

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
May 31 2019 12:19 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

FRANK HEARRING, JR.,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Case No: C-13-291159-1
Related Case A-19-790102-W
Docket No: 78791

**RECORD ON APPEAL
VOLUME
3**

ATTORNEY FOR APPELLANT
FRANK HEARRING # 1006445,
PROPER PERSON
P.O. BOX 7007
CARSON CITY, NV 89702

ATTORNEY FOR RESPONDENT
STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NV 89155-2212

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C-13-291159-1

State of Nevada
vs
Frank Herring

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DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

December 04, 2014

C-13-291159-1 State of Nevada
 vs
 Frank Herring

December 04, 2014 8:30 AM Motion for Appointment of
 Attorney

HEARD BY: Tao, Jerome T. COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT: PORTZ, KENNETH Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Court noted Defendant is in prison, not present today and proffered a Motion for Counsel and a hearing. However, Court noted this is premature as Defendant has not filed a Writ of Habeas Corpus to show what grounds he wants to raise and if counsel need to be appointed and/or a hearing needs to be set. As this is premature, COURT ORDERED, DENIED.

NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

January 06, 2015

C-13-291159-1 State of Nevada
 vs
 Frank Herring

January 06, 2015 8:30 AM Motion to Withdraw Plea

HEARD BY: Thompson, Charles COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER: Susan Dolorfino

REPORTER:

PARTIES

PRESENT: State of Nevada Plaintiff
 Sudano, Michelle L. Attorney

JOURNAL ENTRIES

- Court noted Defendant is in prison and not present today, that he has proffered a Motion to Withdraw his Plea. Court advised it has read Defendant's Motion and the State's Response, the claim that his plea was not voluntary is belied by the record and the claim of ineffectiveness of counsel is without merit. Therefore, COURT ORDERED, Motion DENIED.

NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

June 16, 2015

C-13-291159-1 State of Nevada
 vs
 Frank Herring

June 16, 2015 8:30 AM Motion

HEARD BY: Johnson, Eric COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER:

REPORTER: Amber McClane

PARTIES

PRESENT: Overly, Sarah Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Court noted Defendant is in prison and not present today and that it did not receive a response from the State. Ms. Overly advised they have no opposition and submitted the matter. Court stated its FINDINGS including that this Motion needs to be more specific as to what Court records Defendant wants and why. Therefore, COURT ORDERED, Pro Per Motion DENIED WITHOUT PREJUDICE.

NDC

C-13-291159-1

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

November 19, 2015

C-13-291159-1 State of Nevada
 vs
 Frank Herring

November 19, 2015 9:00 AM Request

HEARD BY: Johnson, Eric

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER:

REPORTER: Amber McClane

PARTIES

PRESENT: Jones, Jr., John T. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Court noted Defendant is in prison and not present today, that he would like a copy of his Pre-sentence Report (PSI). Upon Court's inquiry, Mr. Jones took no position. COURT ORDERED, Pro Per Request is GRANTED IN PART/DENIED IN PART - it is GRANTED as to the request for the Pre-sentence Report and DENIED WITHOUT PREJUDICE as to other documents without specific requests. FURTHER, Clerk to send a copy of the PSI to Defendant.

NDC

CLERK'S NOTE: Clerk to send a copy of the PSI to the following address:
Frank Herring #1006445
Ely State Prison
P.O. Box 1989
Ely, NV 89301

PRINT DATE: 05/31/2019

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Minutes Date: July 18, 2013

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

February 23, 2016

C-13-291159-1 State of Nevada
 vs
 Frank Herring

February 23, 2016 8:30 AM Request

HEARD BY: Johnson, Eric

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER:

REPORTER: Amber McClane

PARTIES

PRESENT: Rowles, William C. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Court noted Defendant is in the Nevada Department of Corrections and not present today. Upon Court's inquiry, Mr. Rowles submitted on the written pleadings. Court noted Defendant has filed an appeal to the Supreme Court and that he does not have a right to discovery pending an appeal. As this Court does not have jurisdiction to hear Defendant's Motion, COURT ORDERED, DENIED.

NDC

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

March 29, 2016

C-13-291159-1 State of Nevada
 vs
 Frank Herring

March 29, 2016 8:30 AM Motion

HEARD BY: Johnson, Eric

COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER:

REPORTER: Amber McClane

PARTIES

PRESENT: Lexis, Chad N. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Court noted Defendant is in prison and not present today. Mr. Lexis advised he believes the Court has already signed an Order denying this Motion. Following colloquy, COURT ORDERED, Pro Per Motion DENIED.

NDC

C-13-291159-1

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

October 31, 2017

C-13-291159-1 State of Nevada
 vs
 Frank Herring

October 31, 2017 8:30 AM Motion

HEARD BY: Johnson, Eric

COURTROOM: RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Trisha Garcia

REPORTER:

PARTIES

PRESENT: State of Nevada Plaintiff
 Thomson, Megan Attorney

JOURNAL ENTRIES

- Defendant is in prison and not present today. There being nothing outstanding before the Court, COURT ORDERED, Pro Per Motion GRANTED.

NDC

CLERK'S NOTE: 11/8/17 A copy of this Minute Order was mailed to Defendant:

FRANK HEARRING, JR #1006445
SOUTHERN DESERT CORRECTIONAL CENTER
P.O. BOX 208
INDIAN SPRINGS, NV 89070

PRINT DATE: 05/31/2019

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Minutes Date: July 18, 2013

C-13-291159-1

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

January 02, 2018

C-13-291159-1 State of Nevada
 vs
 Frank Herring

January 02, 2018 8:30 AM Motion to Modify Sentence

HEARD BY: Johnson, Eric

COURTROOM: RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: State of Nevada Plaintiff
 Thomson, Megan Attorney

JOURNAL ENTRIES

- Defendant is in prison and not present today. Court noted that generally the District Court lacks jurisdiction to modify a sentence once Defendant has started serving it. As authority, if Defendant can demonstrate the sentence was based on a materially untrue assumption or mistake of fact which worked to the extreme detriment of the Defendant it can be changed. In this case the Defendant claims the Detectives and Crime Scene Analysts were deficient in their investigation of this case and failed to investigate the entirety of the crime. Court advised this is not a basis for modifying a sentence. THEREFORE, COURT ORDERED, Motion DENIED.

NDC

CLERK'S NOTE: 1/4/18 A copy of this Minute Order was mailed to Defendant:

FRANK HEARRING #1006445
SOUTHERN DESERT CORRECTIONAL CENTER
P.O. BOX 208
INDIAN SPRINGS, NV 89070-0208

PRINT DATE: 05/31/2019

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Minutes Date: July 18, 2013

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

January 23, 2018

C-13-291159-1 State of Nevada
 vs
 Frank Herring

January 23, 2018 8:30 AM Motion to Compel

HEARD BY: Johnson, Eric COURTROOM: RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

PRESENT: Beverly, Leah C Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Defendant is in prison and not present today. Court noted it is unclear what Defendant wants Mr. Arnold to compel to, but feels it might be his file. Therefore, COURT ORDERED, Motion GRANTED and Mr. Arnold is directed to send the file to Defendant.

NDC

CLERK'S NOTE: A copy of this Minute Order was e-mailed to Mr. Arnold and a hard copy mailed to Defendant:

FRANK HEARRING, JR #1006445
SOUTHERN DESERT CORRECTIONAL CENTER
P.O. BOX 208
INDIAN SPRINGS, NV 89070

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

June 28, 2018

C-13-291159-1 State of Nevada
 vs
 Frank Herring

June 28, 2018 9:00 AM Motion to Compel

HEARD BY: Johnson, Eric COURTROOM: RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: State of Nevada Plaintiff
 Wong, Hetty O. Attorney

JOURNAL ENTRIES

- Defendant is in prison and not present today. Court noted that in January 2018, Court Ordered Mr. Arnold to turn over his file to Defendant, however, Defendant claims that he has not received it. COURT ORDERED, matter SET for hearing in THIRTY (30) DAYS for a Show Cause Hearing for Mr. Arnold to either demonstrate that he has sent the file to Defendant or to show cause why he hasn't complied with the Court's January Order.

NDC

7/26/18 9:00 AM SHOW CAUSE HEARING

C-13-291159-1

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

July 31, 2018

C-13-291159-1 State of Nevada
 vs
 Frank Herring

July 31, 2018 8:30 AM Show Cause Hearing

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT: Kern, Samuel R. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Deft. not present; not transported. Former counsel Carl Arnold, Esq., not present. COURT ORDERED, matter CONTINUED for Mr. Arnold to appear and make representations regarding whether the case file was turned over to Deft.

NDC

8/02/18 8:30 A.M. SHOW CAUSE HEARING

CLERK'S NOTE: JEA notified Mr. Arnold regarding next Court date. /// sb

CLERK'S NOTE: A copy of the above minute order was delivered by regular mail to Frank Herring, #1006445, Southern Desert Correctional Center, P.O. BOX 208, Indian Springs, Nevada 89018. /// sb

PRINT DATE: 05/31/2019

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Minutes Date: July 18, 2013

C-13-291159-1

DISTRICT COURT
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

September 11, 2018

C-13-291159-1 State of Nevada
 vs
 Frank Herring

September 11, 2018 8:30 AM Show Cause Hearing

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT:

Arnold, Carl E.
State of Nevada
Thomson, Megan

Plaintiff
Attorney

JOURNAL ENTRIES

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Court advised former counsel this matter was carried over from Department 20. Upon Court's inquiry, Mr. Arnold confirmed the filed was turned over to Deft. previously, he copied the file and sent it over to Deft. again last week, and there is a receipt. COURT ORDERED, matter OFF CALENDAR.

NDC

CLERK'S NOTE: A copy of the above minute order has been delivered by regular mail to: Frank Herring, #1006445, P.O. BOX 7007, Carson City, Nevada 89702. /// sb

PRINT DATE: 05/31/2019

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Minutes Date: July 18, 2013

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Supreme Court order dated May 30, 2019, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises three volumes with pages numbered 1 through 496.

STATE OF NEVADA,

Plaintiff(s),

vs.

FRANK HEARRING,
aka FRANK HEARRING, JR.,

Defendant(s),

Case No: C-13-291159-1
Related Case A-19-790102-W
Dept. No: XII

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 31 day of May 2019.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

