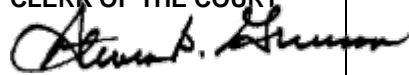


THE GERSTEN LAW FIRM PLLC
9680 W Tropicana Avenue # 120
Las Vegas, NV 89147
Tel (702) 857-8777 | Fax (702) 857-8767

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JOSEPH Z. GERSTEN, ESQ.
Nevada Bar No.: 13876
The Gersten Law Firm PLLC
9680 W Tropicana Avenue # 120
Las Vegas, NV 89147
Telephone (702) 857-8777
joe@thegerstenlawfirm.com
Attorney for Petitioner

Electronically Filed
7/19/2019 2:34 PM
Steven D. Grierson
CLERK OF THE COURT


Electronically Filed
Jul 24 2019 10:54 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JACK LEAL,

Petitioner,

vs.

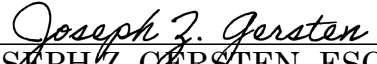
JERRY HOWELL, Warden, Southern
Desert Correctional Center

Respondent.

Case No.: C-17-322664-2
Dept. No.: XVII

NOTICE OF APPEAL

Notice is hereby given that JACK LEAL, Petitioner above named, hereby appeals to the Supreme Court of Nevada from the order denying his WRIT OF HABEAS CORPUS entered in this action on the 21st day of June 2019.

By 
JOSEPH Z. GERSTEN, ESQ.
Nevada Bar No.: 13876
9680 W Tropicana Avenue # 120
Las Vegas, NV 89147
Telephone (702) 857-8777
joe@thegerstenlawfirm.com
Attorney for Petitioner

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of The Gersten Law Firm PLLC, and that on the 19th day of June 2019, I deposited a true and correct copy of the **NOTICE OF APPEAL** in the United States Mail at Las Vegas, Nevada, enclosed in a sealed envelope, first class mail, postage prepaid, addressed as follows:

JERRY HOWELL
Warden, Southern Desert Correctional Center
20825 Cold Creek Road
P.O. Box 208
Indian Springs, NV 89070-0208

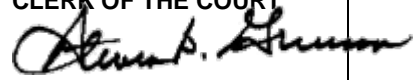
STEVEN WOLFSON
Clark County District Attorney
200 Lewis Avenue
Las Vegas, NV 89101

AARON FORD
Nevada Attorney General
100 North Carson Street
Carson City, Nevada 89701

Joseph Z. Gersten

JOSEPH Z. GERSTEN, ESQ.
An Employee of The Gersten Law Firm PLLC

THE GERSTEN LAW FIRM PLLC
9680 W Tropicana Avenue # 120
Las Vegas, NV 89147
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1 **ASTA**
2 JOSEPH Z. GERSTEN, ESQ.
3 Nevada Bar No.: 13876
4 The Gersten Law Firm PLLC
5 9680 W Tropicana Avenue # 120
6 Las Vegas, NV 89147
7 Telephone (702) 857-8777
8 joe@thegerstenlawfirm.com
9 *Attorney for Petitioner*

7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 JACK LEAL,
10
11 Petitioner,

Case No.: **C-17-322664-2**
Dept. No.: **XVII**

12 vs.

13 JERRY HOWELL, Warden, Southern
14 Desert Correctional Center

15 Respondent.

16
17 **CASE APPEAL STATEMENT**

18 1. Name of appellant filing this case appeal statement:

19 **Jack Leal**

20 2. Identify the judge issuing the decision, judgment, or order appealed

21 from:

22 **The Honorable Michael P. Villani**

23 ///

24

25 ///

26

27 ///

28

///

THE GERSTEN LAW FIRM PLLC
9680 W Tropicana Avenue # 120
Las Vegas, NV 89147
Tel (702) 857-8777 | Fax (702) 857-8767

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3. Identify each appellant and the name and address of counsel for each appellant:

Jack Leal
Joseph Z. Gersten, Esq.
The Gersten Law Firm PLLC
9680 W Tropicana Avenue # 120
Las Vegas, NV 89147
Telephone (702) 857-8777
joe@thegerstenlawfirm.com

4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):

JERRY HOWELL
Warden, Southern Desert Correctional Center
20825 Cold Creek Road
P.O. Box 208
Indian Springs, NV 89070-0208

STEVEN B. WOLFSON, ESQ.
District Attorney
200 Lewis Avenue
Las Vegas, NV 89101

AARON FORD, ESQ.
Nevada Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717

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5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):

N/A

6. Indicate whether appellant was represented by appointed or retained counsel in the district court:

Retained

7. Indicate whether appellant is represented by appointed or retained counsel on appeal:

Retained

8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:

N/A

9. Indicate the date the proceedings commenced in the district court (e.g., date complaint, indictment, information, or petition was filed):

04/11/2017

///
///
///

1 10. Provide a brief description of the nature of the action and result
2 in the district court, including the type of judgment or order
3 being appealed and the relief granted by the district court:

4 **Appellant filed a Writ of Habeas Corpus in the District**
5 **Court which was denied in its entirety by the District**
6 **Court.**

7 11. Indicate whether the case has previously been the subject of an
8 appeal to or original writ proceeding in the Supreme Court and, if
9 so, the caption and Supreme Court docket number of the prior
10 proceeding:

11 **Direct Appeal, Leal vs. State, #74050**

12 12. Indicate whether this appeal involves child custody or visitation:

13 **N/A**

14 13. If this is a civil case, indicate whether this appeal involves the
15 possibility of settlement:

16 **N/A**

17 Dated this 19th day of July 2019.

18
19
20
21 By Joseph Z. Gersten
22 JOSEPH Z. GERSTEN, ESQ.
23 Nevada Bar No.: 13876
24 9680 W Tropicana Avenue # 120
25 Las Vegas, NV 89147
26 Telephone (702) 857-8777
27 joe@thegerstenlawfirm.com
28 *Attorney for Petitioner*

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of The Gersten Law Firm PLLC, and that on the 19th day of July 2019, I deposited a true and correct copy of the **CASE APPEAL STATEMENT** in the United States Mail at Las Vegas, Nevada, enclosed in a sealed envelope, first class mail, postage prepaid, addressed as follows:

JERRY HOWELL
Warden, Southern Desert Correctional Center
20825 Cold Creek Road
P.O. Box 208
Indian Springs, NV 89070-0208

STEVEN WOLFSON
Clark County District Attorney
200 Lewis Avenue
Las Vegas, NV 89101

AARON FORD
Nevada Attorney General
100 North Carson Street
Carson City, Nevada 89701

Joseph Z. Gersten

JOSEPH Z. GERSTEN, ESQ.
An Employee of The Gersten Law Firm PLLC

THE GERSTEN LAW FIRM PLLC
9680 W Tropicana Avenue # 120
Las Vegas, NV 89147
Tel (702) 857-8777 | Fax (702) 857-8767

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-17-322664-2

State of Nevada
vs
Jack Leal

§ Location: **Department 17**
 § Judicial Officer: **Villani, Michael**
 § Filed on: **04/11/2017**
 § Cross-Reference Case **C322664**
 § Number:
 § Defendant's Scope ID #: **7049738**
 § ITAG Booking Number: **0**
 § ITAG Case ID: **0**
 § Lower Court Case # Root: **16F19220**
 § Lower Court Case Number: **16F19220B**
 § Supreme Court No.: **74050**

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
Jurisdiction: District Court					
1. MULTIPLE TRANSACTIONS INVOLVING FRAUD OR DECEIT IN THE COURSE OF AN ENTERPRISE AND OCCUPATION	205.377	F	03/01/2015	Case Status:	09/05/2017 Closed
PCN: 0030051191 ACN: 0					
Arrest: 03/01/2015	MET - Metro				

Related Cases

C-17-322664-3 (Multi-Defendant Case)

Statistical Closures

09/05/2017 Guilty Plea with Sentence (before trial) (CR)

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	C-17-322664-2
Court	Department 17
Date Assigned	04/11/2017
Judicial Officer	Villani, Michael

PARTY INFORMATION





Defendant	Leal, Jack	<i>Lead Attorneys</i>
		Pro Se
Plaintiff	State of Nevada	Ford, Aaron D. 775-684-1100(W)

DATE


EVENTS & ORDERS OF THE COURT


INDEX


EVENTS


04/11/2017	 Criminal Bindover Packet Las Vegas Justice Court
04/11/2017	 Amended Criminal Bindover Packet Las Vegas Justice Court
04/18/2017	 Information <i>Information</i>
04/24/2017	 Guilty Plea Agreement


CASE SUMMARY
CASE NO. C-17-322664-2


07/18/2017  PSI


08/11/2017  Notice
Filed By: Plaintiff State of Nevada
Notice of Intent of Present Victim Impact Statements


08/23/2017  Judgment of Conviction
JUDGMENT OF CONVICTION (PLEA OF GUILTY)


09/05/2017  Criminal Order to Statistically Close Case
Criminal Order to Statistically Close Case


09/08/2017  Order
Filed By: Defendant Leal, Jack
Order Allowing Notary Public


09/14/2017  Notice of Appeal (criminal)
Party: Defendant Leal, Jack
Notice of Appeal


09/14/2017  Certificate of Mailing
Filed By: Defendant Leal, Jack
CERTIFICATE OF MAILING


10/03/2017  Case Appeal Statement
Filed By: Defendant Leal, Jack
Case Appeal Statement


10/11/2017  Reporters Transcript
Filed By: Defendant Leal, Jack
Request for Transcript of Proceedings


11/17/2017  Recorders Transcript of Hearing
Transcript of Proceedings Sentencing (Both) Heard on August 17, 2017

11/20/2017  Recorders Transcript of Hearing
Recorders Transcript of Hearing Re: Initial Arraignment

11/20/2017  Recorders Transcript of Hearing
Recorders Transcript of Hearing Re: Arraignment Continued

04/16/2018  Application
Filed By: Defendant Leal, Jack
Application for Bail Pending Appeal

04/16/2018  Appendix
Filed By: Defendant Leal, Jack
Appendix 1

04/16/2018  Appendix
Filed By: Defendant Leal, Jack
Appendix 2

CASE SUMMARY
CASE NO. C-17-322664-2

04/16/2018  Appendix
Filed By: Defendant Leal, Jack
Appdenix 3

04/23/2018  Opposition to Motion
Filed By: Plaintiff State of Nevada
State's Opposition to Defendant's Motion for Bail Pending Appeal

04/25/2018  Order
Filed By: Plaintiff State of Nevada
Transport Order

05/23/2018  Notice of Rescheduling of Hearing
Filed by: Defendant Leal, Jack
Notice of Rescheduling of Hearing

06/11/2018  Notice of Rescheduling of Hearing
Filed by: Defendant Leal, Jack
Notice of Rescheduling on Hearing

08/24/2018  Recorders Transcript of Hearing
Recorder's Transcript of Hearing: Defendant's Motion Re: Rescheduling of Hearing Heard on June 26, 2018

09/05/2018  Decision and Order
Filed By: Plaintiff State of Nevada
Decision and Order

11/29/2018  Motion
Filed By: Defendant Leal, Jack
Motion to Withdraw Counsel

12/29/2018  NV Supreme Court Clerks Certificate/Judgment - Affirmed
Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed; Review Denied

02/04/2019  Motion
Filed By: Defendant Leal, Jack
Motion and Order to Order NV Department of Corrections/Property Room to Release CD Containing Criminal Discovery to Defendant for Review

03/21/2019  Petition for Writ of Habeas Corpus
Filed by: Defendant Leal, Jack
Petition for Writ of Habeas Corpus





03/26/2019  Clerk's Notice of Hearing
Notice of Hearing

04/23/2019  Response
Answer

05/02/2019  Reply to Opposition
Filed by: Defendant Leal, Jack
Reply to Opposition

CASE SUMMARY

CASE NO. C-17-322664-2

- 05/03/2019  Reply to Opposition
Filed by: Defendant Leal, Jack
Amended Reply to Opposition
- 05/09/2019  Amended Judgment of Conviction
Amended Judgment of Conviction (Plea of Guilty)
- 06/19/2019  Order Denying
Filed By: Plaintiff State of Nevada
Order Denying Petition for Writ of Habeas Corpus
- 06/21/2019  Notice of Entry of Order
Notice of Entry of Order
- 07/19/2019  Notice of Appeal (criminal)
Party: Defendant Leal, Jack
Notice of Appeal (criminal)
- 07/19/2019  Case Appeal Statement
Filed By: Defendant Leal, Jack
Case Appeal Statement

DISPOSITIONS

- 04/24/2017 **Plea** (Judicial Officer: Villani, Michael)
1. MULTIPLE TRANSACTIONS INVOLVING FRAUD OR DECEIT IN THE COURSE OF AN ENTERPRISE AND OCCUPATION
Guilty
PCN: 0030051191 Sequence:
- 08/17/2017 **Disposition** (Judicial Officer: Villani, Michael)
1. MULTIPLE TRANSACTIONS INVOLVING FRAUD OR DECEIT IN THE COURSE OF AN ENTERPRISE AND OCCUPATION
Guilty
PCN: 0030051191 Sequence:
- 08/17/2017 **Adult Adjudication** (Judicial Officer: Villani, Michael)
1. MULTIPLE TRANSACTIONS INVOLVING FRAUD OR DECEIT IN THE COURSE OF AN ENTERPRISE AND OCCUPATION
03/01/2015 (F) 205.377 (DC55110)
PCN: 0030051191 Sequence:

Sentenced to Nevada Dept. of Corrections
Term: Minimum:72 Months, Maximum:180 Months
Credit for Time Served: 0 Day

Fee Totals:


Administrative Assessment Fee	25.00
\$25	
DNA Analysis Fee	150.00
\$150	
Genetic Marker Analysis AA Fee	3.00
\$3	
Fee Totals \$	178.00
Other Fees	


1. , \$757,420.00 Payable to the following: \$70,000 LoryLee Plancarte, \$75,000 Edelyn Rudin, \$37,500 Chatty Becker, \$57,500 Irene Segura, \$98,620 Lih-Ling Yang, \$90,300 Lina Palafox, \$85,000 Adilson Gibellato, \$50,000


CASE SUMMARY
CASE NO. C-17-322664-2

Juan Eloy Ramirez, \$115,000 Catherine Wyngarden, \$25,000 Shahram Bozorgnia, \$53,500 Tat Lam)


HEARINGS


- 04/20/2017  **Initial Arraignment** (10:00 AM) (Judicial Officer: Henry, Jennifer)
 Matter Continued;
 Journal Entry Details:
At the request of counsel, COURT ORDERED, matter CONTINUED. NIC 4/24/17 10:00 AM ARRAIGNMENT CONTINUED (LLA);

- 04/24/2017  **Arraignment Continued** (1:00 PM) (Judicial Officer: Henry, Jennifer)
 Plea Entered;
 Journal Entry Details:
NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED IN OPEN COURT. DEFT. LEAL ARRAIGNED AND PLED GUILTY TO MULTIPLE TRANSACTIONS INVOLVING FRAUD OR DECEIT IN THE COURSE OF AN ENTERPRISE AND OCCUPATION (F). Court ACCEPTED plea and ORDERED, matter referred to the Division of Parole and Probation (P & P) and set for SENTENCING. Court DIRECTED Deft. to report to P & P within 48 hours. NIC 8/17/17 8:30 AM SENTENCING (DEPT. 17);

- 08/17/2017  **Sentencing** (8:30 AM) (Judicial Officer: Villani, Michael)
 Defendant Sentenced;
 Journal Entry Details:
CONFERENCE AT BENCH. Court noted it had two conflict waivers signed by Mr. Leal and Ms. Garcia. Exhibits presented (see worksheet). DEFT LEAL ADJUDGED GUILTY of MULTIPLE TRANSACTIONS INVOLVING FRAUD OR DECEIT IN THE COURSE OF AN ENTERPRISE AND OCCUPATION (F). Arguments by counsel and statement by Defendant. Victim Speaker Irene Sequra SWORN and TESTIFIED. Victim Speaker Luis Lafox SWORN and TESTIFIED. Victim Speaker Lori Plancarte SWORN and TESTIFIED. Pursuant to NRS 176.063, COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, a \$150.00 DNA analysis fee, including testing to determine genetic markers, \$3.00 DNA Collection fee and Restitution in the amount of \$757,420.00 payable to (\$70,000 LoryLee Plancarte, \$75,000 Edelyn Rudin, \$37,500 Chatty Becker, \$57,500 Irene Segura, \$98,620 Liih-Ling Yang, \$90,300 Lina Palafox, \$85,000 Adilson Gibellato, \$50,000 Juan Eloy Ramirez, \$115,000 Catherine Wyngarden, \$25,000 Shahram Bozorgnia, \$53,500 Tat Lam) Defendant SENTENCED to a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS and a MINIMUM of SEVENTY-TWO (72) MONTHS in the Nevada Department of Corrections (NDC) with ZERO (0) DAYS credit for time served. BOND, if any, EXONERATED. NDC CLERK'S NOTE: This minute order has been amended to reflect the correct sentence. A copy of this Minute Order has been placed in the attorney folders of the Attorney General and Jason Weiner, Esq.//ob/09/25/17. ;

- 04/26/2018  **Motion** (8:30 AM) (Judicial Officer: Villani, Michael)
04/26/2018, 05/15/2018
Defendant's Application for Bail Pending Appeal
 Matter Continued;
 Off Calendar;
 Journal Entry Details:
Mr. Weiner not present. COURT ORDERED, matter OFF CALENDAR. NDC;
 Matter Continued;
 Off Calendar;
 Journal Entry Details:
Clay Plummer, Esq. present for Defendant on behalf of Craig Muller, Esq. At the request of Mr. Plummer, COURT ORDERED, matter CONTINUED. NDC CONTINUED TO: 05/15/18 8:30 AM;

- 06/05/2018  **Motion** (8:30 AM) (Judicial Officer: Villani, Michael)
Defendant's Application for Bail Pending Appeal
 Off Calendar;
 Journal Entry Details:
Mr. Weiner not present. COURT ORDERED, matter OFF CALENDAR. NDC;


- 06/26/2018  **Motion** (8:30 AM) (Judicial Officer: Villani, Michael)
Defendant's Motion Re: Rescheduling of Hearing
 Motion Denied;
 Journal Entry Details:

CASE SUMMARY

CASE NO. C-17-322664-2

Mr. Mueller argued in support of the motion requesting a \$100,000.00 cash bail and noting there was a property to be liquidated and the amount could applied to the restitution owed. Argument by Mr. Kovac. COURT NOTED at the time of sentencing the issue was whether or not Defendant had paid the restitution as the negotiations were joint and several. Defendant had four months from the entry of plea to the time of sentencing and had only attempted the day before and was unsuccessful. Furthermore, there was not a conflict of situation, it was a simple question. It was a reality that Defendant did not pay the restitution. COURT FURTHER NOTED, the State retained the right to argue. Additionally, this was not conditional plea to give either Defendants probation. The Court reviewed eleven victims in the amount of \$750,000.00. They were victims of the fraudulent conduct of the two defendants. Furthermore, Defendant had a record of fraud in the past in two other cases. Defendant was a danger to the community; other unsuspecting individuals could be victims of his conduct. COURT ORDERED, motion DENIED pending appeal. NDC;

01/03/2019

 **Motion** (8:30 AM) (Judicial Officer: Villani, Michael)


Motion to Withdraw Counsel

Granted; MOTION TO WITHDRAW COUNSEL

Journal Entry Details:

Defendant not present. COURT ORDERED, Motion GRANTED; Mr. Weiner is to send a copy of the file to the Defendant. NDC;

02/28/2019

 **Motion** (8:30 AM) (Judicial Officer: Villani, Michael)


Motion and Order to Order NV Department of Corrections/Property Room to Release CD Containing Criminal Discovery to Defendant for Review

Off Calendar;

Journal Entry Details:

Defendant not present. COURT ORDERED, matter OFF CALENDAR as it was a fugitive document. NDC CLERK'S NOTE: Subsequent to Court, upon further review, Court stated the document wasn't a fugitive document. Court further stated it appeared on January 3, 2019, COURT ORDERED, Motion to Withdraw Counsel GRANTED. Court stated Defendant did not serve the Attorney General's Office and must served the Attorney Generals Office thereafter re-notice the motion. A copy of this minute order was placed in the attorney folder(s) of the Attorney General and distributed to: JACK NEAL #1183500 SOUTHERN DESERT CORRECTIONAL 20825 COLD CREEK ROAD PO BOX 208 INDIAN SPRINGS, NV 89070 //ob/02/28/19;

04/25/2019

 **Status Check** (8:30 AM) (Judicial Officer: Villani, Michael)


Court's request for clarification of restitution to include jointly and severally with co-defendant

Matter Continued;

Journal Entry Details:

Defendant not present. COURT ORDERED, matter CONTINUED; State to prepare a Transport Order for Defendant's presence. NDC CONTINUED TO: 05/23/19 8:30 AM;

05/07/2019

 **Petition for Writ of Habeas Corpus** (8:30 AM) (Judicial Officer: Villani, Michael)

Petition for Writ of Habeas Corpus (Post Conviction)

Denied;

Journal Entry Details:

Defendant not present. Mr. Gersten argued Defendant stated the Information, the charging document was unclear under the Hancock case, it did not delineate as to what Defendant did, as it lumped both Co- Defendants in. Mr. Gersten further argued under Hancock the statutes require a clear and concise delineation of the charges that was in error and had run a foul of the law. Additionally, Mr. Gersten argued there was a Strickland violation, the waiver that was necessary as Mr. Weiner was representing both Defendants until four days before deal was struck. Mr. Gersten further argued the Co- Defendant had an extensive history of domestic violence against Defendant and he believed the Co- Defendant was in lead with her attorney to coerce Defendant into the deal that was made. Mr. Gersten argued this was a package deal and the Court didn't know about it when it happened. Mr. Gersten further argued Defendant did not plea knowingly and intelligently. Court noted the Court of Appeals affirmed the Court's decision on not allowing Defendant to withdraw. Upon Court's inquiry, Mr. Gersten was uncertain if same issues were brought up. Further argument by Mr. Gersten. Mr. Bongard argued the first claim should be procedural defaulted pursuant NRS 34.810 (1A), there was nothing in the original petition that talked about there was an unknowingly, unintelligently or involuntary plea, the claim should be defaulted. Mr. Bongard further argued two Waivers of Conflict were executed, one in Justice Court and the second in District Court at the time of Entry of Plea. As to the coercion, Mr. Bongard argued the record doesn't contain any facts Counsel knew of any domestic violence or encouraged it to coerce a plea. Further argument by Mr. Gertsen. COURT stated its FINDINGS and ORDERED, Petition DENIED; Mr. Gertsen to prepare the Order. Court noted the upcoming hearing on May 23rd, the Court requested clarification of the restitution. COURT FURTHER ORDERED, Judgment of Conviction AMENDED; Restitution to be paid Joint and Severally with Co- Defendant; Court's Request for Clarification of Restitution to Include Jointly and Severally with Co- Defendant ADVANCED and VACATED. NDC;

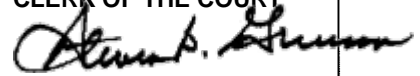
CASE SUMMARY

CASE NO. C-17-322664-2

FINANCIAL INFORMATION

DATE

Defendant Leal, Jack	
Total Charges	178.00
Total Payments and Credits	0.00
Balance Due as of 7/22/2019	178.00



1 **ORDD**
AARON D. FORD
2 Attorney General
MICHAEL J. BONGARD (Bar No. 007997)
3 Senior Deputy Attorney General
State of Nevada
4 Office of the Attorney General
1539 Avenue F, Suite 2
5 Ely, NV 89301
(775)289-1632 (phone)
6 (775)289-1653 (fax)
MBongard@ag.nv.gov
7 Attorneys for Respondents

8 **DISTRICT COURT**
9 **CLARK COUNTY NEVADA**

10 JACK LEAL,) Case No.: C-17-322664-2
11) Department 17
12) Petitioner,)
13) vs.)
14) JERRY HOWELL, WARDEN, SOUTHERN)
DESERT CORRECTIONAL CENTER,)
15) Respondents.)

16 **ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS**

17 **PROCEDURAL HISTORY**

18 ***Petitioner's conviction and direct appeal***

19 In Eighth Judicial District Court Case Number C-17-322664-2, the State filed an information on
20 April 18, 2017. The State filed an information pursuant to plea negotiations. That information charged
21 petitioner with a single count of "Multiple Transactions Involving Fraud or Deceit in Course of Enterprise
22 or Occupation," a category 'B' felony in violation of NRS 205.377.

23 Pursuant to the plea agreement filed on April 24, 2017 in open court, petitioner entered a guilty plea
24 to the charge in the information. The agreement provided that if petitioner made full restitution prior to
25 sentencing, the State would not oppose a suspended sentence of thirty-six (36) to ninety (90) months. If
26 petitioner failed to make restitution in full, the State could argue for imprisonment.

27 The petitioner appeared for sentencing on August 17, 2017. The petitioner failed to make full
28 restitution. The Court imposed a sentence of seventy-two (72) to one hundred eighty (180) months in the

RECEIVED BY
DEPT 17 ON

JUN 04 2019

1 Nevada Department of Corrections. The Court ordered restitution in the amount of \$757,420.00.¹ The clerk
2 filed the judgment of conviction on August 23, 2017. Petitioner filed a notice of appeal.

3 On appeal, petitioner raised two issues: “The District Court Erred by Permitting the State to Breach
4 the Plea Agreement without Holding an Evidentiary Hearing” and “The District Court Erred by Denying
5 Motion to Withdraw Counsel with an Unwaivable Conflict.”

6 On September 11, 2018, the Nevada Court of Appeals affirmed petitioner’s conviction.

7 ***State habeas proceedings***

8 On March 21, 2019, the clerk filed the petition for writ of habeas corpus, challenging petitioner’s
9 judgment of conviction. Respondents filed an answer on April 23, 2019. Petitioner filed an amended reply
10 on May 3, 2019.

11 The parties appeared before the Court on May 7, 2019, to present argument. Joseph Gersten
12 represented the petitioner, who was not present. Michael Bongard, Senior Deputy Attorney General,
13 represented respondents.

14 After hearing from the parties, the Court makes the following findings of fact and conclusions.

15 **PETITIONER’S CLAIMS**

16 The petition in this matter presented three claims: First, petitioner claims the original information
17 failed to put the petitioner on notice of the charges. Second, petitioner alleges that trial counsel was
18 ineffective for failing to obtain a conflict waiver. Third, petitioner alleges trial counsel was ineffective for
19 coercing petitioner into entering his plea.

20 For the reasons discussed below, petitioner’s claims are without merit and the Court denies relief
21 based upon the factual findings.

22 ***The challenge to the information***

23 Petitioner’s first claim alleges that the information failed to put petitioner on notice of the charges.

24 The Court finds the claim without merit for two reasons: First, the claim as pled in the petition does
25 not allege the plea was involuntary or unknowingly entered. NRS 34.810(1)(a). Second, in the plea

26 _____
27 ¹ At the May 7, 2019 hearing, the Court ordered an amended judgment of conviction directing
28 restitution be joint and several with the co-defendant, Jessica Garcia. The Court also noted on the record
that the co-defendant received a sentence of seventy-two (72) to one hundred eighty (180) months in the
Nevada Department of Corrections.

1 agreement petitioner admitted committing the facts charged in the information and admitted those facts on
2 the record at his arraignment reflecting that petitioner acknowledged an understanding of the charges.

3 The Court finds petitioner entered his plea knowingly, intelligently and voluntarily. Therefore, the
4 Court denies petitioner's first claim.

5 ***Alleged ineffective assistance of counsel for failing to obtain a waiver of conflict***

6 Petitioner next alleges trial counsel was ineffective for failing to obtain a conflict waiver.

7 In order to prove that trial counsel was ineffective, a petitioner must demonstrate that trial counsel's
8 conduct fell below a standard of objective reasonableness and that petitioner suffered prejudice resulting
9 from the deficient conduct. *Strickland v. Washington*, 466 U.S. 668, 687 (1984); *Warden v. Lyons*, 100 Nev.
10 430, 432, 685 P.2d 504, 505 (1984) (adopting the test in *Strickland*).

11 The record in this case reflects counsel obtained two waivers from petitioner. Petitioner executed the
12 first waiver in justice court. Petitioner executed the second waiver on April 20, 2017, four days prior to entry
13 of his plea. The Court finds the justice court waiver failed to contain a provision directing petitioner to seek
14 the advice of independent counsel.²

15 However, in the second waiver, executed April 20, 2017, petitioner acknowledged counsel "advised
16 me of my right to consult with independent counsel to review the potential conflict of interest posed by dual
17 representation and the consequences of waiving the right to conflict free representation. If I choose not to
18 seek advice of independent counsel then I expressly waive my right to do so."

19 The Court finds that the Court of Appeals' finding in *Leal v. State*, NVCA Case Number 74050
20 (Order of Affirmance Sept. 11, 2018),³ that Leal waived the conflict constitutes law of the case. However,
21 the Court finds that trial counsel's conduct was not deficient in this matter since counsel had petitioner
22 execute a waiver of conflict prior to entering his plea. Additionally, to the extent that petitioner alleges a
23 disparity in outcome as prejudice, the Court notes that petitioner's co-defendant received the same sentence,
24 in *State v. Garcia*, Eighth Judicial District Court Case Number C-17-322664-3. Therefore, petitioner failed
25 to establish either deficient conduct or prejudice resulting from trial counsel's alleged failure to obtain a
26 waiver of conflict. The Court denies relief on this claim.

27
28 ² See, *Ryan v. Eighth Judicial Dist. Court*, 123 Nev. 419, 430, 168 P.3d 703, 710 (2007).

³ 2018 WL 4408757.

1 *Alleged ineffective assistance of counsel for coercing a plea*

2 Petitioner's final claim alleges trial counsel was ineffective for coercing his plea because the co-
3 defendant "visited domestic violence upon the Petitioner," "without a viable conflict waiver."

4 The Court finds that petitioner executed two waivers of conflict. The Court also finds that based
5 upon the transcript from the change of plea, petitioner signed the plea agreement freely and voluntarily and
6 entered his plea of his own free will and free of threats. Petitioner failed to demonstrate that counsel's
7 conduct was deficient, or that petitioner suffered prejudice.

8 Therefore, based upon the findings contained in this order, and good cause appearing,

9 **IT IS HEREBY ORDERED** that the petition for writ of habeas corpus is **DENIED**.

10 DATED this 17 day of ~~May~~, 2019.

11 *June*

12 

13 **DISTRICT JUDGE**

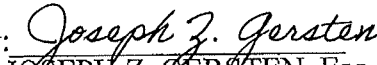
14 *Jim* MICHAEL P. VILLANI

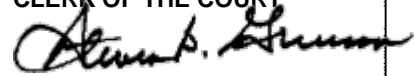
15 Respectfully Submitted,

16 AARON D. FORD
Attorney General

17 By: 
18 MICHAEL J. BONGARD
Nevada Bar No. 7997

19
20 Approved to Form:

21 By: 
22 JOSEPH Z. GERSTEN, Esq.
23 Gersten Law Firm PLLC
24
25
26
27
28



1 **NEOJ**
AARON D. FORD
2 Attorney General
MICHAEL J. BONGARD (Bar No. 007997)
3 Senior Deputy Attorney General
State of Nevada
4 Office of the Attorney General
1539 Avenue F, Suite 2
5 Ely, NV 89301
(775)289-1632 (phone)
6 (775)289-1653 (fax)
MBongard@ag.nv.gov
7 Attorneys for RespondentS

8 **DISTRICT COURT**

9 **CLARK COUNTY NEVADA**

10 JACK LEAL,

11 Petitioner,

12 vs.

13 JERRY HOWELL, WARDEN, SOUTHERN
DESERT CORRECTIONAL CENTER

14 Respondents.

Case No.: C-17-322664-2
Department 17

15
16 **NOTICE OF ENTRY OF ORDER**

17 TO: JACK LEAL, Defendant named above:

18 You will please take notice that on the 19th day of June, 2019, the Eighth Judicial District Court,
19 State of Nevada filed an Order Denying Petition for Writ of Habeas Corpus in the matter captioned
20 above. A duplicate copy of the referenced Order is attached to the notice and is hereby served in
21 accordance with Nevada law.

22 DATED this 21st day of June, 2019.

23
24 AARON D. FORD
Attorney General

25
26 By: /s/ Michael J. Bongard
MICHAEL J. BONGARD
Nevada Bar No. 007997
27 Deputy Attorney General
28

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Notice of Entry of Order filed in the Eighth Judicial District Court Case Number C-17-322664-2 does not contain the social security number of any person.

DATED this 21st day of June, 2019.

AARON D. FORD
Attorney General

By: /s/ Michael J. Bongard
MICHAEL J. BONGARD
Nevada Bar No. 007997
Deputy Attorney General

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Office of the Attorney General, State of Nevada, and on June 21, 2019, I filed the foregoing document via this Court’s electronic filing system. Parties that are registered with this Court’s EFS will be served electronically.

Joseph Z. Gersten, Esq.
The Gersten Law Firm PLLC
9680 W Tropicana Avenue, #120
Las Vegas, NV 89147

/s/ D. Simon
D. Simon, an employee of
the office of the Nevada Attorney General



1 **ORDD**
AARON D. FORD
2 Attorney General
MICHAEL J. BONGARD (Bar No. 007997)
3 Senior Deputy Attorney General
State of Nevada
4 Office of the Attorney General
1539 Avenue F, Suite 2
5 Ely, NV 89301
(775)289-1632 (phone)
6 (775)289-1653 (fax)
MBongard@ag.nv.gov
7 Attorneys for Respondents

8 **DISTRICT COURT**
9 **CLARK COUNTY NEVADA**

10 JACK LEAL,) Case No.: C-17-322664-2
11) Petitioner,) Department 17
12 vs.)
13 JERRY HOWELL, WARDEN, SOUTHERN)
14 DESERT CORRECTIONAL CENTER,)
15 Respondents.)

16 **ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS**

17 **PROCEDURAL HISTORY**

18 *Petitioner's conviction and direct appeal*

19 In Eighth Judicial District Court Case Number C-17-322664-2, the State filed an information on
20 April 18, 2017. The State filed an information pursuant to plea negotiations. That information charged
21 petitioner with a single count of "Multiple Transactions Involving Fraud or Deceit in Course of Enterprise
22 or Occupation," a category 'B' felony in violation of NRS 205.377.

23 Pursuant to the plea agreement filed on April 24, 2017 in open court, petitioner entered a guilty plea
24 to the charge in the information. The agreement provided that if petitioner made full restitution prior to
25 sentencing, the State would not oppose a suspended sentence of thirty-six (36) to ninety (90) months. If
26 petitioner failed to make restitution in full, the State could argue for imprisonment.

27 The petitioner appeared for sentencing on August 17, 2017. The petitioner failed to make full
28 restitution. The Court imposed a sentence of seventy-two (72) to one hundred eighty (180) months in the

RECEIVED BY
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1 Nevada Department of Corrections. The Court ordered restitution in the amount of \$757,420.00.¹ The clerk
2 filed the judgment of conviction on August 23, 2017. Petitioner filed a notice of appeal.

3 On appeal, petitioner raised two issues: “The District Court Erred by Permitting the State to Breach
4 the Plea Agreement without Holding an Evidentiary Hearing” and “The District Court Erred by Denying
5 Motion to Withdraw Counsel with an Unwaivable Conflict.”

6 On September 11, 2018, the Nevada Court of Appeals affirmed petitioner’s conviction.

7 ***State habeas proceedings***

8 On March 21, 2019, the clerk filed the petition for writ of habeas corpus, challenging petitioner’s
9 judgment of conviction. Respondents filed an answer on April 23, 2019. Petitioner filed an amended reply
10 on May 3, 2019.

11 The parties appeared before the Court on May 7, 2019, to present argument. Joseph Gersten
12 represented the petitioner, who was not present. Michael Bongard, Senior Deputy Attorney General,
13 represented respondents.

14 After hearing from the parties, the Court makes the following findings of fact and conclusions.

15 **PETITIONER’S CLAIMS**

16 The petition in this matter presented three claims: First, petitioner claims the original information
17 failed to put the petitioner on notice of the charges. Second, petitioner alleges that trial counsel was
18 ineffective for failing to obtain a conflict waiver. Third, petitioner alleges trial counsel was ineffective for
19 coercing petitioner into entering his plea.

20 For the reasons discussed below, petitioner’s claims are without merit and the Court denies relief
21 based upon the factual findings.

22 ***The challenge to the information***

23 Petitioner’s first claim alleges that the information failed to put petitioner on notice of the charges.

24 The Court finds the claim without merit for two reasons: First, the claim as pled in the petition does
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8 conduct fell below a standard of objective reasonableness and that petitioner suffered prejudice resulting
9 from the deficient conduct. *Strickland v. Washington*, 466 U.S. 668, 687 (1984); *Warden v. Lyons*, 100 Nev.
10 430, 432, 685 P.2d 504, 505 (1984) (adopting the test in *Strickland*).

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12 first waiver in justice court. Petitioner executed the second waiver on April 20, 2017, four days prior to entry
13 of his plea. The Court finds the justice court waiver failed to contain a provision directing petitioner to seek
14 the advice of independent counsel.²

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16 me of my right to consult with independent counsel to review the potential conflict of interest posed by dual
17 representation and the consequences of waiving the right to conflict free representation. If I choose not to
18 seek advice of independent counsel then I expressly waive my right to do so."

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23 disparity in outcome as prejudice, the Court notes that petitioner's co-defendant received the same sentence,
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³ 2018 WL 4408757.

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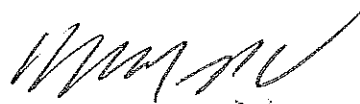
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5 upon the transcript from the change of plea, petitioner signed the plea agreement freely and voluntarily and
6 entered his plea of his own free will and free of threats. Petitioner failed to demonstrate that counsel's
7 conduct was deficient, or that petitioner suffered prejudice.

8 Therefore, based upon the findings contained in this order, and good cause appearing,

9 **IT IS HEREBY ORDERED** that the petition for writ of habeas corpus is **DENIED**.

10 DATED this 17 day of ~~May~~, 2019.

11 *June*

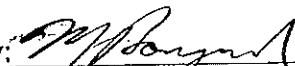
12 

13 **DISTRICT JUDGE**

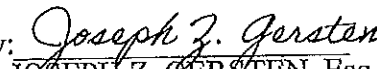
14 *Jim* MICHAEL P. VILLANI

15 Respectfully Submitted,

16 AARON D. FORD
Attorney General

17 By: 
18 MICHAEL J. BONGARD
Nevada Bar No. 7997

19
20 Approved to Form:

21 By: 
22 JOSEPH Z. GERSTEN, Esq.
23 Gersten Law Firm PLLC
24
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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 20, 2017

C-17-322664-2 State of Nevada
vs
Jack Leal

April 20, 2017 10:00 AM Initial Arraignment

HEARD BY: Henry, Jennifer **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Kristen Brown

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PRESENT:	Kovac, Michael C.	Attorney
	Leal, Jack	Defendant
	State of Nevada	Plaintiff
	Weiner, Jason G.	Attorney

JOURNAL ENTRIES

- At the request of counsel, COURT ORDERED, matter CONTINUED.

NIC

4/24/17 10:00 AM ARRAIGNMENT CONTINUED (LLA)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 24, 2017

C-17-322664-2 State of Nevada
vs
Jack Leal

April 24, 2017 1:00 PM Arraignment Continued

HEARD BY: Henry, Jennifer **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Kristen Brown

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PRESENT:	Kovac, Michael C.	Attorney
	Leal, Jack	Defendant
	State of Nevada	Plaintiff
	Weiner, Jason G.	Attorney

JOURNAL ENTRIES

- NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED IN OPEN COURT. DEFT. LEAL ARRAIGNED AND PLED GUILTY TO MULTIPLE TRANSACTIONS INVOLVING FRAUD OR DECEIT IN THE COURSE OF AN ENTERPRISE AND OCCUPATION (F). Court ACCEPTED plea and ORDERED, matter referred to the Division of Parole and Probation (P & P) and set for SENTENCING. Court DIRECTED Deft. to report to P & P within 48 hours.

NIC

8/17/17 8:30 AM SENTENCING (DEPT. 17)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 17, 2017

C-17-322664-2 State of Nevada
vs
Jack Leal

August 17, 2017 8:30 AM Sentencing

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT:	Kovac, Michael C.	Attorney
	Leal, Jack	Defendant
	State of Nevada	Plaintiff
	Weiner, Jason G.	Attorney

JOURNAL ENTRIES

- CONFERENCE AT BENCH. Court noted it had two conflict waivers signed by Mr. Leal and Ms. Garcia. Exhibits presented (see worksheet). DEFT LEAL ADJUDGED GUILTY of MULTIPLE TRANSACTIONS INVOLVING FRAUD OR DECEIT IN THE COURSE OF AN ENTERPRISE AND OCCUPATION (F). Arguments by counsel and statement by Defendant. Victim Speaker Irene Segura SWORN and TESTIFIED. Victim Speaker Luis Lafox SWORN and TESTIFIED. Victim Speaker Lori Plancarte SWORN and TESTIFIED. Pursuant to NRS 176.063, COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, a \$150.00 DNA analysis fee, including testing to determine genetic markers, \$3.00 DNA Collection fee and Restitution in the amount of \$757,420.00 payable to (\$70,000 LoryLee Plancarte, \$75,000 Edelyn Rudin, \$37,500 Chatty Becker, \$57,500 Irene Segura, \$98,620 Lih-Ling Yang, \$90,300 Lina Palafox, \$85,000 Adilson Gibellato, \$50,000 Juan Eloy Ramirez, \$115,000 Catherine Wyngarden, \$25,000 Shahram Bozorgnia, \$53,500 Tat Lam) Defendant SENTENCED to a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS and a MINIMUM of SEVENTY-TWO (72) MONTHS in the Nevada Department of Corrections (NDC) with ZERO (0) DAYS credit for time served. BOND, if any, EXONERATED.

NDC

CLERK'S NOTE: This minute order has been amended to reflect the correct sentence. A copy of this Minute Order has been placed in the attorney folders of the Attorney General and Jason Weiner, Esq.//ob/09/25/17.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 26, 2018

C-17-322664-2 State of Nevada
 vs
 Jack Leal

April 26, 2018 8:30 AM Motion

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT:	Kovac, Michael C.	Attorney
	Leal, Jack	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Clay Plummer, Esq. present for Defendant on behalf of Craig Muller, Esq.

At the request of Mr. Plummer, COURT ORDERED, matter CONTINUED.

NDC

CONTINUED TO: 05/15/18 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 15, 2018

C-17-322664-2 State of Nevada
vs
Jack Leal

May 15, 2018 8:30 AM Motion

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT: Kovac, Michael C. Attorney
Leal, Jack Defendant
State of Nevada Plaintiff

JOURNAL ENTRIES

- Mr. Weiner not present. COURT ORDERED, matter OFF CALENDAR.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 05, 2018

C-17-322664-2 State of Nevada
 vs
 Jack Leal

June 05, 2018 8:30 AM Motion

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT: Kovac, Michael C. Attorney
 Leal, Jack Defendant
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Mr. Weiner not present. COURT ORDERED, matter OFF CALENDAR.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 26, 2018

C-17-322664-2 State of Nevada
vs
Jack Leal

June 26, 2018 8:30 AM Motion

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Natalie Ortega

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT:	Kovac, Michael C.	Attorney
	Leal, Jack	Defendant
	Mueller, Craig A	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Mueller argued in support of the motion requesting a \$100,000.00 cash bail and noting there was a property to be liquidated and the amount could applied to the restitution owed. Argument by Mr. Kovac. COURT NOTED at the time of sentencing the issue was whether or not Defendant had paid the restitution as the negotiations were joint and several. Defendant had four months from the entry of plea to the time of sentencing and had only attempted the day before and was unsuccessful. Furthermore, there was not a conflict of situation, it was a simple question. It was a reality that Defendant did not pay the restitution. COURT FURTHER NOTED, the State retained the right to argue. Additionally, this was not conditional plea to give either Defendants probation. The Court reviewed eleven victims in the amount of \$750,000.00. They were victims of the fraudulent conduct of the two defendants. Furthermore, Defendant had a record of fraud in the past in two other cases. Defendant was a danger to the community; other unsuspecting individuals could be victims of his conduct. COURT ORDERED, motion DENIED pending appeal.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 03, 2019

C-17-322664-2 State of Nevada
vs
Jack Leal

January 03, 2019

8:30 AM

Motion

**MOTION TO
WITHDRAW
COUNSEL**

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Haly Pannullo

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT: State of Nevada Plaintiff
 Westmeyer, Daniel Attorney

JOURNAL ENTRIES

- Defendant not present. COURT ORDERED, Motion GRANTED; Mr. Weiner is to send a copy of the file to the Defendant.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 28, 2019

C-17-322664-2 State of Nevada
vs
Jack Leal

February 28, 2019 8:30 AM Motion

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT: Dunn, Ann Marie Attorney
State of Nevada Plaintiff

JOURNAL ENTRIES

- Defendant not present. COURT ORDERED, matter OFF CALENDAR as it was a fugitive document.

NDC

CLERK'S NOTE: Subsequent to Court, upon further review, Court stated the document wasn't a fugitive document. Court further stated it appeared on January 3, 2019, COURT ORDERED, Motion to Withdraw Counsel GRANTED. Court stated Defendant did not serve the Attorney General's Office and must served the Attorney Generals Office thereafter re-notice the motion. A copy of this minute order was placed in the attorney folder(s) of the Attorney General and distributed to:

JACK NEAL #1183500
SOUTHERN DESERT CORRECTIONAL
20825 COLD CREEK ROAD
PO BOX 208
INDIAN SPRINGS, NV 89070 //ob/02/28/19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 25, 2019

C-17-322664-2 State of Nevada
 vs
 Jack Leal

April 25, 2019 8:30 AM Status Check

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT: Engler, Alissa Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Defendant not present. COURT ORDERED, matter CONTINUED; State to prepare a Transport Order for Defendant's presence.

NDC

CONTINUED TO: 05/23/19 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 07, 2019

C-17-322664-2 State of Nevada
vs
Jack Leal

**May 07, 2019 8:30 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT:	Bongard, Michael J.	Attorney
	Gersten, Joseph Z	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant not present. Mr. Gersten argued Defendant stated the Information, the charging document was unclear under the Hancock case, it did not delineate as to what Defendant did, as it lumped both Co- Defendants in. Mr. Gersten further argued under Hancock the statutes require a clear and concise delineation of the charges that was in error and had run a foul of the law. Additionally, Mr. Gersten argued there was a Strickland violation, the waiver that was necessary as Mr. Weiner was representing both Defendants until four days before deal was struck. Mr. Gersten further argued the Co- Defendant had an extensive history of domestic violence against Defendant and he believed the Co- Defendant was in lead with her attorney to coerce Defendant into the deal that was made. Mr. Gersten argued this was a package deal and the Court didn't know about it when it happened. Mr. Gersten further argued Defendant did not plea knowingly and intelligently. Court noted the Court of Appeals affirmed the Court's decision on not allowing Defendant to withdraw. Upon Court's inquiry, Mr. Gersten was uncertain if same issues were brought up. Further argument by Mr. Gersten. Mr. Bongard argued the first claim should be procedural defaulted pursuant NRS 34.810 (1A), there was nothing in the original petition that talked about there was an unknowingly,

unintelligently or involuntary plea, the claim should be defaulted. Mr. Bongard further argued two Waivers of Conflict were executed, one in Justice Court and the second in District Court at the time of Entry of Plea. As to the coercion, Mr. Bongard argued the record doesn't contain any facts Counsel knew of any domestic violence or encouraged it to coerce a plea. Further argument by Mr. Gertsen. COURT stated its FINDINGS and ORDERED, Petition DENIED; Mr. Gertsen to prepare the Order.

Court noted the upcoming hearing on May 23rd, the Court requested clarification of the restitution. COURT FURTHER ORDERED, Judgment of Conviction AMENDED; Restitution to be paid Joint and Severally with Co- Defendant; Court's Request for Clarification of Restitution to Include Jointly and Severally with Co- Defendant ADVANCED and VACATED.

NDC

EXHIBIT(S) LIST

Case No.: C322664-2

Hearing Date: 08/17/17

Dept. No.: 17

Judge: MICHAEL VILLANI

Court Clerk: OLIVIA BLACK

Plaintiff: THE STATE OF NEVADA

Recorder / Reporter: CYNTHIA GEORGILAS

Counsel for Plaintiff: MICHAEL KOVAC

vs.

Defendant: JACK NEAL

Counsel for Defendant: JASON WEINER

HEARING / TRIAL BEFORE THE COURT

COURT'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted
1	Conflict of Waiver	8-17-17	NO	8-17-17

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

vs.

JACK LEAL,

Defendant(s).

Case No: C-17-322664-2

Dept No: XVII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 22 day of July 2019.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk

