.  
19 McDaniel, 130 Nev. Adv. Op. 60, 331 P.3d 867, 870 (2014); State v. Eighth Judicial Dist.  
20 Court, 121 Nev. at 232; Pellegrini v. State, 117 Nev. 860, 876, 34 P.3d 519, 530 (2001) (the  
21 legislature never intended for petitioners to have multiple opportunities to obtain post-  
22 conviction relief absent extraordinary circumstances).  
23  
24

25 Similarly, "if it plainly appears on the face" of a second or successive petition and its  
26 documents or the records on file with the court that the petitioner is not entitled to relief, then  
27 a judge shall enter an order for summary dismissal. NRS 34.745(4).  
28

1 Further, Section 34.726 of the Nevada Revised Statutes provides as follows:

2 Unless there is good cause shown for delay, a petition that challenges the  
3 validity of a judgment or sentence must be filed within 1 year of entry of  
4 judgment of conviction, or if an appeal has been taken from the judgment,  
within 1 year after the appellate court...issues its remittitur.

5 NRS 34.726(1).

6 Good cause exists if the petitioner can show to the satisfaction of the court that, "(a)  
7 the delay is not the fault of the petitioner; and (b) dismissal of the petition as untimely will  
8 unduly prejudice the petitioner." NRS 34.726(1). Good cause is defined as "a substantial  
9 reason that affords a legal excuse." Brown, 130 Nev. Adv. Op. 60, 331 P.3d at 870 (internal  
10 quotations omitted). To show good cause, Mr. Peck must demonstrate that "an impediment  
11 external to the defense prevented him from complying with procedural rules." Id. An  
12 "impediment external to the defense may be demonstrated by a showing that the factual or  
13 legal basis for the claim was not reasonably available to counsel or that some interference  
14 by officials made compliance impracticable." Hathaway v. State, 119 Nev. 248, 252, 71 P.3d  
15 503, 506 (2003).

16 When a petitioner cannot show good cause sufficient to overcome the procedural  
17 bars, a court may grant habeas relief if the petitioner "can demonstrate that a constitutional  
18 violation has probably resulted in the conviction of one who is actually innocent." Mitchell v.  
19 State, 122 Nev. 1269, 1273-74, 149 P. 3d 33, 36 (2006) (internal quotations omitted).  
20 Actual innocence is defined as "factual innocence, not mere legal insufficiency." Id. citing  
21 Bousley v. United States, 523 U.S. 614, 623-24, 118 S. Ct. 1604 (1998).

22 With the foregoing authority in mind, the Court turns to the merits of Mr. Peck's  
23 Petition and Amended Petition.

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1                   **ANALYSIS OF MR. PECK'S PETITIONS UNDER THE APPLICABLE LAW**

2                   In this case, Mr. Peck's Petition and Amended Petition assert one claim: the Court  
3                   lacked jurisdiction over his case because the Nevada Revised Statutes were not lawfully  
4                   and constitutionally created and ratified. However, Mr. Peck's attendant Memorandum of  
5                   Points and Authorities asserts a different claim: actual innocence. The Court will address  
6                   each in turn.  
7

8                   **A.     Lack of Jurisdiction**

9                   Mr. Peck's first claim regarding lack of jurisdiction is successive and must be  
10                  dismissed because this claim could have been raised in one of his many prior petitions.  
11                  NRS 34.810. Mr. Peck did not address good cause or actual prejudice in the context of his  
12                  first claim challenging jurisdiction. His Petition and Amended Petition are wholly deficient in  
13                  this regard. However, even if this Court were to consider it on the merits, it is clear Mr.  
14                  Peck's claim must be dismissed because on the plain face of his Petition and Amended  
15                  Petition, Mr. Peck is not entitled to relief. See NRS 34.745. There is no dispute the laws of  
16                  the State of Nevada are valid. See Nev. Const. art. 4, § 23; NRS 220.170(3) (copies of the  
17                  Nevada Revised States constitute the official codified version of the Statutes of Nevada and  
18                  are prima facie evidence of the law in all courts of this state); Willing v. State, 2016 WL  
19                  1183668 (March 16, 2016) (unpublished)<sup>2</sup> ("the Statutes of Nevada contain the laws with  
20                  the enacting clauses required by the Nevada Constitution and the Nevada Revised Statutes  
21                  are the official codified version of the Statutes of Nevada."). Accordingly, the Court finds Mr.  
22                  Peck's first claim regarding lack of jurisdiction is without merit and must be dismissed  
23                  because, on the plain face of his Petition and Amended Petition, he is not entitled to relief.  
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<sup>2</sup> See NAR 36(c) and ADKT 0504 (November 12, 2015).

1           **B.     Actual Innocence Claim**

2                   **1.     Good Cause to File Actual Innocence Claim**

3           Mr. Peck asserts he is actually innocent of the crime of sexual assault because he  
4 did not digitally penetrate the victim. Mr. Peck argues he has good cause to bring this  
5 untimely claim because his trial counsel, Dennis Widdis, made a "dying declaration" to him  
6 regarding certain errors by Mr. Widdis and the trial judge, the Honorable Steven Kosach,  
7 who he asserts was biased and prejudiced against him. *Memorandum of Points and*  
8 *Authorities*, p. 6. The Court finds Mr. Peck has failed to demonstrate good cause to bring  
9 his untimely Petitions because alleged "bias and prejudice" by the trial judge is not a claim  
10 that was unavailable to him or his counsel in prior petitions for relief. Moreover, Mr. Widdis'  
11 purported "dying declaration" made to Mr. Peck were certainly reasonably available to the  
12 defense at the time of Mr. Peck's initial appeal from his judgment of conviction and  
13 throughout the course of his numerous post-conviction petitions for relief. More importantly,  
14 as discussed further below, Exhibit 1 to Mr. Peck's Memorandum of Points and Authorities,  
15 the purported "dying declaration" of Mr. Widdis, does not support Mr. Peck's claims in the  
16 slightest. Purported information within Mr. Widdis' knowledge certainly does not constitute  
17 an impediment "external" to Mr. Peck's defense. Therefore, the Court finds Mr. Peck has  
18 failed to demonstrate some impediment external to his defense existed to establish good  
19 cause for an untimely Petition. Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506  
20 (2003).  
21  
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25                   **2.     Actual Innocence**

26           As stated, when a petitioner files an untimely petition for post-conviction relief and  
27 cannot demonstrate good cause and prejudice, an exception to these bars is a legally valid  
28

1 claim of actual innocence. Lisle v. State, 131 Nev. Adv. Op. 39, 351 P.3d 725, 727 (2015),  
2 reh'g denied (Oct. 22, 2015), cert. denied, 136 S. Ct. 2019 (2016). Mr. Peck asserts he is  
3 actually innocent of the crime of sexual assault based on the following "dying declaration"  
4 purportedly made to him by his trial counsel, Dennis Widdis: (1) Mr. Widdis failed to object  
5 to leading questions by the prosecutor; (2) Judge Kosach exceeded his jurisdiction when he  
6 did not direct a verdict in Mr. Peck's favor; (3) Judge Kosach had been disciplined for biased  
7 behavior in a prior case; (4) Mr. Widdis was ineffective for failing to poll Mr. Peck's the jury  
8 in the first trial;<sup>3</sup> (5) the bailiff who took charge of the first trial jury suffered from a "memory  
9 disorder"; and (6) the victim denied digital penetration occurred.

12 To evidence the foregoing claims of actual innocence, Mr. Peck attaches as Exhibit 1  
13 to his Memorandum of Points and Authorities a letter from Dennis Widdis dated July 29,  
14 2015. The letter states that Mr. Widdis was diagnosed in May 2015 with stage four liver  
15 cancer and only had several months to live. "Exhibit 1" to *Points and Authorities*. Mr. Widdis  
16 writes: he has never felt closer to God; this was God's plan; and, he will keep Mr. Peck in  
17 his prayers. Id. Nowhere in the single-page letter does Mr. Widdis raise or reference Mr.  
18 Peck's case or any of the afore-listed assertions by Mr. Peck. Id. Mr. Peck asserts in his  
19 "Affidavit/Declaration, Certificate of Service and Affirmation" the July 29, 2015 letter "led to  
20 the candid communications between Mr. Peck and Mr. Widdis." *Memorandum of Points and*  
21 *Authorities*, p. 11. This single statement is the sole support for Mr. Peck's claim of actual  
22 innocence. Id.

25 Upon review of the claimed supporting papers, the Court finds Mr. Peck failed to  
26 demonstrate actual innocence or that no reasonable juror would have found him guilty of

28 <sup>3</sup> Mr. Peck had two trials because Judge Kosach declared a mistrial after determining the first jury was unable to reach a unanimous verdict. See Peck v. State, *Order of Affirmance*, Docket No. 32031.

1 sexual assault. Lisle, 131 Nev. Adv. Op. 39, 351 P.3d 725, 730 *citing Schlup v. Delo*, 513  
2 U.S. 298, 327, 115 S. Ct. 851, 867 (1995) ("[A habeas petitioner] must show that it is more  
3 likely than not that no reasonable juror would have found petitioner guilty beyond a  
4 reasonable doubt."). Even if Mr. Peck's claims were supported by actual evidence, his  
5 claims relate to procedural issues with his trial counsel – not substantive evidentiary issues.<sup>4</sup>  
6 As such, the Court concludes Mr. Peck's claim for actual innocence is unsupported and  
7 consideration of his Petition and Amended Petition are not warranted.  
8

### 9 CONCLUSION

10  
11 The Court concludes, after a review of the applicable law, Mr. Peck's Petition,  
12 Amended Petition, and the supporting papers, are untimely and successive, and his Petition  
13 and Amended Petition constitute an abuse of the post-conviction habeas corpus  
14 proceedings. Mr. Peck fails to demonstrate good cause, prejudice, or actual innocence that  
15 would support consideration of his untimely petitions on their merits.  
16

17 Accordingly, and good cause appearing therefor,

#### 18 **IT IS HEREBY ORDERED:**

19 1. The *Petition for Writ of Habeas Corpus (Post-Conviction)* filed October 4, 2016  
20 is DISMISSED.

21  
22 2. The *Motion to Proceed in Forma Pauperis*, filed October 4, 2016 is DENIED as  
23 moot.

24 3. The relief requested in the *Memorandum of Points and Authorities in Support*  
25 *of Petition for Writ of Habeas Corpus (Post-Conviction)* filed October 25, 2016 is DENIED.

26  
27 *///*

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<sup>4</sup> With the exception of Mr. Peck's assertion that the victim denied digital penetration ever occurred, which is a wholly unsupported statement.



CERTIFICATE OF SERVICE

I certify that I am an employee of THE SECOND JUDICIAL DISTRICT COURT;  
that on the 7th day of April, 2017, I electronically filed the foregoing with the Clerk of  
the Court system which will send a notice of electronic filing to the following:

TERRENCE MCCARTHY, ESQ.

And, I deposited in the County mailing system for postage and mailing with the  
United States Postal Service in Reno, Nevada, a true and correct copy of the attached  
document addressed as follows:

Frank M. Peck, #57106  
HDSP Box 650  
Indian Springs, NV 89070

  
\_\_\_\_\_

1 CODE: 2540  
2  
3  
4

5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
6 IN AND FOR THE COUNTY OF WASHOE

7 \*\*\*

8 STATE OF NEVADA,

Petitioner,

CASE NO: CR96-2687

9 vs.  
10

DEPT. NO.: 6

11 FRANK M. PECK,

12 Respondent,  
13 \_\_\_\_\_/

14 **NOTICE OF ENTRY OF ORDER**

15 PLEASE TAKE NOTICE that on the 7th day of April, 2017 the Court entered a  
16 decision or order in this matter, a true and correct copy of which is attached hereto.  
17

18 You may appeal to the Supreme Court from the decision or order of the Court. If  
19 you wish to appeal, you must file a notice of appeal with the Clerk of this Court within thirty-  
20 three (33) days, after the date this notice is mailed to you. This notice was mailed on the  
21 7th day of April, 2017.  
22

23 **JACQUELINE BRYANT**  
24 Clerk of the Court

25 **By /s/ Mia Cholico**  
26 Deputy Clerk  
27  
28

1 **CERTIFICATE OF SERVICE**

2 CASE NO. CR96-2687

3 Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial  
4 District Court of the State of Nevada, County of Washoe; and that on the 7th day of April,  
5 2017, I electronically filed the Notice of Entry of Order with the Clerk of the Court by using  
6 the ECF system which will send a notice of electronic filing to:

7 Terrence MCarthy, Esq. for The State of Nevada  
8 Div. of Parole & Probation

9  
10  
11  
12 I further certify that on the 7th day of April, 2017, I deposited in the Washoe County mailing  
13 system for postage and mailing with the U.S. Postal Service in Reno, Nevada, a true and  
14 correct copy of the Notice of Entry of Order, addressed to:  
15

16 Frank M. Peck #57106  
17 c/o NDSP  
18 P.O. Box 650  
19 Indian Springs, NV 89070

20 Attorney General's Office  
21 100 N. Carson Street  
22 Carson City, NV 89701-4717

23 /s/ Mia Cholico  
24 Mia Cholico  
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1 CODE NO. 2840  
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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE  
8

9 STATE OF NEVADA,

Case No. CR96-2687

10 Plaintiff,

Dept. No. 6

11 vs.  
12

13 FRANK M. PECK,

14 Defendant.  
15 \_\_\_\_\_ /

16 **ORDER DISMISSING SUCCESSIVE PETITIONS**  
17 **FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)**

18 Before this Court are the following documents filed by Petitioner FRANK M. PECK, a  
19 self-represented litigant: *Petition for Writ of Habeas Corpus (Post-Conviction)* filed October  
20 4, 2016 ("Petition"); *Motion to Proceed in Forma Pauperis* filed October 4, 2016;  
21 *Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus*  
22 *(Post-Conviction)* filed October 25, 2016; *Motion for Order to Show Cause Why Petitioner*  
23 *Should Not Be Immediately Released From His Illegal Restraint* filed December 29, 2016;  
24 *First Amended Petition for Writ of Habeas Corpus (Post-Conviction)* filed January 26, 2017  
25 ("Amended Petition"); and, "Rule 60(a) Clerical Mistake Correction" to the *First Amended*  
26 *Petition for Writ of Habeas Corpus (Post-Conviction)* filed January 27, 2017. For reasons  
27  
28 stated herein, the Court finds the successive Petitions for relief must be dismissed and the

1 Motion for Order to Show Cause denied.

2 **PROCEDURAL HISTORY**

3 These are Mr. Peck's seventh and eighth, respectively, petitions for post-conviction  
4 relief arising from his 1998 Judgment of Conviction for two counts of sexual assault entered  
5 after a trial by jury.<sup>1</sup> After his conviction, Mr. Peck filed a direct appeal to the Nevada  
6 Supreme Court on March 19, 1998. *Notice of Appeal to Supreme Court*. Mr. Peck's  
7 conviction was affirmed. *Peck v. State*, Order of Affirmance, Docket No. 32031, filed in  
8 Second Judicial District Court Case Number CR96-2687 on September 25, 2000.

9  
10  
11 Mr. Peck concedes the instant Petitions are untimely but asserts he may bring an  
12 untimely Petition because he challenges the Court's jurisdiction over his sentence.  
13 Specifically, in his Petition and Amended Petition, Mr. Peck sets forth the oft-repeated claim  
14 that the Court lacked jurisdiction because the Nevada Revised Statutes were not lawfully  
15 and constitutionally created and ratified. Therefore, he asserts, his judgment and the  
16 sentence pronounced therein are void and he should be immediately released.  
17 Interestingly, however, Mr. Peck's Memorandum of Points and Authorities in support of his  
18 Petition assert a claim of actual innocence. Mr. Peck asserts his trial counsel, Dennis  
19 Widdis, offered a "dying declaration" to Mr. Peck alleging, *inter alia*, various acts of  
20 corruption by the prosecutor and the trial judge at Mr. Peck's trial. Further, he asserts Mr.  
21 Widdis admitted he was ineffective for failing to object to certain evidence and testimony at  
22 trial. Mr. Peck asserts Mr. Widdis' dying declaration constitutes good cause to present this  
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25

26 <sup>1</sup> See Petition for Writ of Habeas Corpus (Post-Conviction) filed September 19, 2001; Petition for  
27 Writ of Habeas Corpus (Post-Conviction) filed August 7, 2008; First Amended Petition for Writ of  
28 Habeas Corpus (Post-Conviction) filed April 28, 2010; Supplemental Petition for Writ of Habeas  
Corpus (Post-Conviction) filed November 21, 2011; Petition for Writ of Habeas Corpus (Post-  
Conviction) filed August 30, 2013; and Supplemental Petition for Writ of Habeas Corpus filed  
December 5, 2013.

1 untimely Petition. Mr. Peck contends he is prejudiced because he is actually innocent, and,  
2 the new evidence he presents diminishes the strength of the evidence at trial,  
3 demonstrating a gateway claim to actual innocence.  
4

5 Mr. Peck's Amended Petition nearly restates his Petition verbatim but includes  
6 several lines of additional argument supporting his contention the Nevada Revised Statutes  
7 are invalid. Mr. Peck's Amended Petition also corrects a typographical error in his Petition,  
8 as he cited the incorrect statute in his Petition.  
9

### 10 STANDARD OF REVIEW AND APPLICABLE LAW

11 Successive petitions such as Mr. Peck's seventh and eighth Petitions are subject to  
12 mandatory dismissal pursuant to Chapter 34 of the Nevada Revised Statutes. "Application  
13 of the statutory procedural default rules to post-conviction habeas petitions is mandatory."  
14 State v. Eighth Judicial Dist. Court ex rel. County of Clark, 121 Nev. 225, 231, 112 P.3d  
15 1070, 1074 (2005). Second or successive petitions such as Mr. Peck's must be dismissed  
16 pursuant to NRS 34.810 if the grounds for the petition were already raised on direct appeal  
17 or in a prior petition for writ of habeas corpus and considered on the merits or the grounds  
18 **could have been raised in a prior petition**. NRS 34.810 (emphasis added); Brown v.  
19 McDaniel, 130 Nev. Adv. Op. 60, 331 P.3d 867, 870 (2014); State v. Eighth Judicial Dist.  
20 Court, 121 Nev. at 232; Pellegrini v. State, 117 Nev. 860, 876, 34 P.3d 519, 530 (2001) (the  
21 legislature never intended for petitioners to have multiple opportunities to obtain post-  
22 conviction relief absent extraordinary circumstances).  
23  
24

25 Similarly, "if it plainly appears on the face" of a second or successive petition and its  
26 documents or the records on file with the court that the petitioner is not entitled to relief, then  
27 a judge shall enter an order for summary dismissal. NRS 34.745(4).  
28

1 Further, Section 34.726 of the Nevada Revised Statutes provides as follows:

2 Unless there is good cause shown for delay, a petition that challenges the  
3 validity of a judgment or sentence must be filed within 1 year of entry of  
4 judgment of conviction, or if an appeal has been taken from the judgment,  
within 1 year after the appellate court...issues its remittitur.

5 NRS 34.726(1).

6 Good cause exists if the petitioner can show to the satisfaction of the court that, "(a)  
7 the delay is not the fault of the petitioner; and (b) dismissal of the petition as untimely will  
8 unduly prejudice the petitioner." NRS 34.726(1). Good cause is defined as "a substantial  
9 reason that affords a legal excuse." Brown, 130 Nev. Adv. Op. 60, 331 P.3d at 870 (internal  
10 quotations omitted). To show good cause, Mr. Peck must demonstrate that "an impediment  
11 external to the defense prevented him from complying with procedural rules." Id. An  
12 "impediment external to the defense may be demonstrated by a showing that the factual or  
13 legal basis for the claim was not reasonably available to counsel or that some interference  
14 by officials made compliance impracticable." Hathaway v. State, 119 Nev. 248, 252, 71 P.3d  
15 503, 506 (2003).

16 When a petitioner cannot show good cause sufficient to overcome the procedural  
17 bars, a court may grant habeas relief if the petitioner "can demonstrate that a constitutional  
18 violation has probably resulted in the conviction of one who is actually innocent." Mitchell v.  
19 State, 122 Nev. 1269, 1273-74, 149 P. 3d 33, 36 (2006) (internal quotations omitted).  
20 Actual innocence is defined as "factual innocence, not mere legal insufficiency." Id. citing  
21 Bousley v. United States, 523 U.S. 614, 623-24, 118 S. Ct. 1604 (1998).

22 With the foregoing authority in mind, the Court turns to the merits of Mr. Peck's  
23 Petition and Amended Petition.

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1                   **ANALYSIS OF MR. PECK'S PETITIONS UNDER THE APPLICABLE LAW**

2                   In this case, Mr. Peck's Petition and Amended Petition assert one claim: the Court  
3                   lacked jurisdiction over his case because the Nevada Revised Statutes were not lawfully  
4                   and constitutionally created and ratified. However, Mr. Peck's attendant Memorandum of  
5                   Points and Authorities asserts a different claim: actual innocence. The Court will address  
6                   each in turn.  
7

8                   **A.     Lack of Jurisdiction**

9                   Mr. Peck's first claim regarding lack of jurisdiction is successive and must be  
10                  dismissed because this claim could have been raised in one of his many prior petitions.  
11                  NRS 34.810. Mr. Peck did not address good cause or actual prejudice in the context of his  
12                  first claim challenging jurisdiction. His Petition and Amended Petition are wholly deficient in  
13                  this regard. However, even if this Court were to consider it on the merits, it is clear Mr.  
14                  Peck's claim must be dismissed because on the plain face of his Petition and Amended  
15                  Petition, Mr. Peck is not entitled to relief. See NRS 34.745. There is no dispute the laws of  
16                  the State of Nevada are valid. See Nev. Const. art. 4, § 23; NRS 220.170(3) (copies of the  
17                  Nevada Revised States constitute the official codified version of the Statutes of Nevada and  
18                  are prima facie evidence of the law in all courts of this state); Willing v. State, 2016 WL  
19                  1183668 (March 16, 2016) (unpublished)<sup>2</sup> ("the Statutes of Nevada contain the laws with  
20                  the enacting clauses required by the Nevada Constitution and the Nevada Revised Statutes  
21                  are the official codified version of the Statutes of Nevada."). Accordingly, the Court finds Mr.  
22                  Peck's first claim regarding lack of jurisdiction is without merit and must be dismissed  
23                  because, on the plain face of his Petition and Amended Petition, he is not entitled to relief.  
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<sup>2</sup> See NAR 36(c) and ADKT 0504 (November 12, 2015).

1           **B.     Actual Innocence Claim**

2                   **1.     Good Cause to File Actual Innocence Claim**

3           Mr. Peck asserts he is actually innocent of the crime of sexual assault because he  
4 did not digitally penetrate the victim. Mr. Peck argues he has good cause to bring this  
5 untimely claim because his trial counsel, Dennis Widdis, made a "dying declaration" to him  
6 regarding certain errors by Mr. Widdis and the trial judge, the Honorable Steven Kosach,  
7 who he asserts was biased and prejudiced against him. *Memorandum of Points and*  
8 *Authorities*, p. 6. The Court finds Mr. Peck has failed to demonstrate good cause to bring  
9 his untimely Petitions because alleged "bias and prejudice" by the trial judge is not a claim  
10 that was unavailable to him or his counsel in prior petitions for relief. Moreover, Mr. Widdis'  
11 purported "dying declaration" made to Mr. Peck were certainly reasonably available to the  
12 defense at the time of Mr. Peck's initial appeal from his judgment of conviction and  
13 throughout the course of his numerous post-conviction petitions for relief. More importantly,  
14 as discussed further below, Exhibit 1 to Mr. Peck's Memorandum of Points and Authorities,  
15 the purported "dying declaration" of Mr. Widdis, does not support Mr. Peck's claims in the  
16 slightest. Purported information within Mr. Widdis' knowledge certainly does not constitute  
17 an impediment "external" to Mr. Peck's defense. Therefore, the Court finds Mr. Peck has  
18 failed to demonstrate some impediment external to his defense existed to establish good  
19 cause for an untimely Petition. Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506  
20 (2003).  
21  
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25                   **2.     Actual Innocence**

26           As stated, when a petitioner files an untimely petition for post-conviction relief and  
27 cannot demonstrate good cause and prejudice, an exception to these bars is a legally valid  
28

1 claim of actual innocence. Lisle v. State, 131 Nev. Adv. Op. 39, 351 P.3d 725, 727 (2015),  
2 reh'g denied (Oct. 22, 2015), cert. denied, 136 S. Ct. 2019 (2016). Mr. Peck asserts he is  
3 actually innocent of the crime of sexual assault based on the following "dying declaration"  
4 purportedly made to him by his trial counsel, Dennis Widdis: (1) Mr. Widdis failed to object  
5 to leading questions by the prosecutor; (2) Judge Kosach exceeded his jurisdiction when he  
6 did not direct a verdict in Mr. Peck's favor; (3) Judge Kosach had been disciplined for biased  
7 behavior in a prior case; (4) Mr. Widdis was ineffective for failing to poll Mr. Peck's the jury  
8 in the first trial;<sup>3</sup> (5) the bailiff who took charge of the first trial jury suffered from a "memory  
9 disorder"; and (6) the victim denied digital penetration occurred.

12 To evidence the foregoing claims of actual innocence, Mr. Peck attaches as Exhibit 1  
13 to his Memorandum of Points and Authorities a letter from Dennis Widdis dated July 29,  
14 2015. The letter states that Mr. Widdis was diagnosed in May 2015 with stage four liver  
15 cancer and only had several months to live. "Exhibit 1" to *Points and Authorities*. Mr. Widdis  
16 writes: he has never felt closer to God; this was God's plan; and, he will keep Mr. Peck in  
17 his prayers. Id. Nowhere in the single-page letter does Mr. Widdis raise or reference Mr.  
18 Peck's case or any of the afore-listed assertions by Mr. Peck. Id. Mr. Peck asserts in his  
19 "Affidavit/Declaration, Certificate of Service and Affirmation" the July 29, 2015 letter "led to  
20 the candid communications between Mr. Peck and Mr. Widdis." *Memorandum of Points and*  
21 *Authorities*, p. 11. This single statement is the sole support for Mr. Peck's claim of actual  
22 innocence. Id.

25 Upon review of the claimed supporting papers, the Court finds Mr. Peck failed to  
26 demonstrate actual innocence or that no reasonable juror would have found him guilty of

28 <sup>3</sup> Mr. Peck had two trials because Judge Kosach declared a mistrial after determining the first jury was unable to reach a unanimous verdict. See Peck v. State, *Order of Affirmance*, Docket No. 32031.

1 sexual assault. Lisle, 131 Nev. Adv. Op. 39, 351 P.3d 725, 730 *citing Schlup v. Delo*, 513  
2 U.S. 298, 327, 115 S. Ct. 851, 867 (1995) ("[A habeas petitioner] must show that it is more  
3 likely than not that no reasonable juror would have found petitioner guilty beyond a  
4 reasonable doubt."). Even if Mr. Peck's claims were supported by actual evidence, his  
5 claims relate to procedural issues with his trial counsel – not substantive evidentiary issues.<sup>4</sup>  
6 As such, the Court concludes Mr. Peck's claim for actual innocence is unsupported and  
7 consideration of his Petition and Amended Petition are not warranted.  
8

### 9 CONCLUSION

10  
11 The Court concludes, after a review of the applicable law, Mr. Peck's Petition,  
12 Amended Petition, and the supporting papers, are untimely and successive, and his Petition  
13 and Amended Petition constitute an abuse of the post-conviction habeas corpus  
14 proceedings. Mr. Peck fails to demonstrate good cause, prejudice, or actual innocence that  
15 would support consideration of his untimely petitions on their merits.  
16

17 Accordingly, and good cause appearing therefor,

#### 18 **IT IS HEREBY ORDERED:**

19 1. The *Petition for Writ of Habeas Corpus (Post-Conviction)* filed October 4, 2016  
20 is DISMISSED.

21  
22 2. The *Motion to Proceed in Forma Pauperis*, filed October 4, 2016 is DENIED as  
23 moot.

24 3. The relief requested in the *Memorandum of Points and Authorities in Support*  
25 *of Petition for Writ of Habeas Corpus (Post-Conviction)* filed October 25, 2016 is DENIED.

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27 *///*

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<sup>4</sup> With the exception of Mr. Peck's assertion that the victim denied digital penetration ever occurred, which is a wholly unsupported statement.



CERTIFICATE OF SERVICE

I certify that I am an employee of THE SECOND JUDICIAL DISTRICT COURT;  
that on the 7th day of April, 2017, I electronically filed the foregoing with the Clerk of  
the Court system which will send a notice of electronic filing to the following:

TERRENCE MCCARTHY, ESQ.

And, I deposited in the County mailing system for postage and mailing with the  
United States Postal Service in Reno, Nevada, a true and correct copy of the attached  
document addressed as follows:

Frank M. Peck, #57106  
HDSP Box 650  
Indian Springs, NV 89070

  
\_\_\_\_\_

CASE NO. CR96-2687

STATE OF NEVADA VS. FRANK MILFORD PECK

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

12/13/96  
HON. PETER I.  
BREEN  
DEPT. NO. 7  
M. Balogh  
(Clerk)  
C. Brown  
(Reporter)

ARRAIGNMENT

Deputy D.A. Egan Walker represented the State.	
Defendant present with counsel, Deputy Public Defender Vaun Hall.	3/19/97
TRUE NAME: FRANK MILFORD PECK. Defendant handed copy of the Inf.; waived formal reading; waived time in which to enter a plea and plead Not Guilty to the Inf.	8:30 a.m.
Defendant waived 60 day rule.	Motion to Confirm
COURT ORDERED: Matter continued for trial by jury.	3/24/97
Defendant remanded to the custody of the Sheriff.	9:00 a.m.
	Jury Trial

CR96-2687  
DC-9900024274-001  
STATE VS FRANK MILFORD PECK 1 Page  
District Court 12/13/1996 08 33 AM  
Washoe County  
MTN  
CPATTFRC

DATE, JUDGE,  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

3/19/97  
HONORABLE  
PETER I.  
BREEN  
DEPT. NO. 7  
D. Caspers  
(Clerk)  
C. Brown  
(Reporter)

MOTION TO CONFIRM TRIAL DATE

Deputy District Attorney Egan Walker represented the State.  
Defendant was present with counsel, Dennis Widdis.  
James Rountree was present representing the Division of Parole and  
Probation.  
Counsel Widdis moved to continue the trial date and presented argument  
in support; no objection by Counsel Walker.  
COURT ORDERED trial date 3/24/97 vacated and matter reset for jury  
trial.  
Defendant remanded to custody.

5/13/97  
8:30 am  
MOTION TO  
CONFIRM  
5/19/97  
9:00 am  
JURY TRIAL



CR96-2687 DC-9900024274-009  
STATE VS. FRANK MILFORD PECK 1 Page  
District Court 03/19/1997 08:42 AM  
Washoe County MTN  
CPATTFRC

DATE, JUDGE,  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

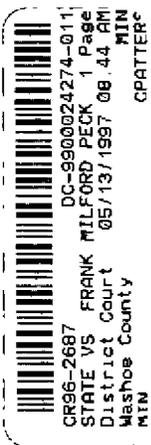
CONTINUED TO

5/13/97  
HONORABLE  
PETER I.  
BREEN  
DEPT. NO. 7  
D. Caspers  
(Clerk)  
D. Phipps  
(Reporter)

MOTION TO CONTINUE TRIAL DATE

Deputy District Attorney Egan Walker represented the State.  
Defendant was present with counsel, Dennis Widdis.  
Michael Crews was present representing the Division of Parole and Probation.  
Counsel Walker addressed the Court regarding discovery issues and did not oppose defense motion to continue the trial date; Counsel Widdis presented argument in support of motion to continue trial date.  
COURT ORDERED motion to continue granted; matter reset for jury trial and motions.  
Defendant remanded to custody.

8/1/97  
9:00 am  
PRE-TRIAL  
MOTIONS  
8/13/97  
8:30 am  
MOTION TO  
CONFIRM  
8/25/97  
9:00 am  
JURY TRIAL



**DATE, JUDGE,  
OFFICERS OF  
COURT PRESENT**

**APPEARANCES-HEARING**

**CONTINUED TO**

8/1/97  
HONORABLE  
PETER I.  
BREEN  
DEPT. NO. 7  
D. Caspers  
(Clerk)  
E. Nelson  
(Reporter)

PRE-TRIAL MOTIONS

Deputy District Attorney Egan Walker represented the State.  
Defendant was present with counsel, Dennis Widdis.  
Counsel Widdis addressed the Court regarding several pre-trial issues;  
response by Counsel Walker; further response by Counsel Widdis.  
COURT ORDERED this case transferred to the Chief Judge for  
reassignment into another department to resolve trial date issue.  
Defendant remanded to custody.



CR96-2687 FRANK MILFORD PECK 1 Page  
 District Court 08/01/1997 08:34 AM MTN  
 Washoe County  
 CPATTFP

DATE, JUDGE  
OFFICERS OF

COURT PRESENT APPEARANCES-HEARING

8/29/97  
HONORABLE  
STEVEN R.  
KOSACH  
DEPT. NO. 8  
L. Romero  
(Clerk)  
I. Zihn  
(Reporter)

MOTION TO SUPPRESS

Deputy District Attorney, Egan Walker, was present representing the State of Nevada. Defendant, Frank Milford Peck, was present with counsel, Dennis Widdis. Court informed counsel that he was ready to proceed with the hearing. Counsel Widdis asked the Court if this hearing was also going to discuss and argue other motions. Response from the State. Court informed counsel to proceed with the Petrocelli hearing. Counsel Widdis asked for guidance from the Court as to the motions that were filed. Counsel Walker informed the Court that he did not receive the motions until yesterday. Court addressed counsel Widdis as to the motion to suppress. Counsel Widdis relayed to the Court the evidence that he wanted suppressed. Counsel Walker moved for the rule of exclusion; SO ORDERED. Mrs. Peck was excused from the courtroom. Counsel Walker informed the Court that he would not be bringing up any issues at trial relating to the defendant's civil suit, prior drug use and the drug paraphernalia that was found at the home. COURT ORDERED those issues would not be brought up at trial. Sue Denise Dickson was called by counsel Walker; sworn and testified; cross examined; redirect examined; recross examined. Argument presented by counsel Walker for the admission of the prior bad act. Argument in rebuttal by counsel Widdis. Matter submitted to the Court for decision. COURT ORDERED: The testimony of Sue Dickson will not be allowed. Court addressed counsel Widdis as to case law regarding the keys and the search warrant. Counsel Walker presented argument about the key issue and the sweep search; reply by counsel Widdis. Court addressed counsel Widdis as to what he wants to suppress. Counsel Widdis informed the Court of the items that he wanted to suppress. Matter submitted to the Court for decision. COURT ORDERED: The search regarding the car keys will come in. The turning on of the car lights will come in; the location of the car on the lot will come in and the information retained from the registration will come in. At 4:56 p.m. Court ordered recess. At 5:06 p.m. Court reconvened with all parties present. Court informed counsel that they would argue the search of the home. Leslie Peck was called by counsel Walker; sworn and testified. State's exhibits 1 & 2 were marked for identification; offered into evidence; ordered admitted

CR96-2687 DC-9900024274-003  
STATE VS FRANK MILFORD PECK Page 3  
District Court 08/29/1997 06:35 AM  
Washoe County  
MTN  
CPATTEP

**DATE, JUDGE  
OFFICERS OF**

**COURT PRESENT**

**APPEARANCES-HEARING**

---

8/29/97  
HONORABLE  
STEVEN R.  
KOSACH  
DEPT. NO. 8  
L. Romero  
(Clerk)  
I. Zihn  
(Reporter)

**MOTION TO SUPPRESS CONTINUED**

and so marked.  
Cross examination by counsel Widdis; redirect by counsel Walker.  
State's exhibits 3-5 were marked for identification; offered into evidence; ordered admitted and so marked.  
Recross examination by counsel Widdis.  
COURT ORDERED witness to be held to her subpoena.  
Mike Bruce Nevill was called by counsel Walker; sworn and testified; cross examined; redirect examined.  
Argument presented by respective counsel as to the motion to suppress regarding the search of the home.  
Counsel Walker requested that the evidence regarding the home search be re-opened.  
COURT ORDERED request denied.  
Counsel Walker further argued with the Court. Counsel Walker would like the police officers to testify.  
COURT ORDERED request denied.  
Counsel Walker presented further argument.  
Matter submitted to the Court for decision.  
COURT ORDERED: Matter taken under advisement. Court informed counsel Walker to have the police officers here on Tuesday, September 2, 1997 at 8:30 a.m. to testify.  
Court ordered the evenings recess.

DATE, JUDGE  
OFFICERS OF

COURT PRESENT APPEARANCES-HEARING

09/02/97  
HONORABLE  
STEVEN R.  
KOSACH  
DEPT. NO. 8  
S. Hopper  
(Clerk)  
I. Zihn  
(Reporter)

JURY TRIAL

Deputy District Attorneys Egan Walker and Cindi Heron were present for the State. Defendant was present with counsel, Mr. Dennis Widdis.

At 8:45 a.m. Court and counsel met in chambers prior to trial.

Counsel Widdis addressed the Court and presented motion to suppress any evidence from the search of Defendant's home prior to Defendant's arrest, notably: clothing, any statements made before and during the search and any evidence of the Defendant hiding from the police.

Counsel Walker addressed the Court regarding any evidence that may be used from the search. Court convened with all parties present.

Jason Sammons was called by Counsel Walker, sworn and testified; cross examined.

John Ferguson was called by Counsel Walker, sworn and testified; cross examined; redirect examined; recross examined.

Counsel Widdis presented arguments regarding the voluntariness of the Defendant's statements per Jackson v. Denno.

Counsel Walker presented objections to suppression of Defendant's statements at time of arrest per Jackson v. Denno.

COURT ORDERED: Motion to Suppress any evidence of the home search is denied.

COURT FURTHER ORDERED: Motion to suppress statements by the Defendant per Jackson v. Denno is denied.

At 10:00 a.m. Counsel Widdis presented motion in limine to preclude Defendant's custody status; so stipulated and ordered.

Counsel Widdis further presented motion in limine to preclude evidence regarding Defendant's marital status; objections with arguments thereto; COURT ORDERED DENIED.

At 10:15 a.m. Court ordered recess.

At 10:45 a.m. Court reconvened with all parties present.

Court addressed the prospective jurors.

Clerk Hopper called role of the prospective jurors.

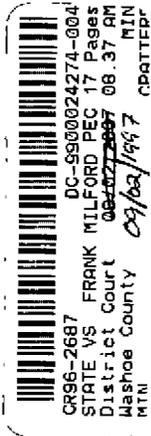
Clerk Hopper read the Information.

Clerk Hopper swore in the prospective jurors to answer questions based upon their qualifications to serve as trial jurors and called twelve (12) names to serve as the Venice.

Following the process of jury selection, the persons listed below were sworn by Clerk Hopper to try this case:

Elaine Hanson  
Rick Fugate  
Drury Ross  
Marion Poundstone  
John Johnson  
Valerie Wagner

James Rivers  
Lee Husted  
Margaret Savage  
Mark Kubinski  
Brook Annoni  
Robert Florez



DATE, JUDGE  
OFFICERS OFCOURT PRESENT APPEARANCES-HEARING

09/02/97

**JURY TRIAL - continued**

Cont'd.

Also sworn to try this case as alternates were:

Alternate #1: Paul Lane

Alternate #2: Norma Robison

At 2:30 p.m. Court ordered recess; jury was admonished and excused.

At 3:30 p.m. Court reconvened with all parties and jury present.

Prior to reconvening, State's Exhibits 1 through 7 were marked for identification.

Counsel Walker presented opening statements.

Counsel Widdis presented opening statements.

Keith Mullen was called by Counsel Walker, sworn and testified.

State's Exhibits 7 and 6 for identification were offered; Counsel Widdis questioned the witness on voir dire and placed no objections; COURT ORDERED ADMITTED.

Witness was further direct examined; cross examined; redirect examined.

State's Exhibits 8 through 15 were marked for identification.

States's Exhibits 16 and 17 were marked for identification and offered; objections with arguments thereto; reoffered by Counsel Walker; Counsel Widdis questioned witness on voir dire; COURT ORDERED ADMITTED.

Witness was further redirect examined; recross examined and excused.

Paul Gonzales was called by Counsel Walker, sworn and testified.

State's Exhibits 20 and 21 were marked for identification.

Witness was further direct examined; cross examined; redirect examined; recross examined and excused.

At 5:00 p.m. Court ordered recess; jury was admonished and excused.

Matter continued to September 3rd, 1997 at 10:00 a.m. Defendant was remanded to the custody of the Sheriff.

09/03/97

**JURY TRIAL - continued**HONORABLE  
STEVEN R.

Deputy District Attorneys Egan Walker and Cindi Heron were present for the State of Nevada. Defendant was present with counsel, Mr. Dennis Widdis.

KOSACH  
DEPT. NO. 8

Prior to convening, State's Exhibits 22 through 28 were marked for identification.

S. Hopper  
(Clerk)

At 10:00 a.m. Court reconvened with all parties and jury present.

I. Zihn

Officer Jason Sammons was called by Counsel Walker, sworn and testified.

(Reporter)

State's Exhibit 4 for identification was offered and ordered admitted.

State's Exhibit 29 was marked for identification and offered; objections with arguments presented thereto and questioned the witness on voir dire; COURT ORDERED ADMITTED.

State's Exhibits 24 through 28 for identification were offered and ordered admitted.

DATE, JUDGE  
OFFICERS OF

## COURT PRESENT

## APPEARANCES-HEARING

09/03/97

**JURY TRIAL - continued**

HONORABLE

Witness was further direct examined; cross examined; redirect examined; recross examined and held subject to recall.

STEVEN R.

Leslie Peck was called by Counsel Walker, sworn and testified.

KOSACH

State's Exhibit 3 for identification was offered; witness was questioned by Counsel Widdis on voir dire. With no objections, Exhibit 3 was ordered admitted.

DEPT. NO. 8

State's Exhibit 30 was marked for identification; offered and ordered admitted.

S. Hopper

State's Exhibit 14 for identification was offered; Counsel Widdis questioned the witness on voir dire and placed no objections; ordered admitted.

(Clerk)

State's Exhibit 2 for identification was offered and ordered admitted.

C. Brown

At 11:30 a.m. Court ordered recess; jury admonished and excused.

(Reporter)

At 11:45 a.m. Court reconvened with all parties and jury present.

Leslie Peck, previously sworn, resumed the stand for the purpose of continued direct examination.

State's Exhibits 22, 23, 11, 12 and 13 for identification were offered and ordered admitted.

At 12:00 noon Court ordered recess; jury was admonished and excused.

At 1:30 p.m. Court reconvened with all parties and jury present.

Leslie Peck, previously sworn, resumed the stand for the purpose of continued direct examination by Counsel Walker.

State's Exhibit 1 for identification was offered and ordered admitted.

State's Exhibits 18, 8, 9 and 10 for identification was offered; Counsel Widdis questioned the witness on voir dire and placed no objections; COURT ORDERED ADMITTED.

Witness was further direct examined; cross examined.

Defendant's Exhibit A was marked for identification.

Counsel Walker addressed the Court and moved for a hearing outside the presence of the jury regarding Defendant's Exhibit A; SO ORDERED. The Jury exited the courtroom on the direction of the Court.

Counsel Widdis presented arguments in support of Defendant's A.

Counsel Walker presented arguments regarding any testimony in Defendant's Exhibit A be suppressed.

Jury re-entered the courtroom.

Defendant's Exhibit A for identification was ordered admitted.

Witness was further cross examined; redirect examined; recross examined and excused.

Michael Neville was called by Counsel Walker, sworn and testified; cross examined; redirect examined and recross examined.

Officer Gerald Rhodes was called by Counsel Walker, sworn and testified.

At 3:10 p.m. Court ordered recess; jury admonished and excused.

At 3:30 p.m. Court reconvened with all parties and jury present.

Officer Gerald Rhodes, previously sworn, resumed the stand for the purpose of continued

**DATE, JUDGE  
OFFICERS OF  
COURT PRESENT**

**APPEARANCES-HEARING**

09/03/97

**JURY TRIAL - continued**

Cont'd.

direct examination; cross examination by Counsel Widdis and excused.  
Counsel Walker requested a hearing outside the presence of the jury; SO ORDERED.  
Respective counsel addressed the Court regarding Officer Mayes' testimony and his handling of the canine.  
Officer Tim Mayes was called by Counsel Walker, sworn and testified; cross examined.  
Counsel Widdis presented objections to any testimony of Officer Mayes and the performance of his canine; objection overruled and Officer Mayes' testimony allowed.  
Jury re-entered the courtroom.  
Officer Timothy Mayes was called by Counsel Walker, sworn and testified; cross examined; redirect examined; recross examined and excused.  
At 4:45 p.m. Court ordered recess; jury admonished and excused.  
Matter continued to September 4th, 1997 at 10:00 a.m. Defendant was remanded to the custody of the Sheriff.

09/04/97

**JURY TRIAL - continued**

HONORABLE  
STEVEN R.  
KOSACH  
DEPT. NO. 8  
S. Hopper  
(Clerk)  
I. Zihn  
(Reporter)

At 10:00 a.m. Court met with Counsel Widdis in chambers. Counsel Widdis addressed the Court regarding Defendant's case. Court questioned Counsel Widdis.  
At 10:45 a.m. Court reconvened with Deputy District Attorney Egan Walker present for the State of Nevada. Defendant was present with counsel, Mr. Dennis Widdis. All jurors were present.  
John Ferguson was called by Counsel Walker, sworn and testified.  
State's Exhibit 19 for identification was offered; objections with arguments presented thereto; COURT ORDERED ADMITTED.  
Witness was further direct examined; cross examined; redirect examined; recross examined.  
Jury was excused.  
Counsel Widdis moved for a mistrial due to the mention of Defendant Peck's criminal history by the witness, John Ferguson, and presented arguments in support thereof; Counsel Walker addressed the Court regarding the Motion and presented objections to a mistrial being declared.  
COURT ORDERED: Motion for mistrial is denied.  
At 12:00 noon Court ordered recess.  
At 1:30 p.m. Court reconvened with all parties and jury present.  
Debbie Robison was called by Counsel Walker, sworn and testified.  
State's Exhibit 20 (a) was marked for identification; offered and ordered admitted.  
Witness was further direct examined; cross examined; redirect examined; recross examined.  
The witness was further questioned by the Court and excused.  
Maria Fassett was called by Counsel Walker, sworn and testified; cross examined; re-direct

DATE, JUDGE  
OFFICERS OFCOURT PRESENTAPPEARANCES-HEARING

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09/04/97

Cont'd.

JURY TRIAL - continued

examined; recross examined and excused.

Jeffrey Riolo was called by Counsel Walker, sworn and testified

At 2:30 p.m. Court ordered recess; jury was admonished and excused.

Prior to reconvening, State's Exhibits 31 through 41 were marked for identification.

At 2:45 p.m. Court reconvened with all parties and jury present.

Jeffrey Riolo, previously sworn, resumed the stand for the purpose of continued direct examination.

State's Exhibits 31 through 41 for identification were offered and ordered admitted.

Witness was further direct examined; witness was questioned by the Court and further direct examined by Counsel Walker; cross examined by Counsel Widdis.

State's Exhibit 42 was marked for identification.

During cross examination of the witness, Jeffrey Riolo, Counsel Walker questioned the witness regarding State's Exhibit 42 and offered Exhibit 42 into evidence; ADMITTED.

Counsel Widdis continued cross examination of Jeffrey Riolo.

During continued cross examination, Juror Number 4, Lee Husted presented questions to the Court and witness regarding State's Exhibit 42, the testimony of the witness and the statistics.

Court questioned witness.

Witness was further examined by respective counsel and excused.

At 3:45 p.m. Court ordered recess; jury was admonished and excused.

At 4:00 p.m. Court reconvened with all parties and jury present.

Leslie N. was called by Counsel Walker, sworn and testified; cross examined.

During cross examination, Counsel Walker addressed the Court and moved to excuse the jury for the purpose of holding an evidentiary hearing and sanctioning Counsel Dennis Widdis regarding the cross examination of Leslie N.; COURT ORDERED DENIED.

Counsel Walker further addressed the Court regarding his motion for an evidentiary hearing and the Court's ruling.

Jury was excused.

Court addressed respective counsel. Counsel Walker further addressed the Court regarding an evidentiary hearing; COURT ORDERED: Motion for an evidentiary hearing is denied.

Court and counsel met in chambers.

COURT ORDERED: Motion for evidentiary hearing is granted.

At 4:45 p.m. Court ordered recess; Counsel Walker was given five (5) minutes to retrieve any citing to base his motion.

At 5:00 p.m. Court reconvened with all parties present and outside the presence of the jury.

Counsel Walker presented arguments in support of his Motion for Evidentiary Sanctions;

Counsel Widdis addressed the Court regarding his cross examination of the witness, Leslie N.

COURT ORDERED: Motion for sanctions is denied.

Counsel Widdis moved to continue cross examination to Friday, September 5th, 1997.

DATE, JUDGE  
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

09/04/97

**JURY TRIAL - continued**

Cont'd.

Court questioned the witness, Leslie N., regarding concluding her testimony. The witness affirmed her willingness to continue and conclude her testimony.

COURT ORDERED: Motion to continue matter is denied.

Jury re-entered the courtroom at 5:15 p.m.

Leslie N., previously sworn, resumed the stand for the purpose of concluding cross examination.

Counsel Widdis asked that the witness remain under subpoena.

At 5:45 p.m. Court ordered recess; jury was admonished and excused.

Matter continued to September 5, 1997 at 10:00 a.m. Defendant was remanded to the custody of the Sheriff.

09/05/97

**JURY TRIAL - continued**

HONORABLE

At 10:10 a.m. Court reconvened with Deputy District Attorney Egan Walker present for the State of Nevada. Defendant was present with counsel, Mr. Dennis Widdis. All jurors were present.

STEVEN R.

KOSACH

DEPT. NO. 8

S. Hopper

(Clerk)

I. Zihn

(Reporter)

Counsel Walker addressed the Court regarding exhibits and rested the State's case.

Court addressed the parties and the jury.

Counsel Widdis addressed the Court and moved to hold a hearing outside the presence of the jury; jury was admonished and excused.

Defendant's Exhibits B through CCC were marked for identification.

Counsel Widdis addressed the Court and requested a clarification of the Court's previous ruling regarding prior bad acts of the Defendant and use of controlled substances. Counsel Walker addressed the Court presented arguments regarding Defendant's drug use and prior bad acts being used during Defendant's testimony. Counsel Widdis presented objections to any questions regarding Defendant's drug use.

COURT ORDERED that the Defendant's drug use is relevant to the case and his testimony thereto is allowed.

Respective counsel further presented arguments regarding the prejudicial effect of any testimony of prior drug use by the Defendant, any jail records and/or any medical records.

Defendant's Exhibit DDD was marked for identification.

At 10:45 a.m. Court ordered recess.

At 11:00 a.m. Court reconvened with all parties present and outside the presence of the jury.

Court questioned Counsel Widdis regarding Defendant's willingness to testify.

Counsel Walker addressed the Court in regards to canvassing the Defendant.

Court canvassed the Defendant regarding his right to testify.

Jury re-entered the courtroom.

Frank Peck was called by Counsel Widdis, sworn and testified.

Defendant's Exhibit B through DD for identification were offered and ordered admitted.

DATE, JUDGE  
OFFICERS OF

## COURT PRESENT

## APPEARANCES-HEARING

09/05/97

Cont'd.

**JURY TRIAL - continued**

Witness was further direct examined.

At 12:20 p.m. Court ordered recess; jury was admonished and excused.

At 1:30 p.m. Court reconvened with all parties and jury present.

Frank Peck, previously sworn, resumed the stand for the purpose of cross examination by Counsel Walker.

Defendant's Exhibits EE through CCC for identification were offered and ordered admitted.

State's Exhibit 43 was marked for identification.

Witness further cross examination; redirect examination; recross examination.

Defendant rested.

At 2:45 p.m. Court ordered recess; jury admonished and excused.

Court and counsel met in chambers to settle Jury Instructions 1 through 28.

Counsel Widdis presented objections to Jury Instructions #1 and 2.

COURT ORDERED: Jury Instruction #1 is amended. Motion to amend Jury Instruction #2 is denied.

Counsel Walker presented objections to Instruction #3 and proffered an amended Instruction; COURT ORDERED DENIED.

Counsel Widdis proffered further Instructions with arguments thereto; objections.

COURT ORDERED: Proffered Instructions 2 through 4 rejected.

Respective counsel further addressed the Court regarding settling Jury Instructions and proposed Jury Instructions.

Counsel Widdis further moved to include lesser charges of Open Or Gross Lewdness and Indecent Exposure; objections with arguments thereto; COURT ORDERED: Motion to include lesser charges denied.

At 4:10 p.m. Court reconvened with all parties and jury present.

Court read Jury Instructions 1 through 28 to the jury.

Counsel Walker presented opening arguments.

Counsel Widdis presented closing arguments.

Counsel Walker presented rebuttal arguments.

At 6:00 p.m. Clerk Hopper swore in Bailiff Earl Walling to take charge of the jury during deliberation.

Court ordered recess until the jury has reached a verdict.

At 12:10 a.m. on the September 6th, 1997 Court reconvened with all parties and jury present.

Court questioned the jury regarding deliberations; the Foreman wanted the jury to continue deliberations.

At 12:15 a.m. Court ordered recess; jury admonished and excused.

At 1:15 a.m. Court reconvened with all parties and jury present.

Court addressed the jury and the parties regarding deliberations.

At 1:20 a.m. Court ordered recess; jury admonished and excused.

**DATE,JUDGE  
OFFICERS OF  
COURT PRESENT**

**APPEARANCES-HEARING**

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09/05/97 Cont'd.	<b><u>JURY TRIAL - continued</u></b> Matter to continued on September 6th, 1997 at 10:00 a.m. Defendant was remanded to the custody of the Sheriff.
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09/06/97 HONORABLE STEVEN R. KOSACH DEPT. NO. 8 S. Hopper (Clerk) I. Zihn (Reporter)	<b><u>JURY TRIAL - continued</u></b> At 10:00 a.m. the jury was present to continue deliberations. At 11:15 a.m. Court and counsel met in chambers to discuss jurors' questions and counsel presented arguments regarding proffered new Jury Instruction. At 12:15 p.m. Court reconvened with all parties and jury present. Court read Jury Instruction #29. Court reviewed the question by the jury, Court further addressed the jury regarding any transcript being read and/or reviewed. At 3:30 p.m. Court and counsel met in chambers to discuss latest jury question and respective counsel presented arguments regarding Jury Instructions, lesser included charges being presented to the jury and any testimony being read to the jury. At 5:00 p.m. Court reconvened with all parties and jury present for the purpose of answering any questions presented by the jury. At the request of the jury, the Court had the direct examination of Frank Peck and the cross examination of Frank Peck read back. At 5:15 p.m. Court ordered jury to continue deliberations. At 6:30 p.m. Court reconvened with all parties and jury present. Court reviewed Jury Question #5 for the record and parties; Court questioned Foreman Drury Ross regarding impasse. COURT ORDERED: The jury is hung and a mistrial is declared. Jury was thanked and excused. Counsel Widdis addressed the Court and moved to retransfer to Department Seven (7). COURT ORDERED: Matter to be submitted. Defendant was remanded to the custody of the Sheriff.
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SECOND JUDICIAL DISTRICT COURT, COUNTY OF WASHOE  
BRIEF CASE HISTORY

9/09/97 12:00

PAGE: 1

Case No: CR96-2687 Filed: 12/09/96 Type: CRIMINAL  
Title: STATE OF NEVADA VS. FRANK MILFORD PECK  
Dept: 7 Addl Info:

At issue: 00/00/00  
Clerk: CP

Disp: 09/06/97 MISTRIAL

----- P A R T I E S -----

PLTF: STATE OF NEVADA DA: WALKER, EGAN  
DEF: PECK, FRANK MILFORD (D7) ATTY: WIDDIS, DENNIS E.  
Disposed: 09 06 97 MISTRIAL

----- E X H I B I T S -----

ID	Description	Type	Relshp	Dept	Clrk
1	ADMONITION & WAIVER OF RIGHTS/PERMISSION TO SEARCH RESIDENCE	01	STATE	8	SH
2	Intro: 09/02/97 Off/Obj: OFFERED STATEMENT TO RENO POLICE DEPT FROM LESLIE PECK	01	STATE	8	SH
3	Intro: 09/02/97 Off/Obj: OFFERED; OBJ BOOKING PHOTO OF DEFT FRANK PECK	01	STATE	8	SH
4	Intro: 09/02/97 Off/Obj: OFFERED; OBJ SET OF KEYS STRANDED W/ CHAP STICK IN ENVELOPE	01	STATE	8	SH
5	Intro: 09/02/97 Off/Obj: OFFERED PHOTO OF PECK RESIDENCE; COOLER W/ TOWEL OVER IT	01	STATE	8	SH
6	Intro: 09/02/97 Off/Obj: LARGE MAP OF 1551 N. VIRGINIA ST. & SURROUNDING AREA	01	STATE	8	SH
7	Intro: 09/02/97 Off/Obj: OFFERED;OBJ LARGE MAP OF 1500 & 1600 BLOCK OF NORTH VIRGINIA ST. AND SURROUNDING AREA	01	STATE	8	SH
8	Intro: 09/02/97 Off/Obj: OFFERED; OBJ GREEN TOWEL OBTAINED FROM PECK RESIDENCE	01	STATE	8	SH
9	Intro: 09/02/97 Off/Obj: OFFERED YELLOW TOWEL OBTAINED FROM PECK RESIDENC	01	STATE	8	SH
10	Intro: 09/02/97 Off/Obj: OFFERED RAZOR W/ SHAVED STUBBLE IN BAG	01	STATE	8	SH
11	Intro: 09/02/97 Off/Obj: OFFERED PAIR OF WHITE UNDERWEAR IN BROWN PAPER BAG	01	STATE	8	SH
12	Intro: 09/02/97 Off/Obj: OFFERED "CAMEL" T-SHIRT IN BROWN PAPER BAG	01	STATE	8	SH
13	Intro: 09/02/97 Off/Obj: OFFERED PAIR OF BLUE SWEAT PANTS IN BROWN PAPER BAG	01	STATE	8	SH
14	Intro: 09/02/97 Off/Obj: OFFERED BROWN PAPER BAG CONTAINING CONTENTS FROM DEFTS LIVING ROOM HAMPER. (SWEATPANTS, WHITE SHORTS, WHITE SOX)	01	STATE	8	SH
15	Intro: 09/02/97 Off/Obj: OFFERED PETRI DISH W/ HAIR-FIBER	01	STATE	8	SH
	Intro: 09/02/97 Off/Obj:				Admit: 00/00/00

SECOND JUDICIAL DISTRICT COURT, COUNTY OF WASHOE  
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ID	Description	Type	Relshp	Dept	Clrk
16	PHOTO OF VACANT LOT AT 1500 BLOCK OF N. VIRGINIA Intro: 09/02/97 Off/Obj: OFFERED; OBJ	01	STATE	8	SH
17	PHOTO OF VACANT LOT NEAR LAWLOR EVENT CENTER Intro: 09/02/97 Off/Obj: OFFERED; OBJ	01	STATE	8	SH
18	PAPER BAG CONTAINING TRASH CONTENTS IN THE DEFT'S BATHROOM Intro: 09/02/97 Off/Obj: OFFERED; OBJ	01	STATE	8	SH
19	PHOTO LINE-UP AND PROFILE OF DEFT Intro: 09/02/97 Off/Obj: OFFERED	01	STATE	8	SH
20	SEXUAL ASSAULT KIT Intro: 09/02/97 Off/Obj:	01	STATE	8	SH
20.A	VICTIM'S UNDERPANTS FROM SEXUAL ASSAULT KIT Intro: 09/04/97 Off/Obj: OFFERED	01	STATE	8	SH
21	BLOOD SAMPLE Intro: 09/02/97 Off/Obj:	01	STATE	8	SH
22	"MILLER GENUINE DRAFT" BLACK JACKET Intro: 09/03/97 Off/Obj: OFFERED	01	STATE	8	SH
23	PAIR OF BLACK NIKES Intro: 09/03/97 Off/Obj: OFFERED	01	STATE	8	SH
24	WHITE BRA Intro: 09/03/97 Off/Obj: OFFERED	01	STATE	8	SH
25	WHITE LINEN SHEET Intro: 09/03/97 Off/Obj: OFFERED	01	STATE	8	SH
26	BLUE AND WHITE STRIPED SWEATER Intro: 09/03/97 Off/Obj: OFFERED	01	STATE	8	SH
27	ONE PAIR OF BLUE JEANS W/ BROWN BELT Intro: 09/03/97 Off/Obj: OFFERED	01	STATE	8	SH
28	WHITE SHIRT Intro: 09/03/97 Off/Obj: OFFERED	01	STATE	8	SH
29	PHOTO OF SCENE OF CRIME AT NIGHT Intro: 09/03/97 Off/Obj: OFFERED; OBJ	01	STATE	8	SH
30	PHOTO OF DEFT FRANK PECK AFTER ARREST Intro: 09/03/97 Off/Obj: OFFERED	01	STATE	8	SH
31	WHAT DOES DNA MEAN? WHERE CAN DNA BE FOUND? CLEAR SHEET Intro: 09/04/97 Off/Obj: OFFERED	01	STATE	8	SH
32	WHERE DOES DNA COME FROM? CLEAR SHEET Intro: 09/04/97 Off/Obj: OFFERED	01	STATE	8	SH
33	CHROMOSOMES CLEAR SHEET Intro: 09/04/97 Off/Obj: OFFERED	01	STATE	8	SH
34	DNA - THE MOLECULE CLEAR SHEET Intro: 09/04/97 Off/Obj: OFFERED	01	STATE	8	SH
35	SEPARATION OF DNA CLEAR SHEET Intro: 09/04/97 Off/Obj: OFFERED	01	STATE	8	SH

SECOND JUDICIAL DISTRICT COURT, COUNTY OF WASHOE  
 BRIEF CASE HISTORY

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At issue: 00/00/00

----- E X H I B I T S -----

ID	Description	Type	Relshp	Dept	Clrk
36	SEQUENCE VARIATION VS. REPEAT VARIATION CLEAR SHEET Intro: 09/04/97 Off/Obj: OFFERED	01	STATE	8	SH
37	POLYMERASE CHAIN REACTION STEPS CLEAR SHEET Intro: 09/04/97 Off/Obj: OFFERED	01	STATE	8	SH
38	PCR - SEQUENCE DETECTION CLEAR SHEET Intro: 09/04/97 Off/Obj: OFFERED	01	STATE	8	SH
39	PCR - REPEAT DETECTION CLEAR SHEET Intro: 09/04/97 Off/Obj: OFFERED	01	STATE	8	SH
40	STATISTICS OF DNA TESTING CLEAR SHEET Intro: 09/04/97 Off/Obj: OFFERED	01	STATE	8	SH
41	RESULTS OF EXAMINATIONS OF LESLIE N., BILLINGS & PECK Intro: 09/04/97 Off/Obj: OFFERED	01	STATE	8	SH
42	HANDWRITTEN TEST RESULTS OF DNA EXAMS Intro: 09/04/97 Off/Obj: OFFERED	01	STATE	8	SH
43	DECLARATION OF MEDICAL RECORDS RE: DEFT PECK Intro: 09/05/97 Off/Obj:	01	STATE	8	SH
A	TERM PAPER ENTITLED "ORAL LANGUAGE DEF- ICITS AS A READING DISABILITY PREDIC- TOR" BY LESLIE PECK Intro: 09/03/97 Off/Obj: OFFERED; OBJ	01	DEF:	8	SH
B	PHOTO OF PECK HOME (FRONT DOOR) Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
C	PHOTO OF INSIDE OF PECK HOME (COUCH & CREDENZA) Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
D	PHOTO OF PECK BATHROOM Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
E	SERIES OF PHOTOS INSIDE OF PECK HOME (HAMPER, SHOES, KITCHEN & LIVING ROOM) Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
F	SERIES OF PHOTOS INSIDE PECK HOME (BEDROOM, LAUNDRY ROOM, BATHROOM & COUCH W/ JACKET) Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
G	PHOTO OF PECK'S DODGE SHOWING LICENSE PLATE Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
H	DARK PHOTO OF PECK'S CAR IN LOT Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
I	PHOTO OF INSIDE OF PECK'S CAR IN VACANT LOT Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
J	PHOTO OF INSIDE OF PECK'S CAR SHOWING JUMPER CABLES Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH

SECOND JUDICIAL DISTRICT COURT, COUNTY OF WASHOE  
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At issue: 00/00/00

----- E X H I B I T S -----

ID	Description	Type	Relshp	Dept	Clrk
K	PHOTO OF INSIDE OF PECK'S TRUNK Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
L	PHOTO OF SCENE AT NIGHT W/ SNOW Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
M	PHOTO OF SCENE AT NIGHT W/ SNOW & FOILAGE Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
N	DARK PHOTO OF SCENE AT NIGHT W/ LIGHT SNOW Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
O	DARK PHOTO OF SCENE AT NIGHT W/ NEAR BY FOILAGE Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
P	PHOTO OF GROUND AT SCENE AT NIGHT Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
Q	PHOTO OF SCENE AT NIGHT W/ FOILAGE Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
R	PHOTO OF SCENE NEAR FOILAGE AT NIGHT (NO SNOW SHOWN) Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
S	PHOTO OF SCENE AT NIGHT W/ FOILAGE & LIGHT SNOW Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
T	DARK PHOTO W/ DIM LIGHT Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
U	PHOTO OF GROUND W/ SNOW AT SCENE AT NIGHT Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
V	PHOTO OF FOILAGE AT SCENE AT NIGHT Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
W	PHOTO OF GROUND W/ SNOW AT SCENE AT NIGHT W/ PINE TREE IN BACKGROUND Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
X	PHOTO OF SCENE AT NIGHT W/ PINE TREE NEAR BY Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
Y	PHOTO OF SCENE AT NIGHT W/ SNOW ON GROUND NEAR FOILAGE Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
Z	PHOTO OF SCENE AT NIGHT W/ SNOW ON GROUND NEAR FOILAGE Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
AA	PHOTO OF SCENE AT NIGHT W/ LESLIE N.'S CAR Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
BB	PHOTO OF SCENE AT NIGHT W/ LESLIE N.'S CAR Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH

SECOND JUDICIAL DISTRICT COURT, COUNTY OF WASHOE  
 BRIEF CASE HISTORY

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----- E X H I B I T S -----

ID	Description	Type	Relshp	Dept	Clrk
CC	PHOTO OF SCENE AT NIGHT W/ LESLIE N.'S CAR Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
DD	PHOTO OF SCENE AT NIGHT W/ FOILAGE AND LESLIE'S CAR IN BACKGROUND Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
EE	PHOTO OF LITTLE WALDORF SALOON FROM ACROSS VIRGINIA ST. Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
FF	PHOTO OF SIDEWALK NEAR LITTLE WALDORF SALOON ON VIRGINIA ST. Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
GG	PHOTO OF NORTH VIRGINIA ST. LOOKING NORTH TOWARDS LITTLE WALDORF Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
HH	PHOTO OF APARTMENTS ACROSS FROM LAWLOR EVENTS CENTER ON N. VIRGINIA ST. Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
II	PHOTO OF PINE TREES NEAR APARTMENTS ON N. VIRGINIA ST. Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
JJ	PHOTO OF PINE TREES NEAR APARTMENTS LOOKING FROM N. VIRGINIA ST. Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
KK	PHOTO OF FOILAGE NEAR APARTMENTS ON N. VIRGINIA ST. Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
LL	PHOTO OF SCENE AT VACANT LOT AT DAYTIME Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
MM	PHOTO OF VACANT LOT NEAR SCENE DURING THE DAY Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
NN	PHOTO OF LOT NEAR SCENE AT DAYTIME Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
OO	PHOTO OF VACANT LOT ON N. VIRGINIA ST. LOOKING WEST AT DAYTIME Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
PP	PHOTO OF VACANT LOT ON N. VIRGINIA LOOKING NORTHWEST NEAR FOILAGE AT SCENE Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
QQ	PHOTO OF VACANT LOT ON N. VIRGINIA ST. AT SCENE W/ LAWLOR IN BACKGROUND Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
RR	PHOTO OF VACANT LOT ON N. VIRGINIA ST. LOOKING WEST Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH

SECOND JUDICIAL DISTRICT COURT, COUNTY OF WASHOE  
 BRIEF CASE HISTORY

9/09/97 12:00

PAGE: 6

Case No: CR96-2687 Filed: 12/09/96 Type: CRIMINAL  
 Title: STATE OF NEVADA VS. FRANK MILFORD PECK At issue: 00/00/00

----- E X H I B I T S -----

ID	Description	Type	Relshp	Dept	Clrk
SS	PHOTO OF VACANT LOT ON N. VIRGINIA ST. W/ PINE TREES AND LAWLOR IN BACKGROUND Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
TT	PHOTO OF VACANT LOT ON N. VIRGINIA ST. NEAR FOILAGE LOOKING NORTHWEST Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
UU	PHOTO OF SCENE AT VACANT LOT DURING DAY W/ FOILAGE AND FLEISCHMAN IN BACK- GROUND Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
VV	PHOTO OF SCENE AT VACANT LOT NEAR FOILAGE DURING DAY Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
WW	PHOTO OF SCENE IN VACANT LOT NEAR FOILAGE (LOOKING NORTH) Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
XX	PHOTO OF SCENE AT LOT DURING DAY W/ NEARBY FOILAGE Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
YY	PHOTO OF VACANT LOT ON N. VIRGINIA ST. LOOKING SOUTHEAST Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
ZZ	PHOTO OF THE BACK OF THE VACANT LOT ON N. VIRGINIA ST. DURING DAY Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
AAA	PHOTO OF BACK OF VACANT LOT DURING DAY LOOKING NORTH BY NORTH EAST Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
BBB	PHOTO OF VACANT LOT W/ APARTMENTS IN BACKGROUND & LOOKING NORTH Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
CCC	PHOTO OF VACANT LOT ON N. VIRGINIA ST. FROM ACROSS N. VIRGINIA ST. AT DAY Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
DDD	CORRECTIONAL MEDICAL SERVICES' PATIENT CONSENT TO TREAT & RELEASE FORM Intro: 09/05/97 Off/Obj:	01	DEF:	8	SH
STATES.1	PERMISSION TO SEARCH SIGNED BY LESLIE PECK Intro: 08/29/97 Off/Obj: OFFERED	071	STATE	8	LR
STATES.2	STATEMENT TO POLICE BY LESLIE PECK Intro: 08/29/97 Off/Obj: OFFERED Disp: 261 09/02/97 EXHIBIT WITHDRAWN	071	STATE	8	LR
STATES.3	PICTURE OF THE DEFENDANT THE NIGHT HE WAS ARRESTED Intro: 08/29/97 Off/Obj: OFFERED Disp: 261 09/02/97 EXHIBIT WITHDRAWN	071	STATE	8	LR

SECOND JUDICIAL DISTRICT COURT, COUNTY OF WASHOE  
BRIEF CASE HISTORY

9/09/97 12:00

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Case No: CR96-2687 Filed: 12/09/96 Type: CRIMINAL  
Title: STATE OF NEVADA VS. FRANK MILFORD PECK

At issue: 00/00/00

----- E X H I B I T S -----

ID	Description	Type	Relshp	Dept	Clrk
STATES.4	PICTURE DEPICTING METH PIPE; LAP TOP COMPUTER ETC	071	STATE	8	LR
	Intro: 08/29/97 Off/Obj: OFFERED				Admit: 08/29/97
STATES.5	PICTURE DEPICTING COOLER WITH A TOWEL OVER IT	071	STATE	8	LR
	Intro: 08/29/97 Off/Obj: OFFERED				Admit: 08/29/97
	Disp: 261 09/02/97 EXHIBIT WITHDRAWN				

SECOND JUDICIAL DISTRICT COURT, COUNTY OF WASHOE  
 BRIEF CASE HISTORY

9/08/97 09:19

PAGE: 6

Case No: CR96-2687 Filed: 12/09/96 Type: CRIMINAL  
 Title: STATE OF NEVADA VS. FRANK MILFORD PECK

At issue: 00/00/00

----- E X H I B I T S -----

ID	Description	Type	Relshp	Dept	Clrk
TT	PHOTO OF VACANT LOT ON N. VIRGINIA ST. NEAR FOILAGE LOOKING NORTHWEST Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
UU	PHOTO OF SCENE AT VACANT LOT DURING DAY W/ FOILAGE AND FLEISCHMAN IN BACK- GROUND Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
VV	PHOTO OF SCENE AT VACANT LOT NEAR FOILAGE DURING DAY Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
WW	PHOTO OF SCENE IN VACANT LOT NEAR FOILAGE (LOOKING NORTH) Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
XX	PHOTO OF SCENE AT LOT DURING DAY W/ NEARBY FOILAGE Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
YY	PHOTO OF VACANT LOT ON N. VIRGINIA ST. LOOKING SOUTHEAST Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
ZZ	PHOTO OF THE BACK OF THE VACANT LOT ON N. VIRGINIA ST. DURING DAY Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
AAA	PHOTO OF BACK OF VACANT LOT DURING DAY LOOKING NORTH BY NORTH EAST Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
BBB	PHOTO OF VACANT LOT W/ APARTMENTS IN BACKGROUND & LOOKING NORTH Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
CCC	PHOTO OF VACANT LOT ON N. VIRGINIA ST. FROM ACROSS N. VIRGINIA ST. AT DAY Intro: 09/05/97 Off/Obj: OFFERED	01	DEF:	8	SH
DDD	CORRECTIONAL MEDICAL SERVICES' PATIENT CONSENT TO TREAT & RELEASE FORM Intro: 09/05/97 Off/Obj:	01	DEF:	8	SH
STATES.1	PERMISSION TO SEARCH SIGNED BY LESLIE PECK Intro: 08/29/97 Off/Obj: OFFERED	071	STATE	8	LR
STATES.2	STATEMENT TO POLICE BY LESLIE PECK Intro: 08/29/97 Off/Obj: OFFERED Disp: 261 09/02/97 EXHIBIT WITHDRAWN	071	STATE	8	LR
STATES.3	PICTURE OF THE DEFENDANT THE NIGHT HE WAS ARRESTED Intro: 08/29/97 Off/Obj: OFFERED Disp: 261 09/02/97 EXHIBIT WITHDRAWN	071	STATE	8	LR
STATES.4	PICTURE DEPICTING METH PIPE; LAP TOP COMPUTER ETC Intro: 08/29/97 Off/Obj: OFFERED	071	STATE	8	LR

9/08/97 09:19

SECOND JUDICIAL DISTRICT COURT, COUNTY OF WASHOE  
BRIEF CASE HISTORY

PAGE: 7

Case No: CR96-2687 Filed: 12/09/96 Type: CRIMINAL  
Title: STATE OF NEVADA VS. FRANK MILFORD PECK

At issue: 00/00/00

----- E X H I B I T S -----

ID	Description	Type	Relshp	Dept	Clrk
STATES.5	PICTURE DEPICTING COOLER WITH A TOWEL OVER IT	071	STATE	8	LR
	Intro: 08/29/97 Off/Obj: OFFERED				Admit: 08/29/97
	Disp: 261 09/02/97 EXHIBIT WITHDRAWN				

DATE, JUDGE  
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

09/23/97

MOTION TO SET TRIAL

HONORABLE

Deputy District Attorney Egan Walker represented the State.

STEVEN

Defendant was present with counsel, Dennis E. Widdis.

KOSACH

Shane Lees was present on behalf of the Division of Parole and Probation.

DEPT. NO. 8

Counsel for the Defendant addressed the Court stating he and Deputy District

B. Walker

Attorney Walker had stipulated to have this case transferred back to Judge

(Clerk)

Breen in Department #7 pursuant to WDCR Rule 3.

I. Zihn

COURT ORDERED: This matter is to be taken under advisement at this

(Reporter)

time.

Defendant remanded to the custody of the Sheriff.

DC-9900024274-005.  
CR96-2687 FRANK MILFORD PECK 1 Page  
STATE VS. FRANK MILFORD PECK 08:39 AM  
District Court 09/23/1997 MIN  
Washoe County  
RIN  
COATTEP

DATE, JUDGE  
OFFICERS OF

**COURT PRESENT      APPEARANCES - HEARING      CONT'D TO**

10/02/97  
HONORABLE  
STEVEN  
KOSACH  
DEPT. NO. 8  
S. Hopper  
(Clerk)  
I. Zihn  
(Reporter)

**MOTION TO SET TRIAL DATE**  
Deputy District Attorney Egan Walker was present for the State.  
R. Defendant was present being represented by counsel, Mr. Dennis Widdis.  
Officer Shane Lees was present for the Division of Parole and Probation.  
Respective counsel addressed the Court regarding setting a trial date.  
Counsel Widdis further addressed the Court regarding case assignment  
and the procedures in transferring cases from department to department.  
Counsel Widdis further moved to re-transfer this case back to Department  
7.  
COURT ORDERED: Matter set for trial by jury.  
COURT FURTHER ORDERED: Motion to re-transfer matter to  
Department 7 is denied. Defendant was remanded to the custody of the  
Sheriff.

12/05/97  
8:30 a.m.  
Motion to confirm  
to  
12/15/97  
Jury Trial

CR96-2687 DC-9900024274-006  
STATE VS FRANK MILFORD PECK 1 Page  
District Court 10/02/1997 08:40 AM  
Washoe County MTN  
CPARTTERR

DATE, JUDGE

OFFICERS OF

**COURT PRESENT**

**APPEARANCES - HEARING**

**CONT'D TO**

12/05/97

**MOTION TO CONFIRM TRIAL DATE**

HONORABLE

Deputy District Attorney Egan Walker was present for the State.

STEVEN R.

Defendant present with counsel, Mr. Dennis Widdis. Officer Mary

12/15/97

KOSACH

Isbister was present for the Department of Parole and Probation.

Jury

DEPT. NO. 8

Respective counsel addressed the Court and informed the Court that they

Trial

S. Hopper

are ready for trial.

(Clerk)

Counsel Widdis further requested a hearing prior to jury selection.

I. Zihn

COURT ORDERED: Trial date of December 15, 1997 is confirmed for

(Reporter)

1:30 p.m.; Motions to be presented Monday morning at 9:00 a.m. by both  
counsel. Defendant was remanded to the custody of the Sheriff.


 CR96-2687 DC-9600024274-007  
 STATE VS FRANK MILFORD PECK 1 Page  
 District Court 12/05/1997 08 40 AM  
 Washoe County MIN  
 MTN CRATTFP

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

12/15/97

JURY TRIAL

HONORABLE  
STEVEN R.  
KOSACH  
DEPT. NO. 8  
S. Hopper  
(Clerk)  
I. Zihn  
(Reporter)

Deputy District Attorney Egan Walker was present for the State of Nevada. Defendant was present with counsel, Mr. Dennis Widdis.

Prior to the convening of the prospective jurors, Court and counsel proceeded with pre-trial motions.

Counsel Widdis presented motion to exclude Defendant's previous drug use, medical conditions and mental treatment with arguments thereto; Counsel Walker presented arguments in support of objections to limit any evidence regarding Defendant's drug use and medical records.

Respective counsel further addressed the Court and presented arguments regarding the voluntariness of Defendant's statements at time of arrest. Counsel Widdis presented reply. COURT ORDERED: Motion in limine is granted in part and denied in part, to wit: the State shall not be allowed use any medical records or psychological records regarding drug use; that any evidence of drug use is prejudicial; and, collateral impeachment denied regarding drug use. Counsel Widdis presented motion to dismiss Count I with arguments thereto; objections with arguments regarding timeliness of the motion and its merits. Counsel Widdis presented rebuttal arguments.

COURT ORDERED: Motion to dismiss Count I is denied.

Counsel Widdis further presented motion to limit any testimony regarding the previous trial and the Guilty verdict form; further moved to allow to use the Not Guilty verdict form to contradict testimony by Leslie N.

COURT ORDERED: All Verdict forms from previous Jury Trial shall not be disclosed to the new jury.

Counsel Walker addressed the Court regarding stipulation to no use of the previous trial and/or its verdicts.

Counsel Widdis presented motion to allow specific questions to the prospective jurors on voir dire to explore possible biases; Counsel Walker addressed the Court with objections and presented arguments to limit voir dire questions to personal biases without any facts/evidence mentioned. Counsel Widdis presented rebuttal arguments.

Counsel Widdis presented motion that any Batson objections be heard outside the presence of the jury; no objections; SO ORDERED.

Counsel Widdis presented objections to any testimony of Leslie N. with her prior consistent statements; Counsel Walker addressed the Court regarding the motion.

COURT ORDERED: Counsel Walker shall modify any questions to two witnesses regarding Leslie N.'s statements.

Counsel Widdis further addressed the Court regarding police conduct and procedure; Counsel Walker addressed the Court regarding specific questions to the police.

At 12:10 p.m. Court ordered recess.

At 1:30 p.m. Court reconvened with all parties present and prospective jurors in the gallery. Court addressed the prospective jurors and introduced parties and staff.

DC-9900024274-008  
CR96-2687  
STATE VS. FRANK MILFORD PECK 14 Pages  
District Court 12/15/1997 08:41 AM  
Washoe County  
MIN  
CPATTER  
MTN

DATE, JUDGE  
OFFICERS OF

COURT PRESENT APPEARANCES-HEARING

12/15/97

JURY TRIAL - CONTINUED

Cont'd

Clerk Hopper took role of the prospective jurors.  
Clerk Hopper swore in prospective jurors to answer all questions based upon their qualifications to serve as trial jurors and pulled 12 names as the venire.  
Clerk Hopper read the Information.  
The venire/prospective jurors were questioned by the Court and respective counsel.  
Upon the voir dire process by Court and respective counsel, at 6:15 p.m. the Court ordered recess and that all unselected prospective jurors appear with the venire at 10:00 a.m. on the 16th day of December, 1997 to complete jury selection. Defendant was in custody.

12/16/98

JURY TRIAL - CONTINUED

HONORABLE  
STEVEN R.  
KOSACH  
Dept. No. 8  
S. Hopper  
(Clerk)  
I. Zihn  
(Reporter)

Deputy District Attorney Egan Walker was present for the State of Nevada. Defendant was present with counsel, Mr. Dennis Widdis.  
Prior to convening, State's Exhibits 1 through 47 were marked for identification.  
Defendant's Exhibits A through DDD were marked for identification.  
Court addressed 10 new prospective jurors.  
Clerk Hopper swore in the 10 new prospective jurors and called role of all prospective jurors and venire.  
Clerk Hopper read the Information.  
Court questioned the uncalled prospective jurors on voir dire.  
Following the process of jury selection, the persons listed below were sworn by Clerk Hopper to try this case:

- |                                |                     |
|--------------------------------|---------------------|
| Mary Caulk                     | Carolyn Martynuik   |
| Harley Ponsler                 | Kathy Reading       |
| Velda Lowery                   | Arcenia Matoza      |
| Nils Bachman                   | Andrew Davis        |
| Michael Storke                 | Elizabeth Franks    |
| Maryanne Paganetti             | Jacqueline McMaster |
| Alternate #1 - Jane Nichols    |                     |
| Alternate #2 - Thomas Melancon |                     |

At 12:00 noon Court ordered recess; jury was admonished and excused.  
At 1:30 p.m. Court reconvened with all parties jury present.  
Counsel Walker presented opening statements.  
Counsel Widdis presented opening statements.  
Keith Mullen was called by Counsel Walker, sworn and testified.  
State's Exhibits 45 and 44 for identification were offered; Counsel Widdis questioned on voir

**DATE, JUDGE  
OFFICERS OF  
COURT PRESENT**

**APPEARANCES-HEARING**

12/16/97

Cont'd

**JURY TRIAL - CONTINUED**

dire and placed no objections; COURT ORDERED State's 44 and 45 ADMITTED.  
Witness was further direct examined; cross examined; redirect examined.  
State's Exhibits 16 and 17 for identification were offered; Counsel Widdis questioned witness on voir dire and placed no objections; COURT ORDERED ADMITTED.  
Witness was further redirect examined; re-cross examined and held subject to recall.  
At 3:45 p.m. Court ordered recess; jury admonished and excused.  
At 3:40 p.m. Court reconvened with all parties and jury present.  
Paul Gonzalez was called by Counsel Walker, sworn and testified.  
State's Exhibit 48 was marked for identification; offered and ordered admitted.  
Witness was further direct examined; cross examined; redirect examined; recross examined and excused.  
State's Exhibit 49 for identification was offered and ordered admitted.  
Officer Jason Sammons was called by Counsel Walker, sworn and testified.  
State's Exhibits 4 and 26 through 28 for identification were offered and ordered admitted.  
State's Exhibit 29 for identification was offered; objections with arguments thereto; COURT ORDERED ADMITTED.  
Witness was further direct examined.  
At 4:50 p.m. Court ordered recess; jury admonished and excused.  
Matter continued to December 17, 1997 at 10:00 a.m. Defendant was in custody.

12/17/98

HONORABLE  
STEVEN R.  
KOSACH  
Dept. No. 8  
S. Hopper  
(Clerk)  
I. Zihn  
(Reporter)

**JURY TRIAL - CONTINUED**

Deputy District Attorney Egan Walker was present for the State of Nevada. Defendant Frank Peck was present with counsel, Mr. Dennis Widdis.  
At 10:00 a.m. all parties and jury were present.  
Officer Jason Sammons, previously sworn, resumed the stand for the purpose of cross examination by Counsel Widdis and re-direct examination by Counsel Walker.  
State's Exhibits 50 through 52 were marked for identification; offered and ordered admitted.  
Witness was further redirect examined; recross examined and excused.  
Leslie Peck was called by Counsel Walker, sworn and testified.  
State's Exhibits 3 through 30 for identification were offered and ordered admitted.  
At 11:15 a.m. the jury was excused. Outside the presence of the jury, Court addressed counsel regarding the examination of the witness by Counsel Walker as an adversary witness.  
Counsel Widdis presented objections regarding the examination of Witness Leslie Peck; OBJECTIONS OVERRULED.  
At 11:30 a.m. Court reconvened with all parties present and witness Leslie Peck remained on the stand for the purpose of continued direct examination.  
State's Exhibits 2, 1, 8 through 14 and 18 for identification were offered; objections with

**DATE,JUDGE  
OFFICERS OF  
COURT PRESENT**

**APPEARANCES-HEARING**

12/17/97

Cont'd

**JURY TRIAL - CONTINUED**

arguments thereto; COURT ORDERED STATE'S EXHIBITS 2, 1, 8 through 14 and 18 WERE ADMITTED.

Witness was further direct examined; cross examined.

Defendant's Exhibit A for identification were offered and ordered admitted.

Witness was further cross examined.

At 11:45 a.m. Court ordered recess; jury was admonished and excused.

At 1:45 p.m. Court reconvened with all parties and jury present.

Leslie Peck, previously sworn, resumed the stand for the purpose continued cross examination by Counsel Widdis; redirect examination by Counsel Walker and recross examination by Counsel Widdis. Witness was excused.

At 2:45 p.m. Court ordered recess; jury was admonished and excused.

At 3:00 p.m. Court reconvened with all parties and jury present.

Officer Tim Mayes was called by Counsel Walker, sworn and testified.

State's Exhibit 53 for identification was offered and ordered admitted.

Witness was further direct examined; cross examined; redirect examined.

State's Exhibits 22 and 23 for identification were offered; objections with arguments thereto; COURT ORDERED ADMITTED.

Witness was further redirect examined; recross examined and excused.

At 4:30 p.m. Court ordered recess; jury was admonished and excused.

At 4:45 p.m. Court reconvened with all parties and jury present.

Officer Gerald Rhodes was called by Counsel Walker, sworn and testified; cross examined; redirect examined; recross examined and excused.

At 5:30 p.m. Court ordered recess; jury admonished and excused.

Matter continued to December 18, 1998 at 10:00 a.m. Defendant was in custody.

12/18/98

HONORABLE  
STEVEN R.  
KOSACH  
Dept. No. 8  
S. Hopper  
(Clerk)  
I. Zihn  
(Reporter)

**JURY TRIAL - CONTINUED**

Prior to the convening of Court, State's Exhibit 54 was marked for identification.

Deputy District Attorney Egan Walker was present for the State of Nevada. Defendant Frank Peck was present with counsel, Mr. Dennis Widdis.

At 10:00 a.m. all parties and jury were present.

Michael Neville was called by Counsel Walker, sworn and testified; cross examined; redirect examined; recross examined and excused.

Debbie Robison was called by Counsel Walker, sworn and testified.

State's Exhibit 25 for identification was offered; Counsel Widdis questioned witness on voir dire and placed no objections; COURT ORDERED ADMITTED.

State's Exhibits 20, 20(a) and 24 for identification were offered and ordered admitted.

Witness was further direct examined; cross examined; redirect examined and excused.

**DATE, JUDGE  
OFFICERS OF  
COURT PRESENT**

**APPEARANCES-HEARING**

12/18/97  
Cont'd

**JURY TRIAL - CONTINUED**

Detective John Ferguson was called by Counsel Walker, sworn and testified; cross examined.  
 At 12:00 noon Court ordered recess; jury was admonished and excused.  
 At 1:30 p.m. Court reconvened with all parties and jury present.  
 Detective John Ferguson, previously sworn, resumed the stand for the purpose of continued cross examination by Counsel Widdis; redirect examination by Counsel Walker and excused.  
 Maria Fassett was called by Counsel Walker, sworn and testified; cross examined; redirect examined and recross examined.  
 At 2:45 p.m. Court ordered recess; jury was admonished and excused.  
 At 3:00 p.m. Court reconvened with all parties and outside the presence of the jury.  
 Outside the presence of jury, Counsel presented stipulation to the Court regarding Defendant's belongings.  
 Counsel Widdis further addressed the Court regarding rulings of objections.  
 At 3:10 p.m. jury re-entered the courtroom.  
 Counsel Widdis presented stipulation as previously presented outside the presence of the jury.  
 Leslie Nummer was called by Counsel Walker, sworn and testified.  
 State's Exhibits 46 and 47 for identification were offered; objections with arguments thereto;  
 COURT ORDERED ADMITTED.  
 At 4:00 p.m. Court ordered recess; jury admonished and excused.  
 At 4:05 p.m. Court reconvened with all parties and jury present.  
 Leslie Nummer, previously sworn, resumed the stand for the purpose of cross examination by Counsel Widdis.  
 State's Exhibit 6 for identification; offered and ordered admitted.  
 At 5:05 p.m. jury exited the courtroom.  
 Court addressed the respective counsel regarding impeachment process of a witness.  
 At 5:10 p.m. jury re-entered the courtroom.  
 Witness was further cross examined; redirect examined; recross examined and excused.  
 At 5:40 p.m. Court ordered recess; jury admonished and excused.  
 Matter continued to December 19, 1998 at 10:00 a.m. Defendant was in custody.

12/19/98  
HONORABLE  
STEVEN R.  
KOSACH  
Dept. No. 8  
S. Hopper  
(Clerk)  
I. Zihn

**JURY TRIAL - CONTINUED**

Deputy District Attorney Egan Walker was present for the State of Nevada. Defendant Frank Peck was present with counsel, Mr. Dennis Widdis.  
 At 10:00 a.m. Court reconvened with all parties and jury present.  
 State rested  
 Frank Peck was called by Counsel Widdis, sworn and testified.  
 Defendant's Exhibits B through CCC for identification were offered and ordered admitted.  
 Witness was further direct examined; cross examined; redirect examined and recross examined.

DATE, JUDGE  
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

12/19/97

JURY TRIAL - CONTINUED

Cont'd

Defense rested.

At 11:50 a.m. Court ordered recess; jury admonished and excused.

At 1:30 p.m. Court and counsel met in chambers for the purpose of settling Jury Instructions and verdict forms regarding voluntariness of Defendant's statements.

Counsel Walker presented objections and motion to withdraw Jury Instruction #29; SO ORDERED.

Counsel Widdis presented arguments for lesser included charges of Open Or Gross Lewdness and/or Indecent Exposure; objections with arguments thereto. Counsel Widdis presented rebuttal arguments.

COURT ORDERED: Motion for lesser included charge is denied.

Respective counsel further presented arguments regarding statements made were voluntary or involuntary.

COURT ORDERED: Motion for verdict form regarding voluntariness of statements granted.

At 2:45 p.m. Court reconvened with all parties and jury present.

Court read Jury Instructions 1 through 28.

Counsel Walker presented opening arguments.

Counsel Widdis presented closing arguments.

At 4:45 p.m. Court ordered recess; jury was admonished and excused.

At 5:00 p.m. Court reconvened with all parties and jury present.

Counsel Walker presented rebuttal arguments.

Clerk Hopper swore in bailiffs Deputies Walling and Fowler to take charge of the jury during deliberation.

At 5:30 p.m. Court ordered recess until the jury has reached a verdict.

At 8:30 p.m. Court reconvened with all parties and jury present.

Clerk Hopper read verdict as follows:

*VERDICT*

We, the jury in the above entitled matter, find the Defendant, FRANK MILFORD PECK Guilty of COUNT I: SEXUAL ASSAULT.

MICHAEL STORKE

Foreman

CASE NO. CR96-2687

STATE OF NEVADA -VS- FRANK MILFORD PECK

DATE, JUDGE  
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

---

12/19/97

JURY TRIAL - CONTINUED

Cont'd

*VERDICT*

We, the jury in the above entitled matter, find the Defendant, FRANK MILFORD PECK  
Guilty of COUNT II: SEXUAL ASSAULT.

MICHAEL STORKE

Foreman

The jury was thanked and excused.

Court set sentencing date for February 6, 1998 at 8:30 a.m. Defendant was remanded to the  
custody of the Sheriff.

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Case No: CR96-2687 Filed: 12/09/96 Type: CRIMINAL  
Title: STATE OF NEVADA VS. FRANK MILFORD PECK  
Dept: 8 Addl Info:

At issue: 00/00/00  
Clerk: CP

Trial: 12/15/97 JURY TRIAL

----- P A R T I E S -----

PLTF: STATE OF NEVADA DA: WALKER, EGAN  
DEF: PECK, FRANK MILFORD (D7) ATTY: WIDDIS, DENNIS E.

----- E X H I B I T S -----

ID	Description	Type	Relshp	Dept	Clrk
1	ADMONITION & WAIVER OF RIGHTS/PERMISSION TO SEARCH RESIDENCE	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED; OBJ				Admit: 12/17/97
2	STATEMENT TO RENO POLICE DEPT FROM LESLIE PECK	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED; OBJ				Admit: 12/17/97
3	BOOKING PHOTO OF DEFT FRANK PECK	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED				Admit: 12/17/97
4	SET OF KEYS STRANDED W/ CHAP STICK IN ENVELOPE	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED				Admit: 12/16/97
5	PHOTO OF PECK RESIDENCE; COOLER W/ TOWEL OVER IT	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj:				Admit: 00/00/00
6	LARGE MAP OF 1551 N. VIRGINIA ST. & SURROUNDING AREA	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED				Admit: 12/18/97
7	LARGE MAP OF 1500 & 1600 BLOCK OF NORTH VIRGINIA ST. AND SURROUNDING AREA	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj:				Admit: 00/00/00
8	GREEN TOWEL OBTAINED FROM PECK RESIDENCE	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED; OBJ				Admit: 12/17/97
9	YELLOW TOWEL OBTAINED FROM PECK RESIDENC	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED; OBJ				Admit: 12/17/97
10	RAZOR W/ SHAVED STUBBLE IN BAG	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED; OBJ				Admit: 12/17/97
11	PAIR OF WHITE UNDERWEAR IN BROWN PAPER BAG	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED; OBJ				Admit: 12/17/97
12	"CAMEL" T-SHIRT IN BROWN PAPER BAG	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED; OBJ				Admit: 12/17/97
13	PAIR OF BLUE SWEAT PANTS IN BROWN PAPER BAG	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED				Admit: 12/17/97
14	BROWN PAPER BAG CONTAINING CONTENTS FROM DEFTS LIVING ROOM HAMPER. (SWEATPANTS, WHITE SHORTS, WHITE SOX)	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED				Admit: 12/17/97
15	PETRI DISH W/ HAIR-FIBER	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj:				Admit: 00/00/00

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At issue: 00/00/00

----- E X H I B I T S -----

ID	Description	Type	Relshp	Dept	Clrk
16	PHOTO OF VACANT LOT AT 1500 BLOCK OF N. VIRGINIA	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED				Admit: 12/16/97
17	PHOTO OF VACANT LOT NEAR LAWLOR EVENT CENTER	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED				Admit: 12/16/97
18	PAPER BAG CONTAINING TRASH CONTENTS IN THE DEFT'S BATHROOM	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED; OBJ				Admit: 12/17/97
19	PHOTO LINE-UP AND PROFILE OF DEFT	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj:				Admit: 00/00/00
20	SEXUAL ASSAULT KIT	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED				Admit: 12/18/97
20.A	VICTIM'S UNDERPANTS FROM SEXUAL ASSAULT KIT	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED				Admit: 12/18/97
21	BLOOD SAMPLE	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj:				Admit: 00/00/00
22	"MILLER GENUINE DRAFT" BLACK JACKET	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED				Admit: 12/17/97
23	PAIR OF BLACK NIKES	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED				Admit: 12/17/97
24	WHITE BRA	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED				Admit: 12/18/97
25	WHITE LINEN SHEET	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED				Admit: 12/18/97
26	BLUE AND WHITE STRIPED SWEATER	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED				Admit: 12/16/97
27	ONE PAIR OF BLUE JEANS W/ BROWN BELT	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED				Admit: 12/16/97
28	WHITE SHIRT	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED				Admit: 12/16/97
29	PHOTO OF SCENE OF CRIME AT NIGHT	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED; OBJ				Admit: 12/16/97
30	PHOTO OF DEFT FRANK PECK AFTER ARREST	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj: OFFERED				Admit: 12/17/97
31	WHAT DOES DNA MEAN? WHERE CAN DNA BE FOUND? CLEAR SHEET	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj:				Admit: 00/00/00
32	WHERE DOES DNA COME FROM? CLEAR SHEET	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj:				Admit: 00/00/00
33	CHROMOSOMES CLEAR SHEET	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj:				Admit: 00/00/00
34	DNA - THE MOLECULE CLEAR SHEET	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj:				Admit: 00/00/00
35	SEPARATION OF DNA CLEAR SHEET	01	STATE	8	SH
	Intro: 12/15/97 Off/Obj:				Admit: 00/00/00

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ID	Description	Type	Relshp	Dept	Clrk
36	SEQUENCE VARIATION VS. REPEAT VARIATION CLEAR SHEET Intro: 12/15/97 Off/Obj:	01	STATE	8	SH
37	POLYMERASE CHAIN REACTION STEPS CLEAR SHEET Intro: 12/15/97 Off/Obj:	01	STATE	8	SH
38	PCR - SEQUENCE DETECTION CLEAR SHEET Intro: 12/15/97 Off/Obj:	01	STATE	8	SH
39	PCR - REPEAT DETECTION CLEAR SHEET Intro: 12/15/97 Off/Obj:	01	STATE	8	SH
40	STATISTICS OF DNA TESTING CLEAR SHEET Intro: 12/15/97 Off/Obj:	01	STATE	8	SH
41	RESULTS OF EXAMINATIONS OF LESLIE N., BILLINGS & PECK Intro: 12/15/97 Off/Obj:	01	STATE	8	SH
42	HANDWRITTEN TEST RESULTS OF DNA EXAMS Intro: 12/15/97 Off/Obj:	01	STATE	8	SH
43	DECLARATION OF MEDICAL RECORDS RE: DEFT PECK Intro: 12/15/97 Off/Obj:	01	STATE	8	SH
44	LARGE-UNMARKED MAP OF 1551 N. VIRGINIA ST. & SURROUNDING AREA Intro: 12/15/97 Off/Obj:	01	STATE	8	SH
45	LARGE-UNMARKED MAP OF 1500 & 1600 BLOCK OF N. VIRGINIA ST & SURRENDINGS Intro: 12/15/97 Off/Obj: OFFERED	01	STATE	8	SH
46	BROWN PAPER BAG W/ VICTIM'S RED COAT Intro: 12/15/97 Off/Obj: OFFERED	01	STATE	8	SH
47	BROWN PAPER BAG W/ VICTIM'S BOOTS Intro: 12/15/97 Off/Obj: OFFERED; OBJ	01	STATE	8	SH
48	PHOTO OF EVERGREENS FLANKING VACANT LOT (LOOKING NORTH) Intro: 12/15/97 Off/Obj: OFFERED; OBJ	01	STATE	8	SH
49	CLEAR OVERLAY W/ MARKINGS COINCIDING TO EXH. 44 (WITNESS GONZALEZ) Intro: 12/16/97 Off/Obj: OFFERED	01	STATE	8	SH
50	PHOTO OF SCENE AT NIGHT WITH SNOW Intro: 12/16/97 Off/Obj: OFFERED	01	STATE	8	SH
51	PHOTO OF GROUND AT SCENE WITH SNOW Intro: 12/17/97 Off/Obj: OFFERED	01	STATE	8	SH
52	PHOTO OF GROUND AT SCENE WITH SNOW & PINE TREE IN BACKGROUND Intro: 12/17/97 Off/Obj: OFFERED	01	STATE	8	SH
53	CLEAR OVERLAY W/ MARKINGS FROM WITNESS TIM MAYES CORRESPONDING TO EXH 45 Intro: 12/17/97 Off/Obj: OFFERED	01	STATE	8	SH

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----- E X H I B I T S -----

ID	Description	Type	Relshp	Dept	Clrk
54	CLEAR OVERLAY W/ MARKINGS BY WITNESS SAMMONS FOR EXH. 44 Intro: 12/18/97 Off/Obj:	01	STATE	8	SH
A	TERM PAPER ENTITLED "ORAL LANGUAGE DEF- ICITS AS A READING DISABILITY PREDIC- TOR" BY LESLIE PECK Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
B	PHOTO OF PECK HOME (FRONT DOOR) Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
C	PHOTO OF INSIDE OF PECK HOME (COUCH & CREDENZA) Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
D	PHOTO OF PECK BATHROOM Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
E	SERIES OF PHOTOS INSIDE OF PECK HOME (HAMPER, SHOES, KITCHEN & LIVING ROOM) Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
F	SERIES OF PHOTOS INSIDE PECK HOME (BEDROOM, LAUNDRY ROOM, BATHROOM & COUCH W/ JACKET) Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
G	PHOTO OF PECK'S DODGE SHOWING LICENSE PLATE Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
H	DARK PHOTO OF PECK'S CAR IN LOT Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
I	PHOTO OF INSIDE OF PECK'S CAR IN VACANT LOT Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
J	PHOTO OF INSIDE OF PECK'S CAR SHOWING JUMPER CABLES Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
K	PHOTO OF INSIDE OF PECK'S TRUNK Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
L	PHOTO OF SCENE AT NIGHT W/ SNOW Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
M	PHOTO OF SCENE AT NIGHT W/ SNOW & FOILAGE Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
N	DARK PHOTO OF SCENE AT NIGHT W/ LIGHT SNOW Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
O	DARK PHOTO OF SCENE AT NIGHT W/ NEAR BY FOILAGE Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
P	PHOTO OF GROUND AT SCENE AT NIGHT Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
Q	PHOTO OF SCENE AT NIGHT W/ FOILAGE Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH

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----- E X H I B I T S -----

ID	Description	Type	Relshp	Dept	Clrk
R	PHOTO OF SCENE NEAR FOILAGE AT NIGHT (NO SNOW SHOWN) Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
S	PHOTO OF SCENE AT NIGHT W/ FOILAGE & LIGHT SNOW Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
T	DARK PHOTO W/ DIM LIGHT Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
U	PHOTO OF GROUND W/ SNOW AT SCENE AT NIGHT Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
V	PHOTO OF FOILAGE AT SCENE AT NIGHT Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
W	PHOTO OF GROUND W/ SNOW AT SCENE AT NIGHT W/ PINE TREE IN BACKGROUND Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
X	PHOTO OF SCENE AT NIGHT W/ PINE TREE NEAR BY Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
Y	PHOTO OF SCENE AT NIGHT W/ SNOW ON GROUND NEAR FOILAGE Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
Z	PHOTO OF SCENE AT NIGHT W/ SNOW ON GROUND NEAR FOILAGE Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
AA	PHOTO OF SCENE AT NIGHT W/ LESLIE N.'S CAR Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
BB	PHOTO OF SCENE AT NIGHT W/ LESLIE N.'S CAR Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
CC	PHOTO OF SCENE AT NIGHT W/ LESLIE N.'S CAR Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
DD	PHOTO OF SCENE AT NIGHT W/ FOILAGE AND LESLIE'S CAR IN BACKGROUND Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
EE	PHOTO OF LITTLE WALDORF SALOON FROM ACROSS VIRGINIA ST. Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
FF	PHOTO OF SIDEWALK NEAR LITTLE WALDORF SALOON ON VIRGINIA ST. Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
GG	PHOTO OF NORTH VIRGINIA ST. LOOKING NORTH TOWARDS LITTLE WALDORF Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
HH	PHOTO OF APARTMENTS ACROSS FROM LAWLOR EVENTS CENTER ON N. VIRGINIA ST. Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH

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At issue: 00/00/00

----- E X H I B I T S -----

ID	Description	Type	Relshp	Dept	Clrk
II	PHOTO OF PINE TREES NEAR APARTMENTS ON N. VIRGINIA ST. Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
JJ	PHOTO OF PINE TREES NEAR APARTMENTS LOOKING FROM N. VIRGINIA ST. Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
KK	PHOTO OF FOILAGE NEAR APARTMENTS ON N. VIRGINIA ST. Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
LL	PHOTO OF SCENE AT VACANT LOT AT DAYTIME Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
MM	PHOTO OF VACANT LOT NEAR SCENE DURING THE DAY Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
NN	PHOTO OF LOT NEAR SCENE AT DAYTIME Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
OO	PHOTO OF VACANT LOT ON N. VIRGINIA ST. LOOKING WEST AT DAYTIME Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
PP	PHOTO OF VACANT LOT ON N. VIRGINIA LOOKING NORTHWEST NEAR FOILAGE AT SCENE Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
QQ	PHOTO OF VACANT LOT ON N. VIRGINIA ST. AT SCENE W/ LAWLOR IN BACKGROUND Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
RR	PHOTO OF VACANT LOT ON N. VIRGINIA ST. LOOKING WEST Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
SS	PHOTO OF VACANT LOT ON N. VIRGINIA ST. W/ PINE TREES AND LAWLOR IN BACKGROUND Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
TT	PHOTO OF VACANT LOT ON N. VIRGINIA ST. NEAR FOILAGE LOOKING NORTHWEST Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
UU	PHOTO OF SCENE AT VACANT LOT DURING DAY W/ FOILAGE AND FLEISCHMAN IN BACK- GROUND Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
VV	PHOTO OF SCENE AT VACANT LOT NEAR FOILAGE DURING DAY Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
WW	PHOTO OF SCENE IN VACANT LOT NEAR FOILAGE (LOOKING NORTH) Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
XX	PHOTO OF SCENE AT LOT DURING DAY W/ NEARBY FOILAGE Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH

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----- E X H I B I T S -----

ID	Description	Type	Relshp	Dept	Clrk
YY	PHOTO OF VACANT LOT ON N. VIRGINIA ST. LOOKING SOUTHEAST Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
ZZ	PHOTO OF THE BACK OF THE VACANT LOT ON N. VIRGINIA ST. DURING DAY Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
AAA	PHOTO OF BACK OF VACANT LOT DURING DAY LOOKING NORTH BY NORTH EAST Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
BBB	PHOTO OF VACANT LOT W/ APARTMENTS IN BACKGROUND & LOOKING NORTH Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
CCC	PHOTO OF VACANT LOT ON N. VIRGINIA ST. FROM ACROSS N. VIRGINIA ST. AT DAY Intro: 12/15/97 Off/Obj: OFFERED	01	DEF:	8	SH
DDD	CORRECTIONAL MEDICAL SERVICES' PATIENT CONSENT TO TREAT & RELEASE FORM Intro: 12/15/97 Off/Obj:	01	DEF:	8	SH
EEE	CLEAR OVERLAY FOR EXH 6 AS MARKED BY WITNESS LESLIE N. Intro: 12/15/97 Off/Obj:	01	DEF:	8	SH
STATES.1	PERMISSION TO SEARCH SIGNED BY LESLIE PECK Intro: 12/18/97 Off/Obj: OFFERED	071	STATE	8	LR
STATES.2	STATEMENT TO POLICE BY LESLIE PECK Intro: 08/29/97 Off/Obj: OFFERED Disp: 261 09/02/97 EXHIBIT WITHDRAWN	071	STATE	8	LR
STATES.3	PICTURE OF THE DEFENDANT THE NIGHT HE WAS ARRESTED Intro: 08/29/97 Off/Obj: OFFERED Disp: 261 09/02/97 EXHIBIT WITHDRAWN	071	STATE	8	LR
STATES.4	PICTURE DEPICTING METH PIPE; LAP TOP COMPUTER ETC Intro: 08/29/97 Off/Obj: OFFERED	071	STATE	8	LR
STATES.5	PICTURE DEPICTING COOLER WITH A TOWEL OVER IT Intro: 08/29/97 Off/Obj: OFFERED Disp: 261 09/02/97 EXHIBIT WITHDRAWN	071	STATE	8	LR

|

DATE, JUDGE  
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

03/17/98

HONORABLE

STEVEN R.

KOSACH

DEPT. NO. 8

S. Hopper

(Clerk)

I. Zihn

(Reporter)

**ENTRY OF JUDGMENT AND IMPOSITION OF SENTENCE**

Deputy District Attorney Egan Walker was present for the State. Defendant present with counsel, Mr. Dennis Widdis. Officer Mary Isbister was present for the Division of Parole and Probation.

Counsel Widdis addressed the Court.

Tom Turner was called by Counsel Widdis, sworn and testified; cross examined and redirect examined.

Randy Peck was called by Counsel Widdis, sworn and testified. Witness further read statement from Leslie Peck.

Sherry Gray was called by Counsel Widdis, sworn and testified.

Bessie Cooper was called by Counsel Widdis, sworn and testified.

Dr. Ted Young was called by Counsel Walker, sworn and testified as an expert witness; cross examined and excused.

Deputy Carl Barrett was called by Counsel Walker, sworn and testified; cross examined.

Sue D. Dickson was called by Counsel Walker, sworn and testified; cross examined.

At 10:30 a.m. Court ordered recess.

At 10:45 a.m. Court reconvened with all parties present.

Leslie Nummer was called by Counsel Walker, sworn and testified with victim impact statement.

Respective counsel presented arguments regarding sentencing.

Officer Isbister addressed the Court.

Counsel Widdis further presented arguments regarding sentencing.

Defendant addressed the Court.

COURT ORDERED: Judgment entered. The Defendant is sentenced to the Nevada State Prison for a maximum term of life, with a minimum parole eligibility of ten (10) years on Count I and sentenced to the Nevada State Prison for a maximum term of life, with a minimum parole eligibility of ten (10) years on Count II to run consecutive to the sentence imposed in Count I. The Defendant shall effect restitution in the amount of one thousand forty-seven dollars and fifteen cents (\$1,047.15) and pay the statutory administrative assessment fee of Twenty-Five Dollars (\$25.00). The Defendant is to be given credit for four hundred eighty-four (484) days time served. Defendant was remanded to the custody of the Sheriff.

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STATE VS FRANK MILFORD PECK 1 Page  
District Court 03/17/1998 08 43 AM  
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DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

12/03/03  
HONORABLE  
BRENT ADAMS  
DEPT. NO. 6  
S. Stagnaro  
(Clerk)  
T. Herbert  
(Reporter)

**EVIDENTIARY HEARING**

Deputy D.A. Terrence McCarthy represented the State.  
Defendant was present with counsel, Robert Glennen.  
Rule of Exclusion Invoked.  
**Dennis Widdis** called by Counsel Glennen, sworn and testified.  
**Exhibits 1, 2, and 3** marked and offered by the Defense, the Court admitted these exhibits.  
Cross-examination by Counsel McCarthy. Questions by the Court.  
Further examination by respective counsel.  
2:45 Recess.  
3:10 All parties present.  
**Steven Kosach** called by Counsel Glennen, sworn and testified.  
No cross-examination.  
Petitioner rests.  
Counsel for the State moved to have the Petitioner's claim dismissed, response by the Defense. Arguments presented and questions by the Court.  
The Court ordered that the motion to dismiss is Granted.

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POST FRANK MILFORD PECK (D6) 1 Page  
District Court 12/03/2003 08:55 AM  
Washoe County MTN  
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**Code 1350**

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE**

**STATE OF NEVADA,**

**Case No. CR96-2687**

**Plaintiff,**

**Dept. No. 6**

**vs.**

**FRANK M. PECK,**

**Defendant.**

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**CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL**

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on the 18th day of April, 2017, I electronically filed the Notice of Appeal in the above entitled matter to the Nevada Supreme Court.

I further certify that the transmitted record is a true and correct copy of the original pleadings on file with the Second Judicial District Court.

Dated this 18th day of April, 2017

Jacqueline Bryant  
Clerk of the Court

By /s/ Phillip Sewell  
Phillip Sewell  
Deputy Clerk