

1 NOAS
2 DAVID M. SCHIECK
3 CLARK COUNTY SPECIAL PUBLIC DEFENDER
4 Nevada Bar #0824
5 333 South Third Street, 2nd Floor
6 Las Vegas, Nevada 89155-2316
7 (702) 455-6265
8 Attorney for Defendant

FILED

MAR 9 2 45 PM '05

Shirley E. Rausginner
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

FILED

* * * No. 44868

MAR 14 2005

9 THE STATE OF NEVADA,
10 Plaintiff,
11 vs.
12 ZANE MICHAEL FLOYD,
13 Defendant.

) Case No. C159897
) Dept. No. V

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *Alvarado*
DEPUTY CLERK

NOTICE OF APPEAL

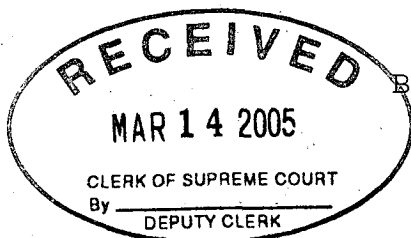
DATE: N/A
TIME: N/A

14 TO: THE STATE OF NEVADA, Plaintiff;
15 TO: CLARK COUNTY DISTRICT ATTORNEY, its attorney; and
16 TO: DEPARTMENT V OF THE EIGHTH JUDICIAL DISTRICT COURT
17 OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK.

18 NOTICE is hereby given that ZANE MICHAEL FLOYD, presently
19 incarcerated in the Nevada Department of Corrections, appeals to the
20 Supreme Court of the State of Nevada from the judgment entered against
21 said Defendant on the 4th day of February, 2005, and served on
22 attorney for FLOYD whereby his Petition for Writ of Habeas Corpus
23 (Post Conviction) was denied.

24 DATED this 7th day of March, 2005.

25 CLARK COUNTY SPECIAL PUBLIC DEFENDER



DAVID M. SCHIECK
333 SOUTH THIRD STREET, 2ND FLOOR
LAS VEGAS, NEVADA 89155-2316
(702) 455-6265

05-05009

1 CERTIFICATE OF MAILING

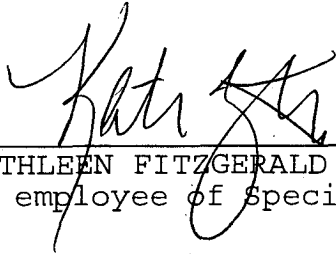
2 The undersigned, an employee with the Clark County Special Public
3 Defender's Office, hereby declares that a copy of the foregoing Notice
4 of Appeal was deposited in the United States mail at Las Vegas,
5 Nevada, on the 9 day of March, 2005, addressed to:

6 District Attorney's Office
7 200 S. Third Street
8 Las Vegas NV 89155

9 Nevada Attorney General's Office
10 100 N. Carson St.
11 Carson City NV 89701-4717

12 Zane Floyd, No. 66514
13 Ely State Prison
14 P.O. Box 1989
15 Ely NV 89301

16 DATED: 3-9-05

17 
18 KATHLEEN FITZGERALD
19 An employee of Special Public Defender
20
21
22
23
24
25
26
27
28

FILED

MAR 9 2 44 PM '05

Shirley B. Pangloss
CLERK

CAS
DAVID M. SCHIECK
CLARK COUNTY SPECIAL PUBLIC DEFENDER
Nevada Bar #0824
333 South Third Street, 2nd Floor
Las Vegas, Nevada 89155
(702) 455-6265
Attorneys for Defendant

DISTRICT COURT
CLARK COUNTY, NEVADA

* * *

THE STATE OF NEVADA,)	Case No. C159897
)	Dept. No. V
Plaintiff,)	
)	
vs.)	CASE APPEAL STATEMENT
)	
ZANE MICHAEL FLOYD,)	DATE: N/A
)	TIME: N/A
Defendant.)	

1. Appellant filing this case appeal statement: Zane Michael Floyd.

2. Judge issuing the decision, judgment, or order appealed from: Jackie Glass.

3. All parties to the proceedings in the district court (the use of et al. To denote parties is prohibited): State of Nevada, Plaintiff/Respondent; Zane Michael Floyd, Defendant/Petitioner.

4. All parties involved in this appeal (the use of et al. To denote parties is prohibited): Zane Michael Floyd, Appellant; The State of Nevada, Respondent.

5. Name, law firm, address, and telephone number of all

...

...

...

1 counsel on appeal and party or parties whom they represent:

2 DAVID M. SCHIECK
Special Public Defender
3 333 South Third Street, 2nd Floor
Las Vegas, Nevada 89155

DAVID ROGER
District Attorney
200 South Third Street
Las Vegas, Nevada 89155

4 Attorney for Appellant

BRIAN SANDOVAL
Attorney General
Nevada Bar No. 000192
100 North Carson Street
Carson City, Nevada 89701-4717
(702) 687-3538

8 Attorney for Respondent

9
10 6. Whether appellant was represented by appointed or retained
counsel in the district court: Appointed.

11
12 7. Whether appellant is represented by appointed or retained
counsel on appeal: Appointed.

13
14 8. Whether appellant was granted leave to proceed in forma
pauperis, and the date of entry of the district court order granting
15 such leave: N/A

16
17 9. Date proceedings commenced in the district court (e.g.,
18 date complaint, indictment, information, or petition was filed):
19 Petition for Writ of Habeas Corpus (Post Conviction) filed on June
20 19, 2003.

21 DATED this 9 day of March, 2005.

22 CLARK COUNTY SPECIAL PUBLIC DEFENDER

23 By 

24 DAVID M. SCHIECK
25 333 SOUTH THIRD STREET, 2ND FLOOR
26 LAS VEGAS, NEVADA 89155-2316
27 (702) 455-6265
28

1 CERTIFICATE OF MAILING


2 The undersigned, an employee with the Clark County Special
3 Public Defender's Office, hereby declares that a copy of the
4 foregoing Case Appeal Statement was deposited in the United States
5 mail at Las Vegas, Nevada, on the 9 day of March, 2005, addressed
6 to:

7 District Attorney's Office
8 200 S. Third Street
9 Las Vegas NV 89155

10 Nevada Attorney General's Office
11 100 N. Carson St.
12 Carson City NV 89701-4717

13 Zane Floyd, No. 66514
14 Ely State Prison
15 P.O. Box 1989
16 Ely NV 89301

17 DATED: 3-9-05

18 
19 _____
20 KATHLEEN FITZGERALD
21 An employee of Special Public Defender
22
23
24
25
26
27
28

DATE: 03/09/05
CASE NO. 99-C-159897-C

I N D E X

TIME 4:21 PM
JUDGE:Glass, Jackie

STATE OF NEVADA

[] vs Floyd, Zane M

[]

0001 D1 Zane M Floyd

000824 Schieck, David M.
NO. 1 302 E Carson #600
Las Vegas, NV 89101

0002 W Traci R Carter

?????? ## UNKNOWN ##

NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0001	06/29/99	CBO /CRIMINAL BINDOVER Fee \$0.00				
0002	06/29/99	ARRN/INITIAL ARRAIGNMENT	0001		07/06/99	
0003	07/06/99	HEAR/DECISION	0001	DN	08/12/99	
0004	07/06/99	CALC/CALENDAR CALL	0001		02/29/00	
0005	07/06/99	JURY/TRIAL BY JURY VC 2/24/00	0001	VC	03/06/00	
0006	07/06/99	OCAL/STATUS CHECK: TRIAL READINESS/ALL MOTIONS FILED	0001		01/06/00	
0007	07/06/99	OCAL/STATUS CHECK: TRIAL READINESS/SET DATE FOR JURY QUESTIONNAIRE	0001		02/29/00	
0008	07/06/99	TRAN/REPORTER'S TRANSCRIPT OF WAIVER OF PRELIMINARY HEARING	0001		06/25/99	
0009	06/28/99	INFO/INFORMATION	0001		06/28/99	
0010	07/07/99	REQT/MEDIA REQUEST				
0011	07/07/99	ORDR/ORDER GRANTING PERMISSION OF MEDIA ENTRY				
0012	07/09/99	REQT/NOTICE OF MOTION AND MOTION TO TAKE DEPOSITION	0001		07/06/99	Y
0013	07/12/99	TRAN/REPORTER'S TRANSCRIPT ARRAIGNMENT	0001		07/06/99	
0014	07/06/99	NISD/NOTICE OF INTENT TO SEEK DEATH PENALTY	0001			
0015	07/19/99	OPPS/DEFENDANTS OPPOSITION TO STATES MOTION TO TAKE DEPOSITION OF	0001			Y
TRACIE ROSE CARTER						
0016	08/06/99	RSPN/RESPONSE TO DEFENDANTS OPPOSITION TO STATES MOTION TO TAKE DEPOSITION OF	0001			Y
TRACIE ROSE CARTER						
0017	08/10/99	ORDR/ORDER	0001			
0018	08/24/99	TRAN/REPORTER'S TRANSCRIPT DECISION	0001		08/12/99	
0019	10/25/99	LIST/NOTICE OF WITNESSES	0001			
0020	10/28/99	ROC /RECEIPT OF COPY	0001		10/28/99	
0021	12/08/99	APPL/EX PARTE APPLICATION FOR ORDER REQUIRING MATERIAL WITNESS TO POST BAIL	0001			
0022	12/08/99	ORDR/ORDER REQUIRING MATERIAL WITNESS TO POST BAIL OR BE COMMITTED TO CUSTODY	0001			
0023	12/08/99	ORDR/EX PARTE APPLICATION AND ORDER FOR CONTACT VISIT	0001			
0024	12/27/99	MOT /STATE'S MOTION IN LIMINE STATE OF MIND TESTIMONY	0001	DN	02/07/00	
0025	12/27/99	MOT /STATE'S MOTION FOR USE OF DEMONSTRATIVE EXHIBIT	0001	GP	02/07/00	
0026	12/27/99	MOT /STATE'S MOTION TO COMPEL INDEPENDENT PSYCH EXAM	0001	OC	02/07/00	
0027	12/27/99	NOTC/NOTICE OF EVIDENCE IN SUPPORT OF AGGRAVATION	0001			
0028	12/27/99	REQT/NOTICE OF MOTION AND MOTION FOR USE OF DEMONSTRATIVE EXHIBITS DURING THE	0001		01/06/00	Y

(Continued to page 2)

NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
STATES OPENING STATEMENT						
0029	12/27/99	REQT/NOTICE OF MOTION AND MOTION TO COMPEL INDEPENDENT PSYCHIATRIC AND OR PSYCHOLOGICAL AND OR PHYSIOLOGICAL EXAMINATION	0001		01/06/00	Y
0030	12/30/99	MOT /DEFT'S MOTION TO SEVER COUNTS	0001	DN	02/07/00	
0031	01/06/00	MOT /ALL PENDING MOTIONS	0001		01/06/00	
0032	01/05/00	REQT/MOTION FOR CHANGE OF VENUE	0001			
0033	01/06/00	OPPS/OPPOSITION TO DEFENDANTS MOTION TO SEVER COUNTS	0001			
0034	01/10/00	MOT /DEFT'S MOTION TO FEDERALIZE ALL MOTIONS/ REQUESTS/OTHER APPLICATIONS FOR PROC	0001	OC	02/29/00	
0035	01/07/00	OPPS/SUPPLEMENT TO STATES OPPOSITION TO DEFENDANTS MOTION TO SEVER COUNTS	0001			
0036	01/10/00	RPLY/DEFENDANTS REPLY TO STATES OPPOSITION TO MOTION TO SEVER COUNTS	0001			
0037	01/10/00	REQT/MOTION TO FEDERALIZE ALL MOTIONS OBJECTIONS REQUESTS AND OTHER	0001		02/07/00	Y
APPLICATION FOR THE ABOVE ENTITLED CASE						
0038	01/11/00	ROC /RECEIPT OF COPY	0001		01/11/00	
0039	01/11/00	OPPS/STATES OPPOSITION TO DEFENDANTS MOTION FOR CHANGE OF VENUE	0001			
0040	01/13/00	MOT /DEFT'S MOTION TO PARTIALLY STRIKE AGGRAVATING CIRCUMSTANCES/ALLEGED EVIDEN	0001		02/29/00	
0041	01/14/00	MOT /DEFT'S MOTION TO DISMISS STATE'S NOTICE OF INTENT TO SEEK DEATH PENALTY BECAUSE	0001	DN	02/07/00	
0042	01/13/00	OPPS/OPPOSITION TO MOTION TO FEDERALIZE ALL MOTIONS OBJECTIONS REQUESTS AND	0001			Y
OTHER APPLICATIONS						
0043	01/14/00	MOT /DEFT'S MOTION IN LIMINE CONCERNING REMOVAL OF JURORS BY THE PROSECUTOR	0001	DN	02/07/00	
0044	01/18/00	MOT /DEFT'S MOTION IN LIMINE FOR ORDER PROHIBITING PROSECUTION MISCONDUCT IN	0001	DN	02/07/00	
0045	01/18/00	MOT /DEFT'S SUPPLEMENTAL MOTION FOR CHANGE OF VENUE AND REPLY TO STATES OPPOSITION	0001	DN	02/07/00	
0046	01/14/00	REQT/DEFENDANTS MOTION TO DISMISS STATES NOTICE OF INTENT TO SEEK DEATH	0001		02/07/00	Y
PENALTY BECAUSE NEVADAS DEATH PENALTY STATUTE IS UNCONSTITUTIONAL						
0047	01/11/00	MOT /DEFT'S MOTION FOR ATTORNEY CONDUCTED, SEQUESTERED INDIVIDUAL VOIR DIRE	0001	DN	02/07/00	
0048	01/19/00	MOT /DEFT'S MOTION IN LIMINE TO PRECLUDE THE STATE FROM USING PREJUDICIAL PHOTOGRAPHS	0001	GP	02/07/00	
0049	01/19/00	REQT/MOTION IN LIMINE TO PRECLUDE THE STATE FROM USING PREJUDICIAL PHOTOGRAPHS AS DEMONSTRATIVE EXHIBITS OR FROM MOVING TO ADMIT SUCH PHOTOGRAPHS INTO EVIDENCE	0001		02/07/00	Y
0050	01/20/00	MOT /DEFT'S MOTION TO ALLOW THE DEFENSE TO ARGUE LAST IN PENALTY PHASE	0001	DN	02/07/00	
0051	01/20/00	MOT /DEFT'S MOTION TO SEQUESTER JURORS	0001	DN	02/07/00	
0052	01/20/00	MOT /DEFT'S MOTION TO SUPPRESS THE DEFT'S STATEMENTS TO THE POLICE	0001		02/29/00	
0053	01/20/00	OPPS/DEFENDANTS OPPOSITION TO THE STATES MOTION TO COMPEL INDEPENDENT	0001			Y

(Continued to page 3)

NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
PSYCHIATRIC AND OR PSYCHOLOGICAL AND OR PHYSIOLOGICAL EXAMINATION						
0054	01/20/00	EXH /SUPPLEMENTAL EXHIBIT TO MOTION FOR	0001			
		CHANGE OF VENUE	0001			
0055	01/20/00	OPPS/DEFENDANTS OPPOSITION TO THE STATES	0001			Y
		MOTION FOR USE OF DEMONSTRATIVE	0001			
EXHIBITS DURING THE STATES OPENING STATEMENT						
0056	01/20/00	OPPS/DEFENDANTS OPPOSITION TO THE STATES	0001			Y
		MOTION IN LIMINE REGARDING STATE OF	0001			
MIND TESTIMONY						
0058	01/24/00	MOT /DEFT'S REQUEST MATERIAL WITNESS TRACI	0002	MH	01/27/00	
		ROSE CARTER ID#1474987	0002			
0059	01/21/00	LIST/SECOND NOTICE OF WITNESSES	0001			
0060	01/25/00	TRAN/REPORTER'S TRANSCRIPT OF JAN 6, 2000	0001		01/06/00	
		STATUS CHECK:TRIAL READINESS/ALL MOTIONS	0001			
0061	01/25/00	ROC /RECEIPT OF COPY	0001		01/25/00	
0062	01/27/00	OPPS/STATES OPPOSITION TO DEFENDANTS MOTION	0001			Y
		TO SUPPRESS DEFENDANTS STATEMENTS TO	0001			
THE POLICE						
0063	01/27/00	RSPN/STATES RESPONSE TO DEFENDANTS MOTION IN	0001			Y
		LIMINE CONCERNING REMOVAL OF JURORS	0001			
BY THE PROSECUTOR (FOR CAUSE BASED UPON OBJECTIONS TO DEATH PENALTY)						
0064	01/27/00	OPPS/OPPOSITION TO DEFENDANTS MOTION IN	0001			Y
		LIMINE TO EXCLUDE PREJUDICIAL	0001			
PHOTOGRAPHS AS DEMONSTRATIVE EXHIBITS OR FROM MOVING TO ADMIT SUCH						
PHOTOGRAPHS INTO EVIDENCE						
0065	01/27/00	RSPN/RESPONSE IN OPPOSITION TO DEFENDANTS	0001			Y
		MOTION TO PARTIALLY STRIKE AGGRAVATING	0001			
CIRCUMSTANCES AND ALLEGED EVIDENCE IN SUPPORT THEREOF						
0066	01/27/00	OPPS/OPPOSITION TO DEFENDANTS MOTION FOR	0001			
		SEQUESTERED INDIVIDUAL VOIR DIRE	0001			
0067	01/27/00	OPPS/OPPOSITION TO DEFENDANTS MOTION TO	0001			Y
		ALLOW THE DEFENSE TO ARGUE LAST AT	0001			
THE PENALTY PHASE						
0068	01/27/00	RSPN/STATES RESPONSE TO DEFENDANTS MOTION TO	0001			
		SEQUESTER JURORS	0001			
0069	01/27/00	OPPS/OPPOSITION TO DEFENDANTS MOTION TO	0001			Y
		DISMISS STATES NOTICE OF INTENT TO	0001			
SEEK DEATH PENALTY ON CONSTITUTIONAL GROUNDS						
0070	01/27/00	OPPS/OPPOSITION TO DEFENDANTS MOTION FOR	0001			Y
		ORDER PROHIBITING PROSECUTION	0001			
MISCONDUCT IN ARGUMENT						
0071	01/27/00	REQT/MOTION TO USE TRANSCRIPT OF	0001		02/07/00	
		DEFENDANTS STATEMENTS	0001			
0072	01/31/00	TRAN/TRANSCRIPT OF PROCEEDINGS: DEFENDANT'S	0001		01/27/00	Y
		REQUEST-MATERIAL WITNESS TRACI ROSE	0001			
CARTER						
0073	02/01/00	MOT /TRACI CARTER'S MOTION FOR HOUSE ARREST		DN	02/07/00	
		IN LIEU OF CUSTODY FOR MATERIAL WITNESS				
0074	02/01/00	REQT/MOTION FOR HOUSE ARREST IN LIEU OF	0002		02/07/00	Y
		CUSTODY FOR MATERIAL WITNESS	0002			
TRACI ROSE CARTER ID# 1474987						
0075	02/01/00	ROC /RECEIPT OF COPY			02/01/00	

(Continued to page 4)

NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0076	02/02/00	RPLY/DEFENDANTS REPLY TO STATES OPPOSITION TO PARTIALLY STRIKE AGGRAVATING CIRCUMSTANCES AND ALLEGED EVIDENCE IN SUPPORT THEREOF	0001 0001			Y
0077	02/02/00	REQT/MEDIA REQUEST				
0078	02/02/00	ORDR/ORDER GRANTING PERMISSION OF MEDIA ENTRY				
0079	02/02/00	LIST/NOTICE OF WITNESSES	0001			
0080	02/03/00	LIST/NOTICE OF EXPERT WITNESSES	0001			
0081	02/08/00	LIST/SUPPLEMENTAL NOTICE OF WITNESSES	0001			
0082	02/14/00	HEAR/AT THE REQUEST OF THE COURT: HALF WAY HOUSE	0002 0002		02/24/00	
0083	02/15/00	OCAL/STATUS CHECK: DEPOSITION	0002		02/29/00	
0084	02/15/00	MOT /DEFT'S MOTION TO CONTINUE TRIAL	0001		02/29/00	
0085	02/15/00	OCAL/STATUS CHECK: DEPOSITION OF TRACI CARTER	0001		02/29/00	
0086	02/15/00	MEMO/MEMORANDUM OF LAW ON ADMISSIBILITY OF 911 TAPES UNDER THE PRESENT SENSE	0001 0001			Y
		IMPRESSION AND EXCITED UTTERANCE EXCEPTIONS TO THE HEARSAY RULE				
0087	02/14/00	SUPP/SUPPLEMENT TO NOTICE OF EVIDENCE IN SUPPORT OF AGGRAVATION	0001 0001			
0088	02/15/00	LIST/NOTICE OF EXPERT WITNESSES	0001			
0089	02/17/00	MOT /ALL PENDING MOTIONS 2/7/00	AL		02/07/00	
0090	02/15/00	TRAN/REPORTER'S TRANSCRIPT OF PROCEEDINGS DEFENDANT'S PENDING MOTIONS, TRACI	0001 0001		02/07/00	Y
		CARTER'S MOTION FOR HOUSE ARREST IN LIEU OF CUSTODY FOR MATERIAL WITNESS, STATUS CHECK: TRIAL READINESS/SET DATE FOR JURY QUESTIONNAIRE				
0091	02/16/00	APPL/STATES SECOND APPLICATION FOR INDEPENDENT PSYCHIATRIC EXAMINATION	0001 0001			Y
		AND REQUEST FOR IMMEDIATE RECIPROCAL DISCOVERY				
0092	02/16/00	ORDR/OPPOSITION TO DEFENDANTS MOTION TO CONTINUE TRIAL AND ORDER SEALING	0001 0001			
0093	02/17/00	LIST/SUPPLEMENTAL NOTICE OF WITNESSES	0001			
0094	02/18/00	LIST/DEFENDANTS SUPPLEMENTAL NOTICE OF EXPERT WITNESSES	0001 0001			
0095	02/18/00	RPLY/REPLY TO STATES OPPOSITION TO DEFENDANTS MOTION TO CONTINUE TRIAL -	0001 0001			Y
		UNDER SEAL				
0096	02/24/00	JURY/TRIAL BY JURY VJ 6/20/00	0001	VC	07/10/00	
0097	02/23/00	OPPS/OPPOSITION TO THE ALLOWANCE OF VIDEO TAPED DEPOSITION OF TRACY CARTER	0001 0001			
0098	02/24/00	ANSW/DEFENDANTS ANSWER TO STATES SECOND APPLICATION FOR INDEPENDENT PSYCHIATRIC	0001 0001			Y
		EXAMINATION AND REQUEST FOR IMMEDIATE RECIPROCAL DISCOVERY				
0099	02/25/00	ORDR/ORDER FOR RELEASE OF MATERIAL WITNESS TRACIE ROSE CARTER	0001 0001			
0100	02/25/00	PTAT/STATES POINTS AND AUTHORITIES ON THE USE OF VIDEOTAPE INSTEAD OF STENOGRAPHY	0001 0001			Y
		TO RECORD THE DEPOSITION OF TRACIE ROSE CARTER				
0101	02/28/00	ORDR/ORDER	0001			
0102	02/29/00	OCAL/STATUS CHECK: DEPOSITION OF TRACI CARTER, MATERIAL WITNESS	0002 0002		03/01/00	
0103	02/29/00	MOT /STATE'S SECOND APPLICATION FOR PSYCH EXAM AND REQUEST FOR IMMEDIATE RECIP DIS	0001 0001	GR	05/18/00	
0104	02/29/00	HEAR/EVIDENTIARY HEARING: DEFT'S MOTION TO SUPPRESS VJ 6/22/00	0001 0001	VC	07/05/00	

(Continued to page 5)

NO. FILED/REC CODE

REASON/DESCRIPTION

FOR

OC SCH/PER C

0105	02/29/00	OCAL/STATUS CHECK: JURY QUESTIONNAIRE VJ 6/29/00	0001 0001	VC	07/05/00	
0106	03/06/00	NOEV/NOTICE OF EXHIBIT(S) IN THE VAULT			03/02/00	
0107	03/03/00	NOTC/NOTICE OF ENTRY OF ORDER	0001		03/03/00	
0108	03/06/00	TRAN/REPORTER'S TRANSCRIPT AT REQUEST OF COURT RELEASE TO HALFWAY HOUSE	0001 0001		02/15/00	
0110	03/08/00	MOT /STATE'S MOTION TO USE TRANSCRIPTS OF MOTION	0001 0001	GR	02/07/00	
0111	03/06/00	TRAN/REPORTER'S TRANSCRIPT RELEASE TO HALFWAY HOUSE			02/15/00	
0112	03/13/00	TRAN/REPORTER'S TRANSCRIPT OF PROCEEDINGS STATE'S SECOND APPLICATION FOR	0001 0001		03/09/00	Y
INDEPENDANT PSYCHIATRIC EXAMINATION AND REQUEST FOR IMMEDIATE RECIPROCAL DISCOVERY						
0113	03/13/00	TRAN/REPORTER'S TRANSCRIPT OF VIDEO DEPOSITION OF TRACIE CARTER	0002 0002		03/01/00	
0114	03/17/00	ORDR/ORDER GRANTING STATES MOTION FOR INDEPENDENT PSYCHIATRIC EXAMINATION	0001 0001			Y
AND RECIPROCAL DISCOVERY						
0115	03/21/00	ORDR/ORDER APPOINTING COUNSEL FOR MATERIAL WITNESS TRACI ROSE CARTER ID #1474987	0001 0001			
0116	04/05/00	NOTC/NOTICE OF ENTRY OF ORDER	0001		04/05/00	
0117	04/27/00	ORDR/ORDER	0001	HG	04/18/00	
0118	05/03/00	NOTC/NOTICE OF ENTRY OF ORDER	0001		05/03/00	
0119	05/09/00	TRAN/REPORTER'S TRANSCRIPT OF PROCEEDINGS - STATE'S SECOND APPLICATION FOR	0001 0001		04/18/00	Y
INDEPENDENT PSYCHIATRIC EXAMINATION AND REQUEST FOR IMMEDIATE RECIPROCAL DISCOVERY						
0120	05/09/00	INFO/AMENDED INFORMATION	0001		05/09/00	
0121	05/11/00	MOT /STATE'S MOTION FOR PRODUCTION OF DATA	0001	OC	06/20/00	
0122	05/11/00	REQT/NOTICE OF MOTION AND MOTION FOR PRODUCTION OF DATE SUPPORTING	0001 0001	HG	05/18/00	Y
PSYCHOLOGISTS FINDINGS IN REPORT						
0123	05/18/00	MOT /ALL PENDING MOTIONS 5/18/00	0001		05/18/00	
0124	06/02/00	TRAN/REPORTER'S TRANSCRIPT OF PROCEEDINGS	0001		06/02/00	
0125	06/07/00	LIST/SECOND SUPPLEMENTAL NOTICE OF WITNESSES	0001			
0126	06/14/00	MOT /STATE'S MTN TO RESET EVIDENTIARY HEARING ON VOLUNTARINESS OF CONFESSION	0001 0001		06/22/00	
0127	06/13/00	LIST/SUPPLEMENTAL NOTICE OF EXPERT WITNESSES	0001			
0128	06/14/00	NOTC/NOTICE OF MOTION AND MOTION TO RESET EVIDENTIARY HEARING ON VOLUNTARINESS	0001 0001			Y
OF CONFESSION						
0129	06/15/00	ORDR/ORDER	0001	HG	06/01/00	
0130	06/16/00	ROC /RECEIPT OF COPY	0001		06/16/00	
0131	06/20/00	MOT /ALL PENDING MOTIONS 6/20/00	0001		06/20/00	
0132	06/20/00	JURY/TRIAL BY JURY	0001		07/13/00	
0133	06/22/00	HEAR/EVIDENTIARY HEARING: DEFT'S MOTION TO SUPPRESS	0001 0001	DP	06/29/00	
0134	06/21/00	EXPR/EX PARTE ORDER	0001			
0135	06/23/00	ORDR/ORDER FOR PRODUCTION OF INMATE ZANE MICHAEL FLOYD FROM THE CLARK COUNTY	0001 0001	HG	06/28/00	Y
DETENTION CENTER TO DR MORTILLAROS OFFICE LOCATED AT 501 S RANCHO DR SUITE F37						

(Continued to page 6)

NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0136	06/23/00	ORDR/ORDER ALLOWING INDEPENDENT PSYCHIATRIC EXAMINATION	0001			
0137	06/23/00	ORDR/ORDER	0001			
0138	06/27/00	TRAN/TRANSCRIPT OF PROCEEDINGS - STATE'S MOTION FOR PRODUCTION OF DATA	0001		06/20/00	Y
SUPPORTING PSYCHOLOGISTS FINDINGS IN REPORT STATE'S MOTION TO RESET EVIDENTIARY HEARING ON VOLUNTARINESS OF CONFESSION						
0139	06/27/00	TRAN/TRANSCRIPT OF PROCEEDINGS - STATE'S MOTION TO RESET EVIDENTIARY HEARING ON VOLUNTARINESS OF CONFESSION	0001		06/22/00	Y
0140	06/26/00	RSPN/RESPONSE TO STATES MEMORANDUM OF LAW ON ADMISSIBILITY OF 911 TAPES UNDER THE PRESENT SENSE IMPRESSION AND EXCITED UTTERANCE EXCEPTION TO THE HEARSAY RULE	0001			Y
0141	06/27/00	LIST/SECOND SUPPLEMENTAL NOTICE OF WITNESSES	0001			
0142	06/28/00	RPLY/STATES REPLY TO DEFENDANTS RESPONSE TO MEMORANDUM OF LAW ON ADMISSIBILITY OF 911 TAPES UNDER THE PRESENT SENSE IMPRESSION AND EXCITED UTTERANCE EXCEPTIONS TO THE HEARSAY RULE	0001			Y
0143	06/28/00	RPLY/REPLY TO STATES ANSWER TO DEFENDANTS MOTION TO PARTIALLY STRIKE AGGRAVATING CIRCUMSTANCES	0001			Y
0145	06/29/00	MOT /DEFT'S MOTION RE: 911 TAPES MOTION		GR	07/06/00	
0146	06/29/00	OCAL/STATUS CHECK: RESOLUTION OF EXHIBITS	0001	OC	07/06/00	
0147	06/29/00	MOT /DEFT'S MOTION TO PARTIALLY STRIKE AGGRAVATING CIRCUMSTANCES	0001	GR	07/06/00	
0148	06/29/00	ORDR/ORDER (RE EVIDENTIARY HEARING)	0001	SC	06/29/00	
0149	06/30/00	INFO/2ND AMENDED INFORMATION	0001		06/30/00	
0150	06/30/00	ROC /RECEIPT OF COPY	0001		06/30/00	
0151	07/05/00	OPPS/OPPOSITION TO STATES REPLY TO DEFENDANTS RESPONSE TO MEMORANDUM OF LAW ON ADMISSIBILITY OF 911 TAPES UNDER THE PRESENT SENSE IMPRESSION AND EXCITED UTTERANCE EXCEPTIONS TO THE HEARSAY RULE	0001			Y
0152	07/06/00	MOT /ALL PENDING MOTIONS 7/6/00	0001		07/06/00	
0153	07/06/00	OCAL/STATUS CHECK: MEDIA COVERAGE	0001		07/10/00	
0154	07/05/00	REQT/STATES SURREPLY TO DEFENDANTS MOTION TO PARTIALLY STRIKE AGGRAVATING CIRCUMSTANCES	0001			Y
0155	07/05/00	ORDR/ORDER SEALING STATES SURREPLY TO DEFENDANTS MOTION TO PARTIALLY STRIKE AGGRAVATING CIRCUMSTANCES	0001			Y
0156	07/05/00	ROC /RECEIPT OF COPY	0001		07/05/00	
0157	07/06/00	ORDR/ORDER FOR TRANSCRIPT	0001			
0158	07/07/00	MEMO/MEMORANDUM OF LAW REGARDING THE PROPER SCOPE OF VICTIM IMPACT TESTIMONY	0001			
0159	07/07/00	MEMO/MEMORANDUM OF LAW REGARDING STATES RIGHTS TO HAVE ITS PSYCHIATRIST EXAMINE DEFENDANT PRIOR TO TRIAL	0001			Y
0160	07/07/00	MEMO/MEMORANDUM OF LAW REGARDING COURTS ABILITY TO LIMIT PHOTOGRAPHING AND TELEVISIONING OF THE FACES OF CERTAIN VICTIMS AND OR WITNESSES WHO SPECIFICALLY REQUEST PRIVACY	0001			Y

(Continued to page 7)

NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0161	07/07/00	REQT/MOTION TO BAR THE ADMISSION OF CUMULATIVE VICTIM IMPACT EVIDENCE IN VIOLATION OF THE DUE PROCESS CLAUSE	0001 0001			Y
0162	07/11/00	TRB /TRIAL BEGINS			07/11/00	
0163	07/11/00	TRAN/REPORTER'S TRANSCRIPT OF PROCEEDINGS-EVIDENTIARY HEARING:	0001 0001		06/29/00	Y
CONFESSION						
0164	07/11/00	TRAN/REPORTER'S TRANSCRIPT OF PROCEEDINGS-STATUS CHECK: MEDIA	0001 0001		07/10/00	Y
COVERAGE						
0165	07/10/00	REQT/MEDIA REQUEST				
0166	07/10/00	ORDR/ORDER GRANTING PERMISSION OF MEDIA ENTRY			07/10/00	
0167	07/11/00	CRJL/CRIMINAL JURY LIST			07/11/00	Y
D1FC						
D1						
0168	07/11/00	TRAN/REPORTER'S TRANSCRIPT - ALL PENDING MOTIONS 5/18/00	0001 0001		05/18/00	
0169	07/11/00	TRAN/REPORTER'S TRANSCRIPT ALL PENDING MOTION 7/6/00	0001 0001		07/06/00	
0170	07/11/00	CRJL/CRIMINAL JURY LIST	0001			
0171	07/12/00	ORDR/ORDER FOR TRANSCRIPT	0001			
0172	07/13/00	HEAR/PENALTY HEARING	0001		07/21/00	
0173	07/10/00	REQT/DEFENDANTS MOTION TO DISMISS RULE 250 NOTICE OF INTENT DUE TO FEDERAL DUE	0001 0001			Y
PROCESS VIOLATIONS						
0174	07/14/00	TRAN/REPORTER'S TRANSCRIPT OF JULY 13, 2000 OF JURY TRIAL			07/13/00	
0175	07/14/00	TRAN/REPORTER'S TRANSCRIPT OF JULY 13, 2000 OF JURY TRIAL			07/13/00	
0176	07/12/00	TRAN/REPORTER'S TRANSCRIPT OF JULY 11, 2000 OF PROCEEDINGS			07/12/00	
0177	07/12/00	TRAN/REPORTER'S TRANSCRIPT OF JULY 11, 2000 OF JURY TRIAL			07/12/00	
0178	07/13/00	TRAN/REPORTER'S TRANSCRIPT OF JULY 12, 2000 OF JURY TRIAL			07/13/00	
0179	07/13/00	TRAN/REPORTER'S TRANSCRIPT OF JULY 12, 2000 OF JURY TRIAL			07/13/00	
0180	07/13/00	INST/INSTRUCTIONS TO THE JURY	0001			
0181	07/13/00	VER /VERDICT	0001		07/13/00	
0182	07/13/00	VER /VERDICT	0001		07/13/00	
0183	07/13/00	VER /VERDICT	0001		07/13/00	
0184	07/13/00	VER /VERDICT	0001		07/13/00	
0185	07/13/00	VER /VERDICT	0001		07/13/00	
0186	07/13/00	VER /VERDICT	0001		07/13/00	
0187	07/13/00	VER /VERDICT	0001		07/13/00	
0188	07/13/00	VER /VERDICT	0001		07/13/00	
0189	07/13/00	VER /VERDICT	0001		07/13/00	
0190	07/13/00	VER /VERDICT	0001		07/13/00	
0191	07/13/00	VER /VERDICT	0001		07/13/00	
0192	07/14/00	TRAN/REPORTER'S TRANSCRIPT RE: TRIAL BY JURY	0001		07/13/00	
0193	07/17/00	TRAN/REPORTER'S TRANSCRIPT EXCERPT OF JURY TRIAL (SEALED)	0001 0001		07/11/00	

(Continued to page 8)

NO.	FILED/REC	CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0194	07/18/00	TRAN/REPORTER'S TRANSCRIPT OF JULY 17, 2000				07/18/00	
		OF JURY TRIAL					
0195	07/18/00	TRAN/REPORTER'S TRANSCRIPT OF JULY 17, 2000				07/18/00	
		OF JURY TRIAL					
0196	07/17/00	ORDR/ORDER FOR PRODUCTION OF INMATE	0001	HG		07/18/00	
0197	07/19/00	TRAN/REPORTER'S TRANSCRIPT OF JULY 18, 2000				07/19/00	
		OF JURY TRIAL					
0198	07/17/00	EXPR/EX PARTE ORDER	0001				
0199	07/13/00	AFFD/AFFIDAVIT OF REANA RUBALCABA	0001				
0200	07/13/00	AFFD/AFFIDAVIT OF STEPHEN JOHNSON	0001				
0201	07/20/00	TRAN/REPORTER'S TRANSCRIPT OF JULY 18, 2000				07/20/00	
		OF JURY TRIAL					
0202	07/21/00	SENT/SENTENCING	0001	GR		08/31/00	
0203	07/21/00	NOEV/NOTICE OF EXHIBIT(S) IN THE VAULT				07/21/00	
0204	07/21/00	TRAN/REPORTER'S TRANSCRIPT OF JULY 21, 2000				07/21/00	
		TRIAL BY JURY					
0205	07/21/00	INST/INSTRUCTIONS TO THE JURY	0001				
0206	07/21/00	VER /VERDICT	0001			07/21/00	
0207	07/21/00	VER /VERDICT	0001			07/21/00	
0208	07/21/00	VER /VERDICT	0001			07/21/00	
0209	07/21/00	VER /VERDICT	0001			07/21/00	
0210	07/21/00	VER /SPECIAL VERDICT	0001			07/21/00	
0211	07/21/00	VER /SPECIAL VERDICT	0001			07/21/00	
0212	07/21/00	VER /SPECIAL VERDICT	0001			07/21/00	
0213	07/21/00	VER /SPECIAL VERDICT	0001			07/21/00	
0214	07/25/00	ORDR/ORDER	0001				
0215	07/27/00	ROC /RECEIPT OF COPY	0001			07/27/00	
0216	07/28/00	ORDR/STIPULATION AND ORDER	0001			07/28/00	
0217	08/03/00	NOEV/NOTICE OF EXHIBIT(S) IN THE VAULT				06/29/00	
0218	08/04/00	TRE /TRIAL ENDS				07/21/00	
0219	08/07/00	ORDR/ORDER	0001				
0220	08/11/00	MOT /DEFT'S MOTION FOR NEW TRIAL	0001	DN		08/21/00	
0221	08/17/00	OPPS/OPPOSITION TO DEFENDANTS MOTION FOR	0001				
		NEW TRIAL	0001				
0222	08/24/00	EXPT/EX PARTE MOTION TO ALLOW FEES IN EXCESS	0001				Y
		OF STATUTORY MAXIMUM FOR	0001				
ATTORNEY ON COURT APPOINTED CASE FOR MATERIAL WITNESS TRACI ROSE CARTER							
0223	08/24/00	EXPR/EX PARTE ORDER ALLOWING FEES IN EXCESS	0001			08/15/00	Y
		OF STATUTORY MAXIMUM FOR ATTORNEY	0001				
ON COURT APPOINTED CASE FOR MATERIAL WITNESS TRACI ROSE CARTER							
0224	08/24/00	EXPT/EX PARTE MOTION TO WITHDRAWAL AS	0001				Y
		ATTORNEY OF RECORD FOR MATERIAL	0001				
WITNESS TRACI ROSE CARTER							
0225	08/24/00	EXPR/EX PARTE ORDER ALLOWING WITHDRAWAL OF	0001			08/15/00	Y
		ATTORNEY OF RECORD FOR MATERIAL	0001				
WITNESS TRACI ROSE CARTER							
0226	08/24/00	ORDR/ORDER DENYING DEFENDANTS MOTION FOR NEW	0001	HG		08/21/00	
		TRIAL-MOTION FOR NEW PENALTY HEARING	0001				
0227	08/28/00	TRAN/REPORTER'S TRANSCRIPT OF PROCEEDINGS -	0001			08/21/00	Y
		STATE'S MOTION FOR PRODUCTION OF DATA	0001				
SUPPORTING PSYCHOLOGISTS FINDINGS IN REPORT DEFENDANT'S MOTION FOR NEW TRIAL							
0228	08/31/00	EXPR/EX PARTE ORDER	0001			08/31/00	

(Continued to page 9)

NO.	FILED/REC	CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0229	08/31/00	ORDR/ORDER	FOR STAY OF EXECUTION	0001		08/31/00	
0230	08/31/00	ROC /RECEIPT	OF COPY	0001		08/31/00	
0231	09/01/00	EXPR/EX PARTE	ORDER FOR RETURN OF PROPERTY	0001		08/31/00	
0232	09/01/00	ORDR/ORDER		0001	HG	08/21/00	
0233	09/01/00	TRAN/REPORTER'S	TRANSCRIPT RE SENTENCING	0001			
0234	09/05/00	JUDG/JUDGMENT	OF CONVICTION	0001		09/05/00	
0235	09/05/00	NTFE/NOTICE	TO TRANSPORT FOR EXECUTION	0001			
0236	09/05/00	WARR/WARRANT	OF EXECUTION	0001			
0237	09/05/00	ORDR/ORDER	OF EXECUTION	0001		09/05/00	
0238	09/05/00	JMNT/ADMINISTRATION	ASSESSMENT FEE	0001		09/06/00	
0239	09/05/00	JMNT/JUDGMENT	OF RESTITUTION (COUNT II)	0001		09/06/00	
0240	09/05/00	JMNT/JUDGMENT	OF RESTITUTION (COUNT III)	0001		09/06/00	
0241	09/05/00	JMNT/JUDGMENT	OF RESTITUTION (COUNT IV)	0001		09/06/00	
0242	09/05/00	JMNT/JUDGMENT	OF RESTITUTION (COUNT V)	0001		09/06/00	
0243	09/05/00	JMNT/JUDGMENT	OF RESTITUTION (COUNT VI)	0001		09/06/00	
0244	09/05/00	JMNT/JUDGMENT	OF RESTITUTION (VII)	0001		09/06/00	
0245	09/06/00	ORDR/ORDER	FOR TRANSCRIPT	0001			
0246	09/08/00	ROP /RECEIPT	OF EXHIBITS	0001			
0247	08/31/00	CSCL/CASE	CLOSED			08/31/00	
0248	09/11/00	NOAS/NOTICE	OF APPEAL	0001	AP		
0249	09/11/00	STAT/CASE	APPEAL STATEMENT	0001			
0250	09/08/00	ROC /RECEIPT	OF COPY	0001		09/08/00	
0251	09/12/00	CASO/CASE	(RE)ACTIVATED ON				
0252	09/12/00	NOEV/NOTICE	OF TRANSCRIPTS ON THE SHELVES			07/11/00	
0253	09/22/00	ROP /RECEIPT	OF EXHIBITS	0001			
0254	07/21/00	TRAN/REPORTER'S	TRANSCRIPT OF JULY 19, 2000			07/21/00	
			OF JURY TRIAL				
0255	10/02/00	MOT /STATE'S	MOTION FOR CLARIFICATION OF	0001	VC	10/12/00	
			EX-PARTE ORDER FOR RETURN	0001			
			Vr 10-11-00				
0256	10/04/00	EXPR/AMENDED	EX PARTE ORDER FOR RETURN	0001			
			OF PROPERTY	0001			
0257	10/18/00	EXPR/AMENDED	EX PARTE ORDER FOR RETURN OF	0001			
			PROPERTY	0001			
0258	03/19/02	APCL/APPEAL	TO SUPREME COURT: CLOSED			03/13/02	
0259	08/20/02	JMNT/CLERK'S	CERTIFICATE JUDGMENT AFFIRMED	0001		08/21/02	
0260	08/20/02	JMNT/CLERK'S	CERTIFICATE REHEARING DENIED	0001		08/21/02	
0261	08/20/02	CCJA/NEVADA	SUPREME COURT CLERKS CERTIFICATE/	0001		08/20/02	
			JUDGMENT - AFFIRMED	0001			
0262	03/12/03	JMNT/CLERK'S	CERTIFICATE JUDGMENT AFFIRMED	0001		03/13/03	
0263	03/12/03	JMNT/CLERK'S	CERTIFICATE REHEARING DENIED	0001		03/13/03	
0264	03/12/03	CCJA/NEVADA	SUPREME COURT CLERKS CERTIFICATE/	0001		03/12/03	
			JUDGMENT - AFFIRMED/REHEARING DENIED	0001			
0265	03/27/03	MOT /PD'S	MTN TO WITHDRAW AS ATTY OF RECORD &	0001	GR	04/08/03	
			MTN FOR APPOINTMENT OF COUNSEL/53	0001			
0266	03/27/03	CASO/CASE	(RE)ACTIVATED ON				
0267	04/08/03	OCAL/STATUS	CHECK: SET BRIEFING SCHEDULE	0001		06/03/03	
0268	04/16/03	ORDR/ORDER	APPOINTING COUNSEL	0001		04/16/03	
0269	06/03/03	OCAL/STATUS	CHECK: SUPPLEMENTAL PETITION	0001	VC	08/19/03	
			VJ 08/07/03	0001			
0270	06/19/03	PET /DEFT'S	PTN FOR WRIT OF HABEAS CORPUS /56	0001	DN	01/18/05	
0271	06/19/03	ASSG/REASSIGNMENT	OF JUDGE Sobel TO JUDGE				
			Glass				

(Continued to page 10)

NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0272	06/20/03	CERT/CERTIFICATE OF SERVICE BY MAIL	0001		06/20/03	
0273	07/01/03	TRAN/REPORTER'S TRANSCRIPT STATUS CHECK: SET BRIEFING SCHEDULE	0001 0001		05/06/03	
0274	07/01/03	TRAN/REPORTER'S TRANSCRIPT STATUS CHECK: SET BRIEFING SCHEDULE	0001 0001		06/03/03	
0275	07/01/03	TRAN/REPORTER'S TRANSCRIPT STATUS CHECK: SET BRIEFING SCHEDULE	0001 0001		05/20/03	
0276	07/24/03	RSPN/STATES RESPONSE TO DEFENDANTS PETITION FOR WRIT OF HABEAS CORPUS	0001 0001			Y
(POST-CONVICTION)						
0277	09/03/03	ORDR/ORDER RELEASING EVIDENCE FOR PURPOSES OF COPYING	0001 0001		09/03/03	
0278	10/15/03	ORDR/ORDER RELEASING EVIDENCE FOR PURPOSES OF COPYING	0001 0001		10/15/03	
0279	01/27/04	REQT/EX PARTE MOTION FOR INTERIM PAYMENT OF EXCESS ATTORNEYS FEES IN POST	0001 0001			Y
CONVICTION PROCEEDINGS						
0280	01/29/04	ORDR/ORDER GRANTING INTERIM PAYMENT OF EXCESS ATTORNEYS FEES AND COSTS	0001 0001		01/29/04	
0281	03/03/04	TRAN/REPORTER'S TRANSCRIPT DEFENDANTS PETITION FOR WRIT OF HABEAS CORPUS	0001 0001		01/29/04	Y
POST CONVICTION						
0282	05/13/04	REQT/EX PARTE MOTION FOR INTERIM PAYMENT OF EXCESS ATTORNEYS FEES IN POST	0001 0001			Y
CONVICTION PROCEEDINGS						
0283	05/17/04	ORDR/ORDER GRANTING INTERIM PAYMENT OF EXCESS ATTORNEYS FEES AND COSTS	0001 0001		05/17/04	
0284	06/04/04	MOT /DEFT'S MTN TO PLACE ON CALENDAR/57	0001	OC	06/10/04	
0285	06/07/04	ROC /RECEIPT OF COPY	0001		06/07/04	
0286	07/19/04	NOTC/NOTICE OF CHANGE IN STATUS OF COUNSEL FOR PETITIONER	0001 0001			
0287	07/21/04	REQT/EX PARTE MOTION FOR FINAL INTERIM PAYMENT OF EXCESS ATTORNEYS FEES IN	0001 0001			Y
PROCEEDINGS						
0288	07/26/04	ORDR/ORDER GRANTING FINAL INTERIM PAYMENT OF EXCESS ATTORNEYS FEES AND COSTS	0001 0001		07/26/04	
0289	10/06/04	PET /SUPPLEMENTAL PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION AND POINTS AND	0001 0001			Y
AUTHORITIES IN SUPPORT THEREOF						
0290	10/14/04	NCA /VERIFICATION	0001			
0291	12/07/04	OPPS/STATES OPPOSITION TO DEFENDANTS SUPPLEMENTAL PETITION FOR WRIT OF	0001 0001			Y
HABEAS CORPUS POST CONVICTION						
0292	02/04/05	JUDG/FINDINGS OF FACTS, CONCLUSIONS OF LAW AND ORDER	0001 0001	HG	01/18/05	
0293	02/25/05	NOED/NOTICE OF ENTRY OF DECISION AND ORDER	0001		02/04/05	

ORIGINAL

18

1 **ORDR**
2 **DAVID ROGER**
3 Clark County District Attorney
4 Nevada Bar #002781
5 **STEVEN S. OWENS**
6 Chief Deputy District Attorney
7 Nevada Bar #004352
8 200 South Third Street
9 Las Vegas, Nevada 89155-2212
10 (702) 455-4711
11 Attorney for Plaintiff

FILED

FEB 4 10 53 AM '05

Lilibeth R. Rungius
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

ZANE MICHAEL FLOYD,
#1619135

Defendant.

CASE NO: C159897

DEPT NO: V

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER**

DATE OF HEARING: 1/18/05
TIME OF HEARING: 8:30 A.M.

THIS CAUSE having come on for hearing before the Honorable JACKIE GLASS, District Judge, on the 18th day of January, 2005, the Petitioner not being present, Represented By DAVID M. SCHIECK, ESQ., the Respondent being represented by DAVID ROGER, District Attorney, by and through STEVEN S. OWENS, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. On June 8, 1999, Zane Michael Floyd, hereinafter Defendant, was charged by way of Criminal Complaint with four Counts of Murder With Use of a Deadly Weapon, three Counts of Attempt Murder With Use of a Deadly Weapon, five Counts of Sexual Assault

RECEIVED

FEB 04 2005

CLARK COUNTY CLERK

1 With Use of a Deadly Weapon, and one Count of each of the following: Burglary While in
2 Possession of a Firearm and First Degree Kidnapping With Use of A Deadly Weapon.

3 2. The State also attached a Notice of Reservation to seek the Death Penalty.

4 3. On June 25, 1999, an Amended Criminal Complaint was filed adding one Count of
5 Attempt Murder with Use of Deadly Weapon.

6 4. Defendant was then charged by Information and two amendments thereafter with the
7 following crimes: one Count of Burglary While in Possession of a Firearm, four Counts of
8 Murder With Use of a Deadly Weapon, four Counts of Sexual Assault With Use of a Deadly
9 Weapon, one Count of Attempt Murder With Use of a Deadly Weapon, and one Count of
10 First Degree Kidnapping With Use of a Deadly Weapon.

11 5. On July 6, 1999, the State filed a Notice of Intent to Seek the Death Penalty alleging
12 all aggravating circumstances the State intended to prove to the jury.

13 6. Petitioner's trial began July 11, 2000.

14 7. The jury returned a verdict of guilty on all counts. After the penalty hearing, the jury
15 sentenced Defendant to death on each of the Murder With Use of a Deadly Weapon Counts

16 8. After his conviction, Defendant filed an appeal to the Nevada Supreme Court. Floyd
17 v. State, 118 Nev. 156, 42 P.3d 249 (2002).

18 9. On March 13, 2002, that Court, sitting en banc, upheld Defendant's conviction and
19 sentence.

20 10. The Nevada Supreme Court denied Defendant's request for rehearing on May 7,
21 2002. Remittitur issued on March 12, 2003.

22 11. The Defendant filed a petition for post-conviction Writ of Habeas Corpus on June 19,
23 2003.

24 12. The State filed an Opposition to that Writ on July 24, 2003.

25 13. The Defendant filed a Supplemental petition for Writ of Habeas Corpus (Post-
26 Conviction) on October 6, 2004.

27 14. The Defendant's claims that his trial counsel was ineffective fail to meet the
28 requirements of ineffective assistance under Strickland v. Washington.

1 15. Trial counsel was not required to object during the State's opening argument, where
2 the State's comments were addressed at length in Defendant's opening argument.

3 16. The prosecutor did not make statements of personal opinion in his opening statement
4 at the penalty phase of the hearing.

5 17. The prosecutor did not make victim impact statements during his opening statements
6 during the trial phase but made comments to the jury about the general background of the
7 victims, which the Nevada Supreme Court has held to be proper.

8 18. This court limited the number of victim impact statements that would be permitted;
9 therefore, Defendant was not prejudiced by the statutory scheme in Nevada regarding victim
10 impact statements.

11 19. Trial counsel was effective in limiting the number of victim impact statements the
12 jury would hear and was not required to make an objection to the introduction of all victim
13 impact statements.

14 20. Trial counsel filed a pre-trial motion with this court to strike numerous aggravators.

15 21. Counsel's motion was granted in part, removing three of the six aggravators the State
16 was alleging. This was not ineffective.

17 22. Trial counsel was not ineffective for failing to request an instruction to the jury
18 defining the use of character evidence because the State did not present any character
19 witnesses during the penalty phase of the trial that would require such an instruction.

20 23. Defendant's appellate counsel was effective.

21 24. Defendant fails to allege any facts or circumstances regarding his appellate counsel's
22 performance that meet the ineffective assistance of counsel test in Strickland v. Washington.

23 25. Defendant's argument that there was prosecutorial misconduct during the penalty
24 phase of the trial is barred by law of the case.

25 26. Defendant's claim that his jury was not selected from a fair cross section of the
26 community is without merit.

27 27. This court does not find that there are any issues to be addressed in an evidentiary
28 hearing; therefore, Defendant's request for such a hearing is denied.

CONCLUSIONS OF LAW

1. In order to assert a claim for ineffective assistance of counsel a defendant must prove that he was denied "reasonably effective assistance" of counsel by satisfying the two-prong test of Strickland v. Washington, 466 U.S. 668, 686-87, 104 S.Ct. 2052, 2063-64 (1984). See also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323 (1993).

2. Under this test, the defendant must show first that his counsel's representation fell below an objective standard of reasonableness, and second, that but for counsel's errors, there is a reasonable probability that the result of the proceedings would have been different. Strickland, 466 U.S. at 687-88, 694, 104 S.Ct. at 2065, 2068; Warden, Nevada State Prison v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting Strickland two-part test in Nevada).

3. "Effective counsel does not mean errorless counsel, but rather counsel whose assistance is '[w]ithin the range of competence demanded of attorneys in criminal cases.'" Jackson v. Warden, Nevada State Prison, 91 Nev. 430, 432, 537 P.2d 473, 474 (1975), quoting McMann v. Richardson, 397 U.S. 759, 771, 90 S.Ct. 1441, 1449 (1970).

4. In considering whether trial counsel has met this standard, the court should first determine whether counsel made a "sufficient inquiry into the information that is pertinent to his client's case." Doleman v. State, 112 Nev. 843, 846, 921 P.2d 278, 280 (1996); citing Strickland, 466 U.S. at 690-691, 104 S.Ct. at 2066.

5. Once such a reasonable inquiry has been made by counsel, the court should consider whether counsel made "a reasonable strategy decision on how to proceed with his client's case." Doleman, 112 Nev. at 846, 921 P.2d at 280, citing Strickland, 466 U.S. at 690-691, 104 S.Ct. at 2066.

6. Finally, counsel's strategy decision is a "tactical" decision and will be "virtually unchallengeable absent extraordinary circumstances." Doleman, 112 Nev. at 846, 921 P.2d at 280; Howard v. State, 106 Nev. 713, 722, 800 P.2d 175, 180 (1990); Strickland, 466 U.S. at 691, 104 S.Ct. at 2066.

7. Based on the above law, the court begins with the presumption of effectiveness and

1 then must determine whether or not the defendant has demonstrated by "strong and
2 convincing proof" that counsel was ineffective. Homick v. State, 112 Nev. 304, 310, 913
3 P.2d 1280, 1285 (1996) (citing Lenz v. State, 97 Nev. 65, 66, 624 P.2d 15, 16 (1981); Davis
4 v. State, 107 Nev. 600, 602, 817 P.2d 1169, 1170 (1991)).

5 8. The role of a court in considering an allegation of ineffective assistance of counsel is
6 "not to pass upon the merits of the action not taken but to determine whether, under the
7 particular facts and circumstances of the case, trial counsel failed to render reasonably
8 effective assistance." Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711 (1978) (citing
9 Cooper v. Fitzharris, 551 F.2d 1162, 1166 (9th Cir. 1977)).

10 9. This analysis does not mean that the court "should second guess reasoned choices
11 between trial tactics nor does it mean that defense counsel, to protect himself against
12 allegations of inadequacy, must make every conceivable motion no matter how remote the
13 possibilities are of success." Donovan, 94 Nev. at 675, 584 P.2d at 711.

14 10. In essence, the court must "judge the reasonableness of counsel's challenged conduct
15 on the facts of the particular case, viewed as of the time of counsel's conduct." Strickland,
16 466 U.S. at 690, 104 S.Ct. at 2066.

17 11. "There are countless ways to provide effective assistance in any given case. Even the
18 best criminal defense attorneys would not defend a particular client in the same way."
19 Strickland, 466 U.S. at 689, 104 S.Ct. at 689.

20 12. "Strategic choices made by counsel after thoroughly investigating the plausible
21 options are almost unchallengeable." Dawson v. State, 108 Nev. 112, 117, 825 P.2d 593,
22 596 (1992) (citing Strickland, 466 U.S. at 690, 104 S. Ct. at 2066); see also Ford v. State,
23 105 Nev. 850, 853, 784 P.2d 951, 953 (1989).

24 13. Even if a defendant can demonstrate that his counsel's representation fell below an
25 objective standard of reasonableness, he must still demonstrate prejudice and show a
26 reasonable probability that, but for counsel's errors, the result of the trial would have been
27 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999), citing
28 Strickland, 466 U.S. at 687.

1 14. "A reasonable probability is a probability sufficient to undermine confidence in the
2 outcome." Id. (citing Strickland, 466 U.S. at 694).

3 15. Remarks made by a prosecutor "must be examined within the context of the trial to
4 determine whether the prosecutor's behavior amounted to prejudicial error." United States
5 v. Young, 470 U.S. 1, 11-12, 105 S.Ct. 1038, 1044 (1985).

6 16. "There is a presumption that jurors follow jury instructions." See Tennessee v. Street,
7 471 U.S. 409, 415, 105 S.Ct. 2078, 2082, 85 L.Ed.2d 425 (1985); see also Lisle v. State, 113
8 Nev. 540, 558, 937 P.2d 473, 484 (1997).

9 17. "Evidence of a victim's character or trait of character is not admissible unless
10 specifically brought into issue." Libby v. State, 109 Nev. 905, 915, 859 P.2d 1050, 1057
11 (1993).

12 18. "However, facts establishing a victim's identity and general background are not what
13 is generally referred to as character evidence and are admissible." Id.

14 19. "[I]f a guilty verdict was free from doubt, even aggravated prosecutorial remarks will
15 not justify reversal." Flanagan v. State, 104 Nev. 105, 107, 754 P.2d 836, 837 (1988).

16 20. Where an issue has already been decided on the merits by the Nevada Supreme Court,
17 the Court's ruling is law of the case, and the issue will not be revisited. Pellegrini v. State,
18 117 Nev. 860, 34 P.3d 519 (2001); see McNelton v. State, 115 Nev. 396, 990 P.2d 1263,
19 1276 (1999); Hall v. State, 91 Nev. 314, 315-16, 535 P.2d 797, 798-99 (1975); see also
20 Valerio v. State, 112 Nev. 383, 386, 915 P.2d 874, 876 (1996); Hogan v. Warden, 109 Nev.
21 952, 860 P.2d 710 (1993).

22 21. The law of a first appeal is the law of the case in all later appeals in which the facts
23 are substantially the same; this doctrine cannot be avoided by more detailed and precisely
24 focused argument. Hall supra; see also McNelton supra; Hogan supra.

25 22. "Generally, a claim that could have been raised on direct appeal from a judgment of
26 conviction, but was not, is considered waived for purposes of a subsequent proceeding for
27 post-conviction relief." Bolden v. State, 99 Nev. 181, 183, 659 P.2d 886, 887 (1983) (citing
28 Roseneau v. State, 90 Nev. 161, 521 P.2d 369 (1974)).

1 23. More specifically, in Johnson v. Warden, the Nevada Supreme Court held that it
2 would "consider as waived those issues raised in a post-conviction relief application which
3 might properly have been raised on direct appeal, where no reasonable explanation is offered
4 for petitioner's failure to present such issues." 89 Nev. 476, 477, 515 P.2d 63, 64 (1973)
5 (citing Nall v. Warden, 86 Nev. 489, 491, 471 P.2d 218, 219 (1970); Craig v. Warden, 87
6 Nev. 39, 482 P.2d 325 (1971)).

7 24. NRS 34.810 states:

8 1. The court shall dismiss a petition if the court determines that:

9 (b) The petitioner's conviction was the result of a trial and the grounds for
10 the petition could have been:

11 (1) Presented to the trial court;

12 (2) Raised in a direct appeal . . . ; or

13 (3) Raised in any other proceeding that the petitioner has taken to
14 secure relief from his conviction and sentence,
15 unless the court finds both good cause for the failure to present the
16 grounds and actual prejudice to the petitioner.

17 3. Pursuant to subsections 1 and 2, the petitioner has the burden of pleading
18 and proving specific facts that demonstrate:

19 (a) Good cause for the petitioner's failure to present the claim . . . ; and

20 (b) Actual prejudice to the petitioner.

21 NRS 34.810; Pellegrini v. State, 117 Nev. 860, 879, 34 P.3d 519, 532 (2001); see also
22 Crump v. Warden, 113 Nev. 293, 298, 934 P.2d 247, 252 (1997); Franklin v. State, 110 Nev.
23 750, 877 P.2d 1058 (1994), overruled in part on other grounds by Thomas v. State, 115 Nev.
24 148, 979 P.2d 222 (1999).

25 25. In Payne v. Tennessee, 501 U.S. 808, 111 S.Ct. 2597 (1991), the United States
26 Supreme Court held "[t]he State has a legitimate interest in counteracting the mitigating
27 evidence which the defendant is entitled to put in, by reminding the sentencer that just as the
28 murderer should be considered as an individual, so too the victim is an individual whose
death represents a unique loss to society and in particular to his family." Id. at 825, 2608.

29 26. There is no *per se* bar to the introduction on victim impact statements. Id. at 827,
2609.

30 27. Multiple aggravating circumstances, based on the same set of operative facts, are not
31 violative of the Defendant's double jeopardy or due process rights. See Thomas v. State,

1 120 Nev. 37, 83 P.3d 818 (2004); see also Sherman v. State, 114 Nev. 998, 965 P.2d 903
2 (1998).

3 28. NRAP 28(e) states in pertinent part: "Every assertion in briefs regarding matters in
4 the record shall be supported by a reference to the page of the transcript or appendix where
5 the matter relied on is to be found."

6 29. The federal courts have held that in order to claim ineffective assistance of appellate
7 counsel the defendant must satisfy the two-prong test set forth by Strickland v. Washington,
8 466 U.S. 668, 687-688, 694, 104 S.Ct. 2052, 2065, 2068 (1984); Williams v. Collins, 16
9 F.3d 626, 635 (5th Cir. 1994); Hollenback v. United States, 987 F.2d 1272, 1275 (7th Cir.
10 1993); Heath v. Jones, 941 F.2d 1126, 1130 (11th Cir. 1991).

11 30. There is a strong presumption that counsel's performance was reasonable and fell
12 within "the wide range of reasonable professional assistance." See United States v. Aguirre,
13 912 F.2d 555, 560 (2d Cir. 1990) (citing Strickland, 466 U.S. at 689, 104 S.Ct. at 2065).

14 31. All appeals must be "pursued in a manner meeting high standards of diligence,
15 professionalism and competence." Burke v. State, 110 Nev. 1366, 1368, 887 P.2d 267, 268
16 (1994).

17 32. Finally, in order to prove that appellate counsel's alleged error was prejudicial, the
18 defendant must show that the omitted issue would have had a reasonable probability of
19 success on appeal. See Duhamel v. Collins, 955 F.2d 962, 967 (5th Cir. 1992); Heath, 941
20 F.2d at 1132.

21 33. The defendant has the ultimate authority to make fundamental decisions regarding his
22 case. Jones v. Barnes, 463 U.S. 745, 751, 103 S.Ct. 3308, 3312 (1983).

23 34. However, the defendant does not have a constitutional right to "compel appointed
24 counsel to press frivolous points requested by the client, if counsel, as a matter of
25 professional judgment, decides not to present those points." Id.

26 35. In reaching this conclusion the Supreme Court has recognized the "importance of
27 winnowing out weaker arguments on appeal and focusing on one central issue if possible or
28 at most on a few key issues." Id. at 751 -752, 103 S.Ct. at 3313.

1 36. In particular, a "brief that raises every colorable issue runs the risk of burying good
2 arguments . . . in a verbal mound made up of strong and weak contentions." Id. at 753, 103
3 S.Ct. at 3313.

4 37. "For judges to second-guess reasonable professional judgments and impose on
5 appointed counsel a duty to raise every 'colorable' claim suggested by a client would
6 disserve the very goal of vigorous and effective advocacy." Id. at 754, 103 S.Ct. at 3314.

7 38. In Gibbons v. State, 97 Nev. 520, 634 P.2d 1214 (1981), the Nevada Supreme Court
8 held "because most claims of ineffective trial counsel involve questions of fact that can only
9 be resolved by the district court at an evidentiary hearing 'the more appropriate vehicle for
10 presenting a claim of ineffective assistance of counsel is through post-conviction relief.'" Id.
11 at 523, Id. at 1216.

12 39. "The failure to object or to request special instruction to the jury precludes appellate
13 consideration." McCall v. State, 91 Nev. 556, 557, 540 P.2d 95, 95 (1975) (citing State v.
14 Fouquette, 67 Nev. 505, 221 P.2d 404 (1950); Clark v. State, 89 Nev. 392, 513 P.2d 1224
15 (1973); Cook v. State, 77 Nev. 83, 359 P.2d 483 (1961)).

16 40. "So long as a jury is instructed to consider the mitigating circumstances placed before
17 it, it is not error to instruct the jury not to be influenced by sympathy." Lay v. State, 110
18 Nev. at 1195, 451-452.

19 41. In Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984), the Court held
20 that claims asserted in a petition for post-conviction relief must be supported with specific
21 factual allegations, which if true, would entitle the petitioner to relief.

22 42. "Bare" and "naked" allegations are not sufficient, nor are those belied and repelled by
23 the record. Id.

24 43. The United States Supreme Court has enumerated a three part test to determine
25 whether a group has been systematically excluded from the jury pool process. See Duren v.
26 Missouri, 439 U.S. 357, 99 S.Ct. 664 (1979).

27 44. The Duren three-prong test requires:

- 28 (1) that the group alleged to be excluded is a "distinctive" group in the community;
(2) that the representation of this group in venires from which juries are selected is

not fair and reasonable in relation to the number of such persons in the community;
and
(3) that this under representation is due to systematic exclusion of the group in the jury-selection process.

Duren, 439 U.S. at 364, 99 S.Ct. at 668.

45. The Nevada Supreme Court has adopted the holding from State v. Lopez, 107 Idaho 726, 692 P.2d 370 (Idaho Ct.App. 1984), which states "a jury selection process which treats all groups equally but may have a disparate impact on one or more groups does not 'systematically exclude' any group." Rhyne v. State, 118 Nev. 1, 12, 38 P.3d 163, 170 (2002).

46. In Taylor v. Louisiana, the United States Supreme Court held that although petit juries must be drawn from a source fairly representative of the community, the Court will impose no requirement that the petit juries actually chosen must "mirror the community and reflect the various distinctive groups in the population." 419 U.S. at 538.

47. The use of the word "shall" does not create a mandatory presumption that shifts the burden of proof. Id at 78, 17 P.3d at 413; citing Cordova v. State, 116 Nev. 664, 666, 6 P.3d 481, 482-83 (2000).

48. The Nevada Supreme Court has characterized the statutory language "abandoned and malignant heart" as "archaic but essential." Keys v. State, 104 Nev. 736, 740, 766 P.2d 270, 272 (1988).

49. The Court held that similar instructions "accurately informed the jury of the distinction between express malice and implied malice." Guy v. State, 108 Nev. 770, 777 & n. 2, 839 P.2d 578, 582-83 & n. 2 (1992).

50. Language, that refers to "a heart fatally bent on mischief" and acts done "in contradistinction to accident or mischance," in the malice aforethought instruction is constitutional. See Leonard v. State, 114 Nev. 1196, 1208, 969 P.2d 288, 296 (1998), cert. denied, 528 U.S. 828, 120 S.Ct. 81 (1999).

51. The Court concluded that "[a]lthough these phrases are not common in today's general parlance, . . . their use did not deprive appellant of a fair trial." Id. Absent some indication that the jury was confused by the malice instructions (including the instruction on

malice aforethought and express malice), a defendant's claim that the instructions were confusing is merely "speculative." See Guy, 108 Nev. at 777, 839 P.2d at 583.

52. "The judge or justice, upon review of the return, answer and all supporting documents which are filed, shall determine whether an evidentiary hearing is required." NRS 34.770(1).

ORDER

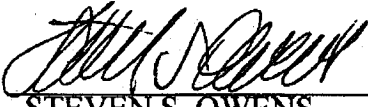
THEREFORE, IT IS HEREBY ORDERED that the Petition for Post-Conviction Relief shall be, and it is, hereby denied.

DATED this 3 day of Feb, 2005.


DISTRICT JUDGE

DAVID ROGER
DISTRICT ATTORNEY
Nevada Bar #002781

BY


STEVEN S. OWENS
Chief Deputy District Attorney
Nevada Bar 004352

kjk

CRIGINAL

FILED

NOED

District Court

Clark County, Nevada

FEB 25 6 32 PM '05

Shirley B. Parraguirre
CLERK

ZANE MICHAEL FLOYD,

Petitioner,

Case No. C159897

vs

Dept. No. V

THE STATE OF NEVADA,

Respondent.

NOTICE OF ENTRY OF
DECISION AND ORDER

PLEASE TAKE NOTICE that on February 4, 2005, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on February 25, 2005.

SHIRLEY B. PARRAGUIRRE, CLERK OF COURT

By: *Norreta Caldwell*
Norreta Caldwell, Deputy Clerk

CERTIFICATE OF MAILING

I hereby certify that on the 25 day of February, 2005, I placed a copy of this Notice of Entry of Decision and Order in:

The bin(s) located in the Office of the County Clerk of:
Clark County District Attorney's Office - Appellate Division
Attorney General's Office - Appellate Division
☒ The United States mail addressed as follows:

David M Schieck ESQ
Special Public Defender
333 S Third St. 2nd fl
Las Vegas, NV 89101

Norreta Caldwell
Norreta Caldwell, Deputy Clerk

Notice of Entry of Decision and Order/2-01/jh

ORIGINAL

18

FILED

FEB 4 10 53 AM '05

Shirley L. Rungius
CLERK

1 **ORDR**
2 **DAVID ROGER**
3 **Clark County District Attorney**
4 **Nevada Bar #002781**
5 **STEVEN S. OWENS**
6 **Chief Deputy District Attorney**
7 **Nevada Bar #004352**
8 **200 South Third Street**
9 **Las Vegas, Nevada 89155-2212**
10 **(702) 455-4711**
11 **Attorney for Plaintiff**

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-VS-

ZANE MICHAEL FLOYD,
#1619135

Defendant.

CASE NO: C159897
DEPT NO: V

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER

DATE OF HEARING: 1/18/05
TIME OF HEARING: 8:30 A.M.

THIS CAUSE having come on for hearing before the Honorable JACKIE GLASS, District Judge, on the 18th day of January, 2005, the Petitioner not being present, Represented By DAVID M. SCHIECK, ESQ., the Respondent being represented by DAVID ROGER, District Attorney, by and through STEVEN S. OWENS, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. On June 8, 1999, Zane Michael Floyd, hereinafter Defendant, was charged by way of Criminal Complaint with four Counts of Murder With Use of a Deadly Weapon, three Counts of Attempt Murder With Use of a Deadly Weapon, five Counts of Sexual Assault

RECEIVED
FEB 04 2005
CLARK COUNTY

1 With Use of a Deadly Weapon, and one Count of each of the following: Burglary While in
2 Possession of a Firearm and First Degree Kidnapping With Use of A Deadly Weapon.

3 2. The State also attached a Notice of Reservation to seek the Death Penalty.

4 3. On June 25, 1999, an Amended Criminal Complaint was filed adding one Count of
5 Attempt Murder with Use of Deadly Weapon.

6 4. Defendant was then charged by Information and two amendments thereafter with the
7 following crimes: one Count of Burglary While in Possession of a Firearm, four Counts of
8 Murder With Use of a Deadly Weapon, four Counts of Sexual Assault With Use of a Deadly
9 Weapon, one Count of Attempt Murder With Use of a Deadly Weapon, and one Count of
10 First Degree Kidnapping With Use of a Deadly Weapon.

11 5. On July 6, 1999, the State filed a Notice of Intent to Seek the Death Penalty alleging
12 all aggravating circumstances the State intended to prove to the jury.

13 6. Petitioner's trial began July 11, 2000.

14 7. The jury returned a verdict of guilty on all counts. After the penalty hearing, the jury
15 sentenced Defendant to death on each of the Murder With Use of a Deadly Weapon Counts

16 8. After his conviction, Defendant filed an appeal to the Nevada Supreme Court. Floyd
17 v. State, 118 Nev. 156, 42 P.3d 249 (2002).

18 9. On March 13, 2002, that Court, sitting en banc, upheld Defendant's conviction and
19 sentence.

20 10. The Nevada Supreme Court denied Defendant's request for rehearing on May 7,
21 2002. Remittitur issued on March 12, 2003.

22 11. The Defendant filed a petition for post-conviction Writ of Habeas Corpus on June 19,
23 2003.

24 12. The State filed an Opposition to that Writ on July 24, 2003.

25 13. The Defendant filed a Supplemental petition for Writ of Habeas Corpus (Post-
26 Conviction) on October 6, 2004.

27 14. The Defendant's claims that his trial counsel was ineffective fail to meet the
28 requirements of ineffective assistance under Strickland v. Washington.

1 15. Trial counsel was not required to object during the State's opening argument, where
2 the State's comments were addressed at length in Defendant's opening argument.

3 16. The prosecutor did not make statements of personal opinion in his opening statement
4 at the penalty phase of the hearing.

5 17. The prosecutor did not make victim impact statements during his opening statements
6 during the trial phase but made comments to the jury about the general background of the
7 victims, which the Nevada Supreme Court has held to be proper.

8 18. This court limited the number of victim impact statements that would be permitted;
9 therefore, Defendant was not prejudiced by the statutory scheme in Nevada regarding victim
10 impact statements.

11 19. Trial counsel was effective in limiting the number of victim impact statements the
12 jury would hear and was not required to make an objection to the introduction of all victim
13 impact statements.

14 20. Trial counsel filed a pre-trial motion with this court to strike numerous aggravators.

15 21. Counsel's motion was granted in part, removing three of the six aggravators the State
16 was alleging. This was not ineffective.

17 22. Trial counsel was not ineffective for failing to request an instruction to the jury
18 defining the use of character evidence because the State did not present any character
19 witnesses during the penalty phase of the trial that would require such an instruction.

20 23. Defendant's appellate counsel was effective.

21 24. Defendant fails to allege any facts or circumstances regarding his appellate counsel's
22 performance that meet the ineffective assistance of counsel test in Strickland v. Washington.

23 25. Defendant's argument that there was prosecutorial misconduct during the penalty
24 phase of the trial is barred by law of the case.

25 26. Defendant's claim that his jury was not selected from a fair cross section of the
26 community is without merit.

27 27. This court does not find that there are any issues to be addressed in an evidentiary
28 hearing; therefore, Defendant's request for such a hearing is denied.

CONCLUSIONS OF LAW

- 1
2 1. In order to assert a claim for ineffective assistance of counsel a defendant must prove
3 that he was denied "reasonably effective assistance" of counsel by satisfying the two-prong
4 test of Strickland v. Washington, 466 U.S. 668, 686-87, 104 S.Ct. 2052, 2063-64 (1984).
5 See also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323 (1993).
- 6 2. Under this test, the defendant must show first that his counsel's representation fell
7 below an objective standard of reasonableness, and second, that but for counsel's errors,
8 there is a reasonable probability that the result of the proceedings would have been different.
9 Strickland, 466 U.S. at 687-88, 694, 104 S.Ct. at 2065, 2068; Warden, Nevada State Prison
10 v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting Strickland two-part test in
11 Nevada).
- 12 3. "Effective counsel does not mean errorless counsel, but rather counsel whose
13 assistance is '[w]ithin the range of competence demanded of attorneys in criminal cases.'" Jackson v. Warden, Nevada State Prison, 91 Nev. 430, 432, 537 P.2d 473, 474 (1975),
14 quoting McMann v. Richardson, 397 U.S. 759, 771, 90 S.Ct. 1441, 1449 (1970).
- 15 4. In considering whether trial counsel has met this standard, the court should first
16 determine whether counsel made a "sufficient inquiry into the information that is pertinent to
17 his client's case." Doleman v. State, 112 Nev. 843, 846, 921 P.2d 278, 280 (1996); citing
18 Strickland, 466 U.S. at 690-691, 104 S.Ct. at 2066.
- 19 5. Once such a reasonable inquiry has been made by counsel, the court should consider
20 whether counsel made "a reasonable strategy decision on how to proceed with his client's
21 case." Doleman, 112 Nev. at 846, 921 P.2d at 280, citing Strickland, 466 U.S. at 690-691,
22 104 S.Ct. at 2066.
- 23 6. Finally, counsel's strategy decision is a "tactical" decision and will be "virtually
24 unchallengeable absent extraordinary circumstances." Doleman, 112 Nev. at 846, 921 P.2d
25 at 280; Howard v. State, 106 Nev. 713, 722, 800 P.2d 175, 180 (1990); Strickland, 466 U.S.
26 at 691, 104 S.Ct. at 2066.
- 27 7. Based on the above law, the court begins with the presumption of effectiveness and
28

1 then must determine whether or not the defendant has demonstrated by "strong and
2 convincing proof" that counsel was ineffective. Homick v. State, 112 Nev. 304, 310, 913
3 P.2d 1280, 1285 (1996) (citing Lenz v. State, 97 Nev. 65, 66, 624 P.2d 15, 16 (1981); Davis
4 v. State, 107 Nev. 600, 602, 817 P.2d 1169, 1170 (1991)).

5 8. The role of a court in considering an allegation of ineffective assistance of counsel is
6 "not to pass upon the merits of the action not taken but to determine whether, under the
7 particular facts and circumstances of the case, trial counsel failed to render reasonably
8 effective assistance." Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711 (1978) (citing
9 Cooper v. Fitzharris, 551 F.2d 1162, 1166 (9th Cir. 1977)).

10 9. This analysis does not mean that the court "should second guess reasoned choices
11 between trial tactics nor does it mean that defense counsel, to protect himself against
12 allegations of inadequacy, must make every conceivable motion no matter how remote the
13 possibilities are of success." Donovan, 94 Nev. at 675, 584 P.2d at 711.

14 10. In essence, the court must "judge the reasonableness of counsel's challenged conduct
15 on the facts of the particular case, viewed as of the time of counsel's conduct." Strickland,
16 466 U.S. at 690, 104 S.Ct. at 2066.

17 11. "There are countless ways to provide effective assistance in any given case. Even the
18 best criminal defense attorneys would not defend a particular client in the same way."
19 Strickland, 466 U.S. at 689, 104 S.Ct. at 689.

20 12. "Strategic choices made by counsel after thoroughly investigating the plausible
21 options are almost unchallengeable." Dawson v. State, 108 Nev. 112, 117, 825 P.2d 593,
22 596 (1992) (citing Strickland, 466 U.S. at 690, 104 S. Ct. at 2066); see also Ford v. State,
23 105 Nev. 850, 853, 784 P.2d 951, 953 (1989).

24 13. Even if a defendant can demonstrate that his counsel's representation fell below an
25 objective standard of reasonableness, he must still demonstrate prejudice and show a
26 reasonable probability that, but for counsel's errors, the result of the trial would have been
27 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999), citing
28 Strickland, 466 U.S. at 687.

- 1 14. "A reasonable probability is a probability sufficient to undermine confidence in the
2 outcome." Id. (citing Strickland, 466 U.S. at 694).
- 3 15. Remarks made by a prosecutor "must be examined within the context of the trial to
4 determine whether the prosecutor's behavior amounted to prejudicial error." United States
5 v. Young, 470 U.S. 1, 11-12, 105 S.Ct. 1038, 1044 (1985).
- 6 16. "There is a presumption that jurors follow jury instructions." See Tennessee v. Street,
7 471 U.S. 409, 415, 105 S.Ct. 2078, 2082, 85 L.Ed.2d 425 (1985); see also Lisle v. State, 113
8 Nev. 540, 558, 937 P.2d 473, 484 (1997).
- 9 17. "Evidence of a victim's character or trait of character is not admissible unless
10 specifically brought into issue." Libby v. State, 109 Nev. 905, 915, 859 P.2d 1050, 1057
11 (1993).
- 12 18. "However, facts establishing a victim's identity and general background are not what
13 is generally referred to as character evidence and are admissible." Id.
- 14 19. "[I]f a guilty verdict was free from doubt, even aggravated prosecutorial remarks will
15 not justify reversal." Flanagan v. State, 104 Nev. 105, 107, 754 P.2d 836, 837 (1988).
- 16 20. Where an issue has already been decided on the merits by the Nevada Supreme Court,
17 the Court's ruling is law of the case, and the issue will not be revisited. Pellegrini v. State,
18 117 Nev. 860, 34 P.3d 519 (2001); see McNelton v. State, 115 Nev. 396, 990 P.2d 1263,
19 1276 (1999); Hall v. State, 91 Nev. 314, 315-16, 535 P.2d 797, 798-99 (1975); see also
20 Valerio v. State, 112 Nev. 383, 386, 915 P.2d 874, 876 (1996); Hogan v. Warden, 109 Nev.
21 952, 860 P.2d 710 (1993).
- 22 21. The law of a first appeal is the law of the case in all later appeals in which the facts
23 are substantially the same; this doctrine cannot be avoided by more detailed and precisely
24 focused argument. Hall supra; see also McNelton supra; Hogan supra.
- 25 22. "Generally, a claim that could have been raised on direct appeal from a judgment of
26 conviction, but was not, is considered waived for purposes of a subsequent proceeding for
27 post-conviction relief." Bolden v. State, 99 Nev. 181, 183, 659 P.2d 886, 887 (1983) (citing
28 Roseneau v. State, 90 Nev. 161, 521 P.2d 369 (1974)).

1 23. More specifically, in Johnson v. Warden, the Nevada Supreme Court held that it
2 would "consider as waived those issues raised in a post-conviction relief application which
3 might properly have been raised on direct appeal, where no reasonable explanation is offered
4 for petitioner's failure to present such issues." 89 Nev. 476, 477, 515 P.2d 63, 64 (1973)
5 (citing Nall v. Warden, 86 Nev. 489, 491, 471 P.2d 218, 219 (1970); Craig v. Warden, 87
6 Nev. 39, 482 P.2d 325 (1971)).

7 24. NRS 34.810 states:

- 8 1. The court shall dismiss a petition if the court determines that:
- 9 (b) The petitioner's conviction was the result of a trial and the grounds for
10 the petition could have been:
- 11 (1) Presented to the trial court;
12 (2) Raised in a direct appeal . . . ; or
13 (3) Raised in any other proceeding that the petitioner has taken to
14 secure relief from his conviction and sentence,
15 unless the court finds both good cause for the failure to present the
16 grounds and actual prejudice to the petitioner.
- 17 3. Pursuant to subsections 1 and 2, the petitioner has the burden of pleading
18 and proving specific facts that demonstrate:
- 19 (a) Good cause for the petitioner's failure to present the claim . . . ; and
20 (b) Actual prejudice to the petitioner.

21 NRS 34.810; Pellegrini v. State, 117 Nev. 860, 879, 34 P.3d 519, 532 (2001); see also
22 Crump v. Warden, 113 Nev. 293, 298, 934 P.2d 247, 252 (1997); Franklin v. State, 110 Nev.
23 750, 877 P.2d 1058 (1994), overruled in part on other grounds by Thomas v. State, 115 Nev.
24 148, 979 P.2d 222 (1999).

25 25. In Payne v. Tennessee, 501 U.S. 808, 111 S.Ct. 2597 (1991), the United States
26 Supreme Court held "[t]he State has a legitimate interest in counteracting the mitigating
27 evidence which the defendant is entitled to put in, by reminding the sentencer that just as the
28 murderer should be considered as an individual, so too the victim is an individual whose
death represents a unique loss to society and in particular to his family." Id. at 825, 2608.

29 26. There is no *per se* bar to the introduction on victim impact statements. Id. at 827,
2609.

30 27. Multiple aggravating circumstances, based on the same set of operative facts, are not
31 violative of the Defendant's double jeopardy or due process rights. See Thomas v. State,

1 120 Nev. 37, 83 P.3d 818 (2004); see also Sherman v. State, 114 Nev. 998, 965 P.2d 903
2 (1998).

3 28. NRAP 28(e) states in pertinent part: "Every assertion in briefs regarding matters in
4 the record shall be supported by a reference to the page of the transcript or appendix where
5 the matter relied on is to be found."

6 29. The federal courts have held that in order to claim ineffective assistance of appellate
7 counsel the defendant must satisfy the two-prong test set forth by Strickland v. Washington,
8 466 U.S. 668, 687-688, 694, 104 S.Ct. 2052, 2065, 2068 (1984); Williams v. Collins, 16
9 F.3d 626, 635 (5th Cir. 1994); Hollenback v. United States, 987 F.2d 1272, 1275 (7th Cir.
10 1993); Heath v. Jones, 941 F.2d 1126, 1130 (11th Cir. 1991).

11 30. There is a strong presumption that counsel's performance was reasonable and fell
12 within "the wide range of reasonable professional assistance." See United States v. Aguirre,
13 912 F.2d 555, 560 (2d Cir. 1990) (citing Strickland, 466 U.S. at 689, 104 S.Ct. at 2065).

14 31. All appeals must be "pursued in a manner meeting high standards of diligence,
15 professionalism and competence." Burke v. State, 110 Nev. 1366, 1368, 887 P.2d 267, 268
16 (1994).

17 32. Finally, in order to prove that appellate counsel's alleged error was prejudicial, the
18 defendant must show that the omitted issue would have had a reasonable probability of
19 success on appeal. See Duhamel v. Collins, 955 F.2d 962, 967 (5th Cir. 1992); Heath, 941
20 F.2d at 1132.

21 33. The defendant has the ultimate authority to make fundamental decisions regarding his
22 case. Jones v. Barnes, 463 U.S. 745, 751, 103 S.Ct. 3308, 3312 (1983).

23 34. However, the defendant does not have a constitutional right to "compel appointed
24 counsel to press frivolous points requested by the client, if counsel, as a matter of
25 professional judgment, decides not to present those points." Id.

26 35. In reaching this conclusion the Supreme Court has recognized the "importance of
27 winnowing out weaker arguments on appeal and focusing on one central issue if possible or
28 at most on a few key issues." Id. at 751 -752, 103 S.Ct. at 3313.

- 1 36. In particular, a "brief that raises every colorable issue runs the risk of burying good
2 arguments . . . in a verbal mound made up of strong and weak contentions." Id. at 753, 103
3 S.Ct. at 3313.
- 4 37. "For judges to second-guess reasonable professional judgments and impose on
5 appointed counsel a duty to raise every 'colorable' claim suggested by a client would
6 disserve the very goal of vigorous and effective advocacy." Id. at 754, 103 S.Ct. at 3314.
- 7 38. In Gibbons v. State, 97 Nev. 520, 634 P.2d 1214 (1981), the Nevada Supreme Court
8 held "because most claims of ineffective trial counsel involve questions of fact that can only
9 be resolved by the district court at an evidentiary hearing 'the more appropriate vehicle for
10 presenting a claim of ineffective assistance of counsel is through post-conviction relief.'" Id.
11 at 523, Id. at 1216.
- 12 39. "The failure to object or to request special instruction to the jury precludes appellate
13 consideration." McCall v. State, 91 Nev. 556, 557, 540 P.2d 95, 95 (1975) (citing State v.
14 Fouquette, 67 Nev. 505, 221 P.2d 404 (1950); Clark v. State, 89 Nev. 392, 513 P.2d 1224
15 (1973); Cook v. State, 77 Nev. 83, 359 P.2d 483 (1961)).
- 16 40. "So long as a jury is instructed to consider the mitigating circumstances placed before
17 it, it is not error to instruct the jury not to be influenced by sympathy." Lay v. State, 110
18 Nev. at 1195, 451-452.
- 19 41. In Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984), the Court held
20 that claims asserted in a petition for post-conviction relief must be supported with specific
21 factual allegations, which if true, would entitle the petitioner to relief.
- 22 42. "Bare" and "naked" allegations are not sufficient, nor are those belied and repelled by
23 the record. Id.
- 24 43. The United States Supreme Court has enumerated a three part test to determine
25 whether a group has been systematically excluded from the jury pool process. See Duren v.
26 Missouri, 439 U.S. 357, 99 S.Ct. 664 (1979).
- 27 44. The Duren three-prong test requires:
- 28 (1) that the group alleged to be excluded is a "distinctive" group in the community;
(2) that the representation of this group in venires from which juries are selected is

1 not fair and reasonable in relation to the number of such persons in the community;
2 and
(3) that this under representation is due to systematic exclusion of the group in the
jury-selection process.

3 Duren, 439 U.S. at 364, 99 S.Ct. at 668.

4 45. The Nevada Supreme Court has adopted the holding from State v. Lopez, 107 Idaho
5 726, 692 P.2d 370 (Idaho Ct.App. 1984), which states "a jury selection process which treats
6 all groups equally but may have a disparate impact on one or more groups does not
7 'systematically exclude' any group." Rhyne v. State, 118 Nev. 1, 12, 38 P.3d 163, 170
8 (2002).

9 46. In Taylor v. Louisiana, the United States Supreme Court held that although petit
10 juries must be drawn from a source fairly representative of the community, the Court will
11 impose no requirement that the petit juries actually chosen must "mirror the community and
12 reflect the various distinctive groups in the population." 419 U.S. at 538.

13 47. The use of the word "shall" does not create a mandatory presumption that shifts the
14 burden of proof. Id at 78, 17 P.3d at 413; citing Cordova v. State, 116 Nev. 664, 666, 6 P.3d
15 481, 482-83 (2000).

16 48. The Nevada Supreme Court has characterized the statutory language "abandoned and
17 malignant heart" as "archaic but essential." Keys v. State, 104 Nev. 736, 740, 766 P.2d 270,
18 272 (1988).

19 49. The Court held that similar instructions "accurately informed the jury of the
20 distinction between express malice and implied malice." Guy v. State, 108 Nev. 770, 777 &
21 n. 2, 839 P.2d 578, 582-83 & n. 2 (1992).

22 50. Language, that refers to "a heart fatally bent on mischief" and acts done "in
23 contradistinction to accident or mischance," in the malice aforethought instruction is
24 constitutional. See Leonard v. State, 114 Nev. 1196, 1208, 969 P.2d 288, 296 (1998), cert.
25 denied, 528 U.S. 828, 120 S.Ct. 81 (1999).

26 51. The Court concluded that "[a]lthough these phrases are not common in today's
27 general parlance, . . . their use did not deprive appellant of a fair trial." Id. Absent some
28 indication that the jury was confused by the malice instructions (including the instruction on

1 malice aforethought and express malice), a defendant's claim that the instructions were
2 confusing is merely "speculative." See Guy, 108 Nev. at 777, 839 P.2d at 583.
3 52. "The judge or justice, upon review of the return, answer and all supporting documents
4 which are filed, shall determine whether an evidentiary hearing is required." NRS
5 34.770(1).


6 **ORDER**

7 THEREFORE, IT IS HEREBY ORDERED that the Petition for Post-Conviction
8 Relief shall be, and it is, hereby denied.

9 DATED this 3 day of July, 2005.

10 
11 DISTRICT JUDGE
12 

13 DAVID ROGER
14 DISTRICT ATTORNEY
15 Nevada Bar #002781

16 BY 
17 STEVEN S. OWENS
18 Chief Deputy District Attorney
19 Nevada Bar 004352
20
21
22
23
24
25
26
27
28

kjk

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA vs Floyd, Zane M

07/06/99 09:00 AM 00 INITIAL ARRAIGNMENT

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: CAROLE D'ALOIA, Court Clerk
N J SILVERMAN(AM)/G G PICHIERRI (PM), Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000477	Bell, Stewart L.	Y
000281	Koot, William T.	Y
0001 D1	Floyd, Zane M	Y
PUBDEF	Public Defender	Y
003964	Hedger, Douglas W.	Y
004546	Brown, Curtis	Y

DEFENDANT FLOYD ARRAIGNED, PLED NOT GUILTY AND WAIVED THE SIXTY-DAY RULE. COURT ORDERED, pursuant to meeting in Chambers last week, TRIAL DATE SET FOR 03/06/00 WITH A CALENDAR CALL DATE OF 02/29/00 AND STATED THIS IS A FIRM TRIAL DATE--THERE WILL BE NO CONTINUANCES. COURT FURTHER ORDERED, ALL MOTIONS ARE TO BE FILED NO LATER THAN 01/03/00, WITH COURTESY COPIES TO THE COURT AND MATTER SET FOR STATUS CHECK ON 01/06/00 FOR TRIAL READINESS AND MOTIONS FILED TO RESOLVE WHEN THESE MOTIONS THAT HAVE BEEN FILED WILL NEED TO BE ANSWERED AND TO SEE WHAT KIND OF PROCEDURES ARE GOING TO BE USED TO REACH DECISIONS ON THEM. COURT STATED THERE WILL BE NO ORAL ARGUMENTS ON ANY MOTIONS. COURT ORDERED, MATTER WILL ALSO BE SET FOR STATUS CHECK ON 02/07/00 FOR TRIAL READINESS AND TO SET A DATE FOR THE JURY QUESTIONNAIRE. Court asked Mr. Bell if he were going to file in open court Mr. Koot's motion, which Defense has already received a copy of, and Mr. Bell replied it has already been filed. Upon Court's inquiry, Mr. Brown stated they need two weeks to respond and, COURT ORDERED, Defense to respond by 7/20/99; State to reply by 7/27/99 and matter set for DECISION on 8/5/99 and, FURTHER ORDERED, THIS MOTION RELATIVE TO THE SEXUAL ASSAULT COUNT AND THE DEPOSITION WILL BE KEPT UNDER SEAL. NOTICE TO SEEK DEATH PENALTY FILED IN OPEN COURT.

CUSTODY

8/5/99 9:00 AM DECISION

01/06/00 9:00 AM STATUS CHECK: TRIAL READINESS/ALL MOTIONS FILED

02/07/00 9:00 AM STATUS CHECK: TRIAL READINESS/SET DATE FOR JURY
QUESTIONNAIRE

02/29/00 9:00 AM CALENDAR CALL

03/06/00 10:00 AM JURY TRIAL

CLERK'S NOTE: CALLED MR. KOOT'S OFFICE ON 7/9/99 AND SPOKE TO MOLLY AS I DID NOT HAVE COPY OF DOCUMENT TO BE PLACED UNDER SEAL IN THE FILE AND UPON CHECKING THE INDEX SCREEN IN BLACKSTONE, DOCUMENT HAD NOT BEEN ENTERED.

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 001

MOLLY ADVISED ME, DOCUMENT HAD NOT BEEN FILED AS MR. BELL STATED IN COURT ON 7/6/99 AND SHE WOULD SEND IT TO CLERK'S OFFICE TODAY TO BE FILED. CD

08/12/99 09:00 AM 01 DECISION

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: CAROLE D'ALOIA/CD, Court Clerk
SHIRLEE PRAWALSKY, Reporter/Recorder

PARTIES: STATE OF NEVADA
000477 Bell, Stewart L.
0001 D1 Floyd, Zane M
PUBDEF Public Defender
003964 Hedger, Douglas W.
004546 Brown, Curtis

Y
Y
Y
Y
Y
Y

COURT ORDERED, MOTION FOR DEPOSITION DENIED based on NRS 174.175. Upon Court's inquiry, Mr. Bell presented an Application for Material Witness and Order that would either hold witness in custody or set bail so State would have some assurance she will be here for trial. Witness brought into the Courtroom and discussion between Court and witness regarding her importance to this case. COURT ORDERED, WITNESS RELEASED AND ADMONISHED HER THAT IF SHE TAKES OFF AND DOES NOT KEEP IN TOUCH WITH MR. BELL'S OFFICE A WARRANT WILL BE ISSUED AND SHE WILL BE PICKED-UP AND SIT IN JAIL UNTIL THE TRIAL ON MARCH 6, 2000.

CUSTODY

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 002

01/06/00 09:00 AM 00 ALL PENDING MOTIONS 01/06/00

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: ALONA CANDITO, Court Clerk
DEBRA VAN BLARICOM, Reporter/Recorder

PARTIES: STATE OF NEVADA
000477 Bell, Stewart L.
000281 Koot, William T.

0001 D1 Floyd, Zane M
PUBDEF Public Defender
004931 Brown, David F.
003964 Hedger, Douglas W.

Y
Y
Y

Y
Y
Y
Y

STATUS CHECK: TRIAL READINESS / ALL MOTIONS FILED . . . STATE'S MOTION FOR
USE OF DEMONSTRATIVE EXHIBIT . . . STATE'S MOTION TO COMPEL INDEPENDENT
PSYCHIATRIC EXAMINATION . . . STATE'S MOTION IN LIMINE: STATE OF MIND
TESTIMONY . . . DEFENDANT'S MOTION TO SEVER COUNTS

State's Opposition to Defendant's Motion to Sever FILED IN OPEN COURT. Court
directed counsel to have any filed motions answered by 1/20/00; replies to
be filed by 1/27/00. Statements by counsel regarding the remaining motions.
Court directed Mr. Hedger file any remaining motions by 1/20/00; State to
reply by 1/27/00. Statements regarding the jury questionnaire. Court
directed counsel to submit an agreed upon jury questionnaire for the Court
to review on 2/7/00. Upon Court's inquiry, Mr. Brown stated that he will be
ready for trial. COURT ORDERED, MOTIONS CONTINUED.

CUSTODY

CONTINUED TO: 2/7/00 9:00 A.M.

CRIMINAL COURT MINUTES

99-C-159897-C

STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 003

02/07/00 09:00 AM 00 ALL PENDING MOTIONS 2/7/00

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: CAROLE D'ALOIA, Court Clerk
SHIRLEE PRAWALSKY, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000477	Bell, Stewart L.	Y
000281	Koot, William T.	Y
0001 D1	Floyd, Zane M	Y
PUBDEF	Public Defender	Y
003964	Hedger, Douglas W.	Y
004546	Brown, Curtis	Y
0002 W	Carter, Traci R	Y
004748	Siegel, Jay L.	Y

DEFT'S MOTION TO FEDERALIZE ALL MOTIONS, OBJECTIONS, REQUEST AND OTHER APPLICATIONS FOR THE PROCEEDINGS IN THE ABOVE ENTITLED CASE...DEFT'S MOTION TO PARTIALLY STRIKE AGGRAVATING CIRCUMSTANCES AND ALLEGED EVIDENCE IN SUPPORT THEREOF...DEFT'S MOTION FOR ATTORNEY CONDUCTED SEQUESTERED INDIVIDUAL VOIR DIRE...DEFT'S MOTION IN LIMINE FOR ORDER PROHIBITING PROSECUTION MISCONDUCT IN ARGUMENT...DEFT'S MOTION IN LIMINE TO PRECLUDE THE STATE FROM USING PREJUDICIAL PHOTOGRAPHS AS DEMONSTRATIVE EXHIBITS OR FROM MOVING TO ADMIT SUCH PHOTOGRAPHS INTO EVIDENCE...DEFT'S MOTION TO SUPPRESS THE DEFENDANT'S STATEMENTS TO THE POLICE...DEFT'S MOTION TO SEQUESTER JURORS...DEFT'S MOTION IN LIMINE CONCERNING REMOVAL OF JURORS BY THE PROSECUTOR...DEFT'S MOTION TO ALLOW THE DEFENSE TO ARGUE LAST IN PENALTY PHASE...DEFT'S SUPPLEMENTAL MOTIN FOR CHANGE OF VENUE AND REPLY TO STATE'S OPPOSITION...STATUS CHECK: TRIAL READINESS/SET DATE FOR JURY QUESTIONNAIRE...DEFT'S MOTION TO DISMISS STATE'S NOTICE OF INTENT TO SEEK DEATH PENALTY BECAUSE NEVADA'S DEATH PENALTY STATUE IS UNCONSTITUTIONAL... TRACI CARTER'S MOTION FOR HOUSE ARREST IN LIEU OF CUSTODY FOR MATERIAL WITNESS

AS TO TRACI CARTER'S MOTION FOR HOUSE ARREST, Court stated it was indicated in chambers that the matter has been resolved. Mr. Bell advised that although the State opposes house arrest, they agree to try to find placement for Ms. Carter in a halfway house, at the State's expense. Court advised that Defense is going to move to continue the trial and if motion is granted, this may impact on their motion to take a deposition from Ms. Carter. Mr. Siegel requested Court set matter for status check. COURT ORDERED, MOTION DENIED AS MS. CARTER WILL BE PLACED IN A HALFWAY HOUSE AT THE STATE'S EXPENSE AND SET MATTER FOR STATUS CHECK AS TO TAKING THE DEPOSITION. COURT ADVISED ITS RULINGS ON THE REMAINDER OF THE MOTIONS WILL BE AT 9:45 AM.

MATTER RECALLED. COURT ORDERED, DEFT'S MOTION TO PARTIALLY STRIKE

CONTINUED ON PAGE: 005

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 004

AGGRAVATING CIRCUMSTANCES AND ALLEGED EVIDENCE IN SPPORT THEREOF CONTINUED TO CALENDAR CALL ON 2/29/00. COURT STATED ITS FINDINGS AND, ORDERED, THE FOLLOWING MOTIONS DENIED: DEFT'S MOTION TO DISMISS STATE'S NOTICE OF INTENT TO SEEK DEATH PENALTY BECAUSE NEVADA'S DEATH PENALTY STATUTE IS UNCONSTITUTIONAL; DEFT'S MOTION TO SEVER COUNTS, WHICH WAS NOT ON CALENDAR; DEFT'S MOTION TO ALLOW THE DEFENSE TO ARGUE LAST IN THE PENALTY PHASE; DEFT'S MOTION TO SEQUESTER JURORS; DEFT'S MOTION IN LIMINE FOR ORDER PROHIBITING PROSECUTION MISCONDUCT IN ARGUMENT; DEFT'S MOTION FOR ATTORNEY CONDUCTED SEQUESTERED INDIVIDUAL VOIR DIRE; DEFT'S MOTION IN LIMINE CONCERNING REMOVAL OF JURORS BY THE PROSECUTOR; AND DEFT'S SUPPLEMENTAL MOTION FOR CHANGE OF VENUE AND REPLY TO STATE'S OPPOSITION. Statements by Court and counsel regarding Deft's Motion to Suppress Deft's Statements to the Police and the need for an evidentiary hearing on this matter. As to Deft's Motion to Federalize All Motions, Objections, Requests and Other Applications for the Proceedings in the Above Entitled Case, COURT RESERVED RULING, MATTER SET FOR DECISION ON 2/29/00. As to State's Motion to Use Transcripts of Deft's Statements, which is not on calendar, COURT ORDERED, motion GRANTED with the following conditions. The Court will permit an agreed-upon, or two versions of the transcript in aid of the jury's understanding of these statements while they are listening to them at trial, but if counsel has an objection to their use and to their admission as exhibits, Court would like the matter pre-trialed by at least a week before trial. COURT ORDERED, the State's Motion in Limine Regarding State of Mind Testimony, which is not on calendar, DENIED. As to State's Motion to Compel Independent Psychiatric and/or Physiological Exam, COURT ORDERED, MATTER OFF CALENDAR; COUNSEL TO RENOTICE and Court will accept an Order Shortening Time. As to State's Motion for Use of Demonstrative Exhibits During State's Opening Statement, which is not on calendar, and Deft's Motion in Limine to Preclude the State from Using Prejudicial Photographs as Demonstrative Exhibits or From Moving to Admit Such Photographs Into Evidence, COURT ORDERED, motions GRANTED IN PART. The Court will permit the State to do everything they want in their use of demonstrative exhibits during opening statement except for pictures which must be shown to the Court prior to the commencement of the trial when taking up issues outside the presence of the jury just before the trial. Unless the Court is absolutely convinced that they're going to come in at trial, the Court is going to be safe and say they can't be used in opening statement. As to the State's use of the 911 Tape, COURT WILL TAKE UNDER ADVISEMENT and Mr. Koot will file Points and Authorities on this issue. Court stated it had an ex parte communication with Mr. Hedger and Mr. Brown regarding their intent to move for a continuance, which Court advised Mr. Bell of yesterday, ex parte. Upon Court's inquiry, Mr. Brown advised it is their intent to move to continue. Court asked Defense how much time they need to file their motion and Mr. Brown advised they could have it submitted to the State by Monday, 2/14/00. COURT ORDERED, Deft's Motion to Continue Trial to be filed by 2/14/00; State to respond by 2/16/00; Defense to answer by close of business 2/18/00 and matter set for DECISION on 2/22/00. Discussion between Court and counsel regarding the ex-parte communications of the collection of information on evidence needed by the Public Defender. State has no objection, however, would want to be present. Further discussion between Court and counsel

CONTINUED ON PAGE: 006

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 005

regarding reciprocal discovery. As to Deft's Motion to Suppress Deft's Statements to the Police and Status Check: Trial Readiness/Set Date for Jury Questionnaire, COURT ORDERED, matter CONTINUED TO 2/22/00.

CUSTODY

2/22/00 9:00 AM DEFT'S MOTION TO SUPPRESS THE DEFENDANT'S STATEMENTS TO THE POLICE

2/22/00 STATUS CHECK: TRIAL READINESS/SET DATE FOR JURY QUESTIONNAIRE

2/22/00 9:00 AM DEFT'S MOTION TO CONTINUE TRIAL

2/29/00 9:00 AM STATUS CHECK: DEPOSITION OF TRACI CARTER

2/29/00 9:00 AM DEFT'S MOTION TO PARTIALLY STRIKE AGGRAVATING CIRCUMSTANCES AND ALLEGED EVIDENCE IN SUPPORT THEREOF

2/29/00 9:00 AM DEFT'S MOTION TO FEDERALIZE ALL MOTIONS, OBJECTIONS, REQUEST AND OTHER APPLICATIONS FOR THE PROCEEDINGS IN THE ABOVE ENTITLED CASE

CLERK'S NOTE: THE FOLLOWING MOTIONS WERE NOT CONTINUED FROM THE 1/6/00 DATE BUT WERE ADDRESSED ON 2/7/00 AND SHOULD HAVE BEEN LISTED ABOVE WITH ALL PENDING MOTIONS: STATE'S MOTION IN LIMINE STATE OF MIND TESTIMONY; STATE'S MOTION FOR USE OF DEMONSTRATIVE EXHIBIT; STATE'S MOTION TO COMPEL PSYCH EXAM; AND DEFT'S MOTION TO SEVER COUNTS. ALSO, STATE'S MOTION TO USE TRANSCRIPTS OF DEFT'S STATEMENTS WAS NEVER ENTERED INTO THE COMPUTER FOR 2/7/00 AND SHOULD ALSO HAVE BEEN LISTED ABOVE WITH ALL PENDING MOTIONS.
3/8/00 CD

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 006

03/09/00 09:00 AM 00 STATE'S SECOND APPLICATION FOR PSYCH
EXAM AND REQUEST FOR IMMEDIATE RECIP DIS

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: CAROLE D'ALOIA, Court Clerk
SHIRLEE PRAWALSKY, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000477	Bell, Stewart L.	Y
000281	Koot, William T.	Y
0001 D1	Floyd, Zane M	Y
PUBDEF	Public Defender	Y
003964	Hedger, Douglas W.	Y
004546	Brown, Curtis	Y

Discussion between Court and defense counsel as to when psychiatric evaluations will be done. Statements between Court and counsel regarding the State's right to an independent psychiatric evaluation for use in the penalty phase. COURT ORDERED, DEFENSE COUNSEL TO WRITE TO PSYCHIATRISTS BY 4/18/00 REQUESTING A REPORT GIVING EVERYTHING THEY HAVE. COURT ADVISED IT WILL ORDER, AT THAT TIME, AN INDEPENDENT PSYCHIATRIC IF DEFENSE HAS ANY INTENTION OF PUTTING THIS PERSON OR ANY OTHER PERSONS ON HAVING TO DO WITH DEFENDANT'S MENTAL STATUS AT EITHER THE CASE-IN-CHIEF OR THE REBUTTAL. COURT FURTHER ADVISED, IF EITHER PARTY WANTS TO ADDRESS THIS ISSUE WITH FURTHER AUTHORITIES TO GET THOSE PLEADINGS TO COURT TWO DAYS PRIOR TO 4/18/00. STATE TO PREPARE ORDER.

CUSTODY

CONTINUED TO: 04/18/00 09:00 AM 01

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 007

04/18/00 09:00 AM 01 STATE'S SECOND APPLICATION FOR PSYCH
EXAM AND REQUEST FOR IMMEDIATE RECIP DIS

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: CAROLE D'ALOIA, Court Clerk
SHIRLEE PRAWALSKY, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000477	Bell, Stewart L.	Y
000281	Koot, William T.	Y
0001 D1	Floyd, Zane M	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y
003964	Hedger, Douglas W.	Y

Discussion between Court and counsel regarding defense's expert reports on Defendant and when the State will be receiving these reports. COURT ORDERED, DR. CAMP'S AND DR. PAUL'S REPORT BE GIVEN TO STATE BY 5/17/00 AND MATTER CONTINUED.

CUSTODY

CONTINUED TO: 05/18/00 09:00 AM 02

05/18/00 09:00 AM 00 ALL PENDING MOTIONS 5/18/00

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: ALONA CANDITO, Court Clerk
CAROLE D'ALOIA, Relief Clerk
DEBRA VAN BLARICOM, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000281	Koot, William T.	Y
0001 D1	Floyd, Zane M	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y
003964	Hedger, Douglas W.	Y

STATE'S MOTION FOR PRODUCTION OF DATE SUPPORTING PSYCHOLOGISTS FINDINGS IN REPORT . . . STATE'S SECOND APPLICATION FOR INDEPENDENT PSYCHIATRIC EXAMINATION AND REQUEST FOR IMMEDIATE RECIPROCAL DISCOVERY

Mr. Brown advised Court counsel are in the process of setting up a new psychiatrist and there is no objection to June. Statements by counsel. COURT ORDERED, Matter continued. Mr. Brown requested a notice of when the

CONTINUED ON PAGE: 009

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 008

second psychiatric examination will occur. Mr. Koot advised Court he will prepare an Order and there is no problem with advising counsel. Mr. Koot advised Court he will have the final report from Dr. Camp today. Court directed counsel to indicate to the psychiatrist that the State will need to have a comfortable amount of time to prepare. COURT ORDERED, MOTION FOR PSYCHIATRIC EXAMINATION AND REQUEST FOR IMMEDIATE RECIPROCAL DISCOVERY IS GRANTED.

FURTHER, MATTER CONTINUED FOR A STATUS CHECK.

CUSTODY

6/1/00 9:00 A.M. STATUS CHECK: STATE'S MOTION FOR PRODUCTION OF DATA SUPPORTING PSYCHOLOGISTS FINDINGS IN REPORT

06/01/00 09:00 AM 01 STATE'S MOTION FOR PRODUCTION OF DATA

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: ALONA CANDITO, Court Clerk
CAROLE D'ALOIA, Relief Clerk
SHIRLEE PRAWALSKY, Reporter/Recorder

PARTIES: STATE OF NEVADA
000477 Bell, Stewart L.
0001 D1 Floyd, Zane M
PUBDEF Public Defender
004546 Brown, Curtis

Y
Y
Y
Y
Y

Statements by Court and counsel regarding this status check to see how the forensic psychologist, Dr. Schmidt is coming along and the reports from Dr. Camp and Dr. Dougherty. Mr. Brown advised Court Dr. Dougherty's report has not been ordered to be produced and Dr. Camp is waiting for the reports from the forensic psychologist. Mr. Brown advised Court these witnesses are now local. Court directed the report be brought to Dr. Camp on 6/15/00 and his report to be done by 6/19/00. Mr. Bell requested if this is not done, they will be in contempt of court. SO ORDERED. Mr. Bell requested the defense report and materials by 6/15/00 and Dr. Camp's report will be provided by the following Monday (6/19/00). COURT ORDERED, by the next court date, everything is to be in the State's hands.

Statements by Court and counsel regarding Dr. Dougherty. Mr. Brown stated Dr. Dougherty has not prepared a report, but when he does, he will provide that to the State. Mr. Brown concurred that they will not be using Dr. Dougherty in the case-in-chief.

COURT ORDERED, MATTER CONTINUED FOR A STATUS CHECK.

CONTINUED TO: 06/20/00 09:00 AM 02

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 009

06/20/00 09:00 AM 00 ALL PENDING MOTIONS 6/20/00

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: ALONA CANDITO, Court Clerk
SHIRLEE PRAWALSKY, Reporter/Recorder

PARTIES: STATE OF NEVADA
000477 Bell, Stewart L.
000281 Koot, William T.

0001 D1 Floyd, Zane M
PUBDEF Public Defender
004546 Brown, Curtis
003964 Hedger, Douglas W.

Y
Y
Y
Y
Y
Y
Y

STATE'S MOTION FOR PRODUCTION OF DATA SUPPORTING PSYCHOLOGIST FINDINGS IN REPORT. . . STATE'S MOTION TO RESET EVIDENTIARY HEARING ON VOLUNTARINESS OF CONFESSION

Mr. Bell advised Court he thinks that all the issues are resolved, subject to this Court's approval. Mr. Bell advised Court the final report of Dr. Camp was provided this morning and the Defense has agreed to send the underlying data. Mr. Bell further advised Court counsel are meeting tomorrow at 10:00 a.m. to finalize the jury questionnaire and requested one hour of the Court's time on 6/28, 6/29 or 6/30/00 for the Evidentiary Hearing on the confession. COURT ORDERED, MATTER CONTINUED. Court advised parties that if necessary, the hearing will be held very early in the morning or late in the afternoon. Mr. Brown requested the jury panel be brought in on 6/28 or 6/29 or 6/30/00 to answer the jury questionnaire. No objection by the State. Mr. Hedger requested the trial begin on 7/11/00. Upon Court's inquiry, Mr. Bell advised Court he believes there are 60 witnesses the State will be calling for the guilt phase. COURT ORDERED, TRIAL DATE SET; COURT DIRECTED COUNSEL TO GET TOGETHER AND NUMBER ALL AGREED UPON JURY INSTRUCTIONS PRIOR TO TRIAL.

CUSTODY

6/22/00 9:00 A.M. STATUS CHECK: EVIDENTIARY HEARING

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 010

06/22/00 09:00 AM 01 STATE'S MTN TO RESET EVIDENTIARY HEARING
ON VOLUNTARINESS OF CONFESSION

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: ALONA CANDITO, Court Clerk
GEORGETTE BYRD/GB, Relief Clerk
SHIRLEE PRAWALSKY, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000477	Bell, Stewart L.	Y
0001 D1	Floyd, Zane M	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y

Upon Counsel advising the Court the jury questionnaire has been resolved,
COURT ORDERED, matter set for evidentiary hearing. Questionnaire presented
to the Court.

CUSTODY

06/29/00 10:15 AM EVIDENTIARY HEARING

06/29/00 10:15 AM 00 EVIDENTIARY HEARING: DEFT'S MOTION TO
SUPPRESS

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: CAROLE D'ALOIA, Court Clerk
SHIRLEE PRAWALSKY, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000477	Bell, Stewart L.	Y
000281	Koot, William T.	Y
0001 D1	Floyd, Zane M	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y

Court stated this is the hearing on the Motion to Suppress and advised it
would also make a decision on the 911 tape. Mr. Brown stated he would like
to file a response regarding the 911 tape and, upon Court's inquiry, Mr.
Brown advised he would file by 7/3/00. COURT ORDERED, Mr. Brown to file his
response by close of business on 7/3/00 with a courtesy copy to Court and,
at the request of Mr. Bell matter CONTINUED TO 7/6/00 FOR DECISION ON THE
911 TAPE. Mr. Brown moved to have this hearing closed to the public and,
COURT DENIED THIS REQUEST. Mr. Bell advised they have jury instructions to
give to Court and COURT INSTRUCTED THEM TO GET TOGETHER WITH COUNSEL AND

CONTINUED ON PAGE: 012

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 011

HAVE THEM ALL AGREED UPON AND NUMBERED PRIOR TO TRIAL. Witnesses and exhibits per worksheet. Court advised it had read all the points and authorities, heard the evidence here today and finds a preponderance of evidence that the Miranda rights were waived knowingly and voluntarily and, ORDERED, MOTION TO SUPPRESS DENIED.

CUSTODY

7/6/00 9:00 AM DECISION: 911 TAPE

07/06/00 08:30 AM 00 ALL PENDING MOTIONS 7/6/00

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: ALONA CANDITO, Court Clerk
 CAROLE D'ALOIA, Relief Clerk
 SHIRLEE PRAWALSKY, Reporter/Recorder

PARTIES: STATE OF NEVADA
 000477 Bell, Stewart L.
 000281 Koot, William T.
 0001 D1 Floyd, Zane M
 PUBDEF Public Defender
 004546 Brown, Curtis
 003964 Hedger, Douglas W.

Y
 Y
 Y
 Y
 Y
 Y
 Y

DEFENDANT'S MOTION RE: 911 TAPES . . . DEFENDANT'S MOTION TO PARTIALLY STRIKE AGGRAVATING CIRCUMSTANCES . . . STATUS CHECK: RESOLUTION OF EXHIBITS

COURT ORDERED, THE 911 TAPES ARE ADMITTED. Court stated its findings. Court finds the probative value substantially outweighs any prejudicial effect.

FURTHER, THE MOTION TO PARTIALLY STRIKE AGGRAVATING CIRCUMSTANCES IS GRANTED in its entirety; Court noted the following observations: As to the torture or mutilation, a decision on the motion to strike the aggravators should not be made until after the guilt phase. As to before the Defendant fired the fatal shot at Lucille Tarantino he let her beg for her life, the Court will strike that aggravator. If the Court did not get the full flavor for possible torture in the pleadings, counsel can move to reconsider. With reference to the aggravator having to do with the burglary, this Court believes there is a Nevada Supreme Court case that decided this matter adversely to the defense, not to the prosecution. Court advised counsel if further research shows there is a case in point on the issue that refutes what Mr. Hedger is saying with reference to this, counsel can file a motion to reconsider with reference to that.

Court advised parties there will be a brief hearing regarding television coverage on Monday. Mr. Bell advised Court the exhibits were marked yesterday afternoon and requested the parties be allowed to meet with the

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 012

Court later this morning to discuss exhibits and jury instructions. Statements by Court and counsel. Mr. Brown moved to unendorse the defense witnesses or withdraw the notice of experts.

CUSTODY

7/10/00 9:00 A.M. STATUS CHECK: MEDIA COVERAGE

07/10/00 10:00 AM 00 STATUS CHECK: MEDIA COVERAGE

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: CAROLE D'ALOIA/CD, Court Clerk
SHIRLEE PRAWALSKY, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000477	Bell, Stewart L.	Y
000281	Koot, William T.	Y
0001 D1	Floyd, Zane M	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y
003964	Hedger, Douglas W.	Y
001923	Gentile, Dominic P.	Y

Mr. Gentile present with Mr. Bob Stoddal of Las Vegas One. Statements between Court and counsel regarding witnesses who do not want to appear on the live broadcasts of the trial. Mr. Gentile requested these individuals submit affidavits, giving him a chance to respond and communicate with them regarding their concerns. COURT ORDERED, AFFIDAVITS TO BE SUBMITTED AND COURT WILL DECIDE ON AN INDIVIDUAL BASIS. Court advised counsel to meet at 11:30 AM this morning and instructed Court Services Officer to have Defendant present in case they need to put something on the record.

MATTER RECALLED AT 11:30 AM. DEFENDANT'S MOTION TO DISMISS RULE 250 NOTICE OF INTENT DUE TO FEDERAL DUE PROCESS VIOLATIONS FILED IN OPEN COURT. Mr. Brown stated his objections, for the record, to photos the State would like to use in opening statements. Discussion between Court and counsel regarding photos and COURT OVERRULLED HIS OBJECTIONS. Mr. Brown requested he be able to use photos during voir dire and Court asked Mr. Bell to think about any objections he may have and COURT WILL MAKE ITS RULING TOMORROW BEFORE TRIAL.

CUSTODY

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 013

07/11/00 09:30 AM 00 TRIAL BY JURY

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: CAROLE D'ALOIA, Court Clerk
N J SILVERMAN (AM)/G G PICHIERRI (PM), Reporter/Record

PARTIES:	STATE OF NEVADA	Y
000477	Bell, Stewart L.	Y
000281	Koot, William T.	Y
0001 D1	Floyd, Zane M	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y
003964	Hedger, Douglas W.	Y

Jury panel assembled. Introductions by counsel. Jury selection begins. Jury admonished for morning recess from 9:45 to 10:00 AM. Jury selection continues. Jury admonished and recessed for lunch from 12:00 to 1:00 PM. Jury selection continues. Jury admonished for afternoon recess from 2:25 to 2:40 PM. Jury of twelve and two alternates selected and sworn. Second Amended Information read by Clerk. Jury admonished and recessed from 4:00 to 4:20 PM. Jury panel reassembled. Opening statement by Mr. Bell. Opening statement by Mr. Hedger. COURT INVOKED EXCLUSIONARY RULE. Witness testimony and exhibits per worksheet. Jury admonished and recessed for the evening.

CUSTODY

CONTINUED TO: 07/12/00 08:00 AM 01

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 014

07/12/00 08:00 AM 01 TRIAL BY JURY

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: CAROLE D'ALOIA, Court Clerk

J MURRAY-DAVID AM/L M JUDD PM, Reporter/Recorder

PARTIES:

STATE OF NEVADA

000477 Bell, Stewart L.

000281 Koot, William T.

0001 D1 Floyd, Zane M

PUBDEF Public Defender

004546 Brown, Curtis

003964 Hedger, Douglas W.

Y

Y

Y

Y

Y

Y

Y

Jury panel reassembled at 8:00 AM and witness testimony and exhibits continued per worksheet. Jury admonished and recessed from 10:00 to 10:15 AM. Jury panel reassembled and witness testimony and exhibits continued per worksheet. Jury admonished and recessed for lunch from 12:00 to 1:00 PM. Jury reassembled and witness testimony and exhibits continued per worksheet. Jury admonished and recessed from 2:35 to 2:50 PM. Jury reassembled and witness testimony and exhibits continued per worksheet. Jury admonished and recessed from 4:05 to 4:25 PM. Jury reassembled and witness testimony and exhibits continued per worksheet. Jury admonished and recessed for the evening.

CUSTODY

CONTINUED TO: 07/13/00 09:30 AM 02

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 015

07/13/00 09:30 AM 02 TRIAL BY JURY

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: CAROLE D'ALOIA, Court Clerk
N J SILVERMAN AM/L M JUDD PM, Reporter/RecorderPARTIES: STATE OF NEVADA
000477 Bell, Stewart L.
000281 Koot, William T.

0001 D1 Floyd, Zane M
PUBDEF Public Defender
004546 Brown, Curtis
003964 Hedger, Douglas W.Y
Y
Y

Y
Y
Y
Y

Jury reassembled and witness testimony and exhibits continued per worksheet. Jury admonished and recessed from 11:05 to 11:25 AM. Jury reassembled and witness testimony and exhibits continued per worksheet. State rested and jury admonished and recessed for lunch. Court reconvened at 1:20 PM and, OUTSIDE THE PRESENCE OF THE JURY, jury instructions settled on the record. Court advised Defendant of his constitutional right to not testify. Jury reassembled and jury instructions read. Closing argument by Mr. Koot. Closing argument by Mr. Hedger. Rebuttal argument by Mr. Bell. At 2:50 PM jury retired to deliberate. At 6:00 PM jury returned with the following verdicts:

COUNT I - BURGLARY WHILE IN POSSESSION OF A FIREARM (F) - GUILTY
COUNT II - FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (VICTIM THOMAS MICHAEL DARNELL) (F) - GUILTY
COUNT III - FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (VICTIM DENNIS TROY SARGENT) (F) - GUILTY
COUNT IV - FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (VICTIM CARLOS CHUCK LEOS) (F) - GUILTY
COUNT V - FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (VICTIM LUCILLE ALICE TARANTINO) (F) - GUILTY
COUNT VI - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (VICTIM ZACHARY EMENEGGER) (F) - GUILTY
COUNT VII - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON (VICTIM TRACIE ROSE CARTER) (F) - GUILTY
VIII - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON (SEXUAL INTERCOURSE) (F) - GUILTY
IX - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON (ANAL INTERCOURSE) (F) - GUILTY
X - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON (DIGITAL PENETRATION) (F) - GUILTY
XI - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON (FELLATIO) (F) - GUILTY

Jury polled and thanked. COURT ORDERED, matter set for PENALTY HEARING and advised Jury Penalty Hearing would start at 9:30 AM.

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 016

CUSTODY

7/17/00 9:30 AM PENALTY HEARING

07/17/00 09:30 AM 00 PENALTY HEARING

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: CAROLE D'ALOIA, Court Clerk
N J SILVERMAN (AM)/L M JUDD (PM), Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000477	Bell, Stewart L.	Y
000281	Koot, William T.	Y
0001 D1	Floyd, Zane M	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y
003964	Hedger, Douglas W.	Y

OUTSIDE THE PRESENCE OF THE JURY, pursuant to rule 250, COURT RULED THAT VICTIM IMPACT STATEMENTS WILL BE LIMITED TO ONE SURVIVOR PER DEAD VICTIM. COURT ORDERED, DEFENDANT'S MOTION TO DISMISS RULE 250 DENIED. Court advised that Clerk will read the admonition to the jury during the penalty phase of the hearing. Court recess from 9:40 to 9:45 AM. Jury panel assembled and opening statement by Mr. Koot. Opening statement by Mr. Brown. Witness testimony and exhibits per worksheet. Jury admonished and recess for lunch from 11:55 AM to 1:00 PM. Jury reassembled and witness testimony and exhibits continued per worksheet. Jury admonished and given afternoon recess from 3:00 to 3:15 PM. Jury reassembled and witness testimony and exhibits continued per worksheet. At 5:10 PM jury admonished and recessed for the evening. OUTSIDE THE PRESENCE OF THE JURY, Court advised Defendant of his constitutional rights to make an unsworn statement.

CONTINUED TO: 07/18/00 09:30 AM 01

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 017

07/18/00 09:30 AM 01 PENALTY HEARING

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: CAROLE D'ALOIA, Court Clerk
G PICHIERRI (AM)/J MURRAY-DAVID (PM_, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000477	Bell, Stewart L.	Y
000281	Koot, William T.	Y
0001 D1	Floyd, Zane M	Y
PUBDEF	Public Defender	Y
004546	Brown, Curtis	Y
003964	Hedger, Douglas W.	Y

Jury panel reassembled at 9:20 AM and witness testimony and exhibits continued per worksheet. Jury admonished and given morning recess from 10:55 AM to 11:10 AM. Jury panel reassembled and witness testimony and exhibits continued per worksheet. Jury admonished and recessed for lunch from 12:15 PM TO 1:15 PM. Jury panel reassembled and witness testimony and exhibits continued per worksheet. At 2:50 PM jury was admonished and given afternoon recess until 3:00 PM. Jury panel reassembled and witness testimony and exhibits continued per worksheet. Jury admonished and given second afternoon recess from 3:50 PM to 4:05 PM. Jury panel reassembled and witness testimony and exhibits continued per worksheet. Allocution statement made by Defendant. Defense rests. Upon Court's inquiry, Mr. Bell advised State would like to call one rebuttal witness. FOLLOWING CONFERENCE AT BENCH, Court advised witness it would like him to come back tomorrow morning at 8:00 AM to testify. Jury admonished and recessed for the evening. OUTSIDE THE PRESENCE OF THE JURY, counsel stipulated to the reading of jury instructions prior to closing arguments. Jury instructions settle don the record. Court advised it would like to see counsel and Dr. Mortillaro in chambers. MATTER TRAILED. MATTER RECALLED. Statements by Court regarding the standardized psychological tests given to Defendant and the use of the raw data by Dr. Mortillaro. COURT RULED IT WOULD LET DR. MORTILLARO USE THE RAW DATA GATHERED BY DEFENSE PSYCHOLOGIST. COURT RECESSED.

CUSTODY

CONTINUED TO: 07/19/00 08:00 AM 02

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 018

07/19/00 08:00 AM 02 PENALTY HEARING

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: CAROLE D'ALOIA, Court Clerk
NJ SILVERMAN, Reporter/Recorder

PARTIES: STATE OF NEVADA
000477 Bell, Stewart L.
000281 Koot, William T.

0001 D1 Floyd, Zane M
PUBDEF Public Defender
004546 Brown, Curtis
003964 Hedger, Douglas W.

Y
Y
Y

Y
Y
Y
Y

Jury panel reassembled at 8:05 AM and witness testimony and exhibits continued per worksheet. Jury admonished and given morning recess. Jury panel reassembled and instructions read by Court. Closing argument by Mr. Bell. Closing argument by Mr. Hedger. Jury admonished and given second morning recess. Closing argument by Mr. Brown. Rebuttal argument by Mr. Koot. Jury admonished and given lunch recess. Court advised upon returning from lunch jury will begin deliberations.

At 2:15 PM jury returned from lunch and began deliberations. At 5:30 PM jury recessed for the evening and will return tomorrow at 8:00 AM to continue deliberations.

CUSTODY

CONTINUED TO: 07/20/00 08:00 AM 03

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA vs Floyd, Zane M

CONTINUED FROM PAGE: 019

07/20/00 08:00 AM 03 PENALTY HEARING

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: CAROLE D'ALOIA, Court Clerk
SHIRLEE PRAWALSKY, Reporter/Recorder

PARTIES: STATE OF NEVADA
000477 Bell, Stewart L.
000281 Koot, William T.

0001 D1 Floyd, Zane M
PUBDEF Public Defender
004546 Brown, Curtis
003964 Hedger, Douglas W.

Y
Y
Y

Y
Y
Y
Y

Jury returned at 8:00 AM for deliberations. Jury recessed for the evening at 7:30 PM and will return tomorrow at 8:00 AM to continue deliberations.

CUSTODY

CONTINUED TO: 07/21/00 08:00 AM 04

07/21/00 08:00 AM 04 PENALTY HEARING

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: CAROLEL D'ALOIA, Court Clerk
SHIRLEE PRAWALSKY, Reporter/Recorder

PARTIES: STATE OF NEVADA
000477 Bell, Stewart L.
000281 Koot, William T.

0001 D1 Floyd, Zane M
PUBDEF Public Defender
004546 Brown, Curtis
003964 Hedger, Douglas W.

Y
Y
Y

Y
Y
Y
Y

Jury returned at 8:00 AM to continue deliberations. At 11:30 AM Jury returned with the verdicts as follows:

COUNT II-V - MURDER IN THE FIRST DEGREE WITH USE OF A DEADLY WEAPON
(F) - DEATH.

Jury polled, thanked and excused. COURT ORDERED, matter set for SENTENCING.

CUSTODY

8/31/00 9:00 AM SENTENCING

CONTINUED ON PAGE: 021

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA vs Floyd, Zane M

CONTINUED FROM PAGE: 020

08/21/00 09:00 AM 00 DEFT'S MOTION FOR NEW TRIAL

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: CAROLE D'ALOIA, Court Clerk
SHIRLEE PRAWALSKY, Reporter/RecorderPARTIES: STATE OF NEVADA
000281 Koot, William T.
0001 D1 Floyd, Zane M
PUBDEF Public Defender
004546 Brown, CurtisY
Y
Y
Y
Y

Court stated it read the motion and opposition and there will be no oral argument. Mr. Brown advised that the motion was intended for the penalty hearing. COURT ORDERED, motion DENIED AS TO A NEW TRIAL OR PENALTY HEARING and SENTENCING DATE STANDS.

CUSTODY

08/31/00 09:00 AM 00 SENTENCING

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: ALONA CANDITO, Court Clerk
SHIRLEE PRAWALSKY, Reporter/RecorderPARTIES: STATE OF NEVADA
000477 Bell, Stewart L.
0001 D1 Floyd, Zane M
PUBDEF Public Defender
004546 Brown, Curtis
003964 Hedger, Douglas W.Y
Y
Y
Y
Y
Y

P & P represented by George Johnson. PURSUANT TO THE JURY VERDICTS, DEFENDANT FLOYD ADJUDGED GUILTY OF -

COUNT I - BURGLARY WHILE IN POSSESSION OF A FIREARM (F)
COUNTS II, III, IV AND V - FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (F)
COUNT VI - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (F)
COUNT VII - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON (F)
COUNTS VIII - XI - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON (F)

Statements by Mr. Bell and Mr. Brown. COURT ORDERED, in addition to the \$25. Assessment and \$250. D.N.A. Fees, DEFT FLOYD SENTENCED TO A TERM OF COUNT I - SEVENTY-TWO (72) MONTHS (MINIMUM) / ONE HUNDRED EIGHTY (180) MONTHS (MAXIMUM) in the NDP and ORDERED to pay \$1,638.48 Restitution;

CONTINUED ON PAGE: 022

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 021

COUNT II - DEATH by lethal injection and ORDERED to pay \$15,051.
Restitution.

COUNT III - DEATH by lethal injection and ORDERED to pay \$39,478.29
Restitution.

COUNT IV - DEATH by lethal injection and ORDERED to pay \$43,660.14
Restitution.

COUNT V - DEATH by lethal injection and ORDERED to pay \$19,695.10
Restitution.

COUNT VI - NINETY-SIX (96) MONTHS (MINIMUM) / TWO HUNDRED FORTY (240) MONTHS (MAXIMUM) in the NDP PLUS AN EQUAL AND CONSECUTIVE TERM OF NINETY-SIX (96) MONTHS (MINIMUM) / TWO HUNDRED FORTY (240) MONTHS (MAXIMUM) in the NDP for the weapon enhancement and ORDERED to pay \$64,264.87 Restitution.

COUNT VII - LIFE in the NDP PLUS AN EQUAL AND CONSECUTIVE TERM OF LIFE in the NDP for the weapon enhancement with parole eligibility pursuant to statute.

COUNT VIII - LIFE in the NDP PLUS AN EQUAL AND CONSECUTIVE TERM OF LIFE in the NDP for the weapon enhancement and ORDERED to pay \$210. Restitution.

COUNT IX - LIFE in the NDP PLUS AN EQUAL AND CONSECUTIVE TERM OF LIFE in the NDP for the weapon enhancement. FURTHER, Defendant to be on Lifetime supervision if Defendant is ever paroled.

COUNT X - LIFE in the NDP PLUS AN EQUAL AND CONSECUTIVE TERM OF LIFE in the NDP for the weapon enhancement.

COUNT XI - LIFE in the NDP PLUS AN EQUAL AND CONSECUTIVE TERM OF LIFE in the NDP for the weapon enhancement.

FURTHER, Deft. to submit to a blood and/or saliva test to determine genetic markers or secretor status. 455 days credit for time served.

FURTHER, ALL COUNTS TO RUN CONSECUTIVE TO EACH OTHER. Upon Mr. Hedger's request, COURT ORDERED, EXECUTION IS STAYED. ORDER SIGNED IN OPEN COURT.

455 days credit for time served.

NDP

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 022

04/08/03 09:00 AM 00 PD'S MTN TO WITHDRAW AS ATTY OF RECORD &
MTN FOR APPOINTMENT OF COUNSEL/53

HEARD BY: Joseph S. Pavlikowski, Senior Judge; Dept. VJ30

OFFICERS: Georgette Byrd, Court Clerk
Shirlee Prawalsky, Reporter/Recorder

PARTIES: STATE OF NEVADA
006088 Peterson, Clark A.
0001 D1 Floyd, Zane M
004546 Brown, Curtis
000824 Schieck, David M.

Y
Y
N
Y
Y

COURT ORDERED, Public Defenders Motion To Withdraw as Atty Of Record and Motion For Appointment of Counsel is GRANTED. FURTHER ORDERED, Mr. Schieck will be appointed as counsel for post conviction. Mr. Schieck appeared later and informed of his appointment. Matter set for briefing schedule.

NDC

05/01/03 09:00 AM 00 STATUS CHECK: SET BRIEFING SCHEDULE

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Georgette Byrd, Court Clerk
Shirlee Prawalsky, Reporter/Recorder

PARTIES: STATE OF NEVADA
004352 Owens, Steven S.

Y
Y

COURT ORDERED, matter continued for Mr. Schieck's presence.

NDC

CLERK'S NOTE: Clerk informed Mr. Schieck's office of the continued date. GB

CONTINUED TO: 05/06/03 09:00 AM 01

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 023

05/06/03 09:00 AM 01 STATUS CHECK: SET BRIEFING SCHEDULE

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Georgette Byrd, Court Clerk
Shirlee Prawalsky, Reporter/RecorderPARTIES: STATE OF NEVADA
007849 O'Brien, Glen
0001 D1 Floyd, Zane M
000824 Schieck, David M.Y
Y
N
Y

Mr. Schieck stated he does not have the file from the Public Defenders office and requested matter passed two weeks for the file and briefing schedule, COURT SO ORDERED.

NDC

CONTINUED TO: 05/20/03 09:00 AM 02

05/20/03 09:00 AM 02 STATUS CHECK: SET BRIEFING SCHEDULE

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Georgette Byrd, Court Clerk
Shirlee Prawalsky, Reporter/RecorderPARTIES: STATE OF NEVADA
007595 Bawa, Ravindar N.
0001 D1 Floyd, Zane M
000824 Schieck, David M.Y
Y
N
Y

Mr. Schieck stated he still has not gotten the file yet and believes Curtis Brown who represented the defendant is currently in a trial. Mr. Thompson had the file, however indicated Mr. Brown will be getting the file together. COURT ORDERED, matter is continued.

NDC

CONTINUED TO: 06/03/03 09:00 AM 03

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 024

06/03/03 09:00 AM 03 STATUS CHECK: SET BRIEFING SCHEDULE

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Georgette Byrd, Court Clerk
Shirlee Prawalsky, Reporter/RecorderPARTIES: STATE OF NEVADA
006088 Peterson, Clark A.
0001 D1 Floyd, Zane M
000824 Schieck, David M.Y
Y
N
Y

Mr. Schieck stated he received the appellate file from Mr. Brown which has sufficient information to prepare defendants writ. Mr. Brown will be collecting the rest of the file and give it to Mr. Schieck and requested sixty days to file defendant supplemental petition. COURT ORDERED, Defendants supplemental petition due on 8/19/03 and matter set for status check to see if the State needs to respond.

NDC

08/19/03 9:00 AM 9:00 AM STATUS CHECK: SUPPLEMENTAL PETITION

08/07/03 09:00 AM 00 DEFT'S PTN FOR WRIT OF HABEAS CORPUS /56

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Georgette Byrd, Court Clerk
Dick Kangas, Reporter/RecorderPARTIES: STATE OF NEVADA
000411 Simon, H. L.
0001 D1 Floyd, Zane M
000824 Schieck, David M.Y
Y
N
Y

Mr. Schieck stated he has not received all the discovery and requested 90 days to file his supplemental authorities. With no opposition by the State, COURT ORDERED, Mr. Schieck has until 11/6/03 to file his supplemental authorities; State to reply by 1/8/04 and matter set for decision after that.

NDC

01/15/04 9:00 AM ARGUMENT/DECISION: DEFT'S PETITION FOR WRIT OF HABEAS
CORPUS (POST-CONVICTION)

CONTINUED TO: 01/15/04 09:00 AM 01

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 025

01/29/04 09:00 AM 02 DEFT'S PTN FOR WRIT OF HABEAS CORPUS /56

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Georgette Byrd, Court Clerk
Shirlee Prawalsky, Reporter/RecorderPARTIES: STATE OF NEVADA
006088 Peterson, Clark A.Y
Y0001 D1 Floyd, Zane M
000824 Schieck, David M.N
Y

Mr. Schieck requested an additional 45 days to finish his supplemental petition. No objections by Mr. Peterson to the extent it does not run past the one year date of the remittitur. COURT ORDERED, Mr. Schieck's request for continuance is granted; Mr. Schieck to file his supplemental petition by 3/18/04; State to respond by 4/29/04. Deft's Petition will be heard to determine if there is a need for an evidentiary hearing.

NDC

CONTINUED TO: 05/13/04 09:00 AM 03

05/13/04 09:00 AM 03 DEFT'S PTN FOR WRIT OF HABEAS CORPUS /56

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Georgette Byrd, Court Clerk
Dick Kangas, Reporter/RecorderPARTIES: STATE OF NEVADA
004352 Owens, Steven S.Y
Y0001 D1 Floyd, Zane M
000824 Schieck, David M.N
Y

Mr. Schieck stated he is trying to get his writ filed however needs another thirty days to finish. Mr. Owens stated the case has gone beyond the one year and reserves his right to argue the procedural bar. No objections by Mr. Schieck. COURT ORDERED, matter continued with briefing schedule.

DEFT'S PETITION FOR WRIT IS DUE BY 6/24/04

STATE'S RESPONSE DUE BY 8/6/04

DEFT'S REPLY DUE BY 8/20/04

CONTINUED TO: 09/07/04 09:00 AM 04

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 026

06/10/04 09:00 AM 00 DEFT'S MTN TO PLACE ON CALENDAR/57

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Georgette Byrd, Court Clerk
Dick Kangas, Reporter/RecorderPARTIES: STATE OF NEVADA
004352 Owens, Steven S.
0001 D1 Floyd, Zane M
000824 Schieck, David M.Y
Y
N
Y

COURT ORDERED, Mr. Schieck will remain on this case as a special public defender as he has worked some 80 hours on this case. Mr. Schieck stated by handling this case he is not conceding that the Special Public Defenders will not be accepting more of these cases. COURT ORDERED, this is a unique case and the County Manager is willing to allow Mr. Schieck to remain on this case, however this will not set a precedence to appoint Mr. Schieck to more cases. Matter off calendar.

09/07/04 09:00 AM 04 DEFT'S PTN FOR WRIT OF HABEAS CORPUS /56

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Georgette Byrd, Court Clerk
Dick Kangas, Reporter/RecorderPARTIES: STATE OF NEVADA
004352 Owens, Steven S.
0001 D1 Floyd, Zane M
000824 Schieck, David M.Y
Y
N
Y

Mr. Schieck stated the computer system in the Public Defenders Office was not compatible to his personal computer and ate his supplemental petition. He further stated he does have a rough draft and thinks he can have it done in thirty days. Mr. Owens stated Mr. Schieck was hired one year ago and the statute says he has thirty days to file his supplemental. COURT ORDERED, Mr. Schieck has thirty days to file his supplemental petition (10/5/04); State has until 12/07/04 to reply; Deft's response due on 1/4/05. Court will rule next court date regardless of Mr. Schieck's status.

NDC

CONTINUED TO: 01/18/05 08:30 AM 05

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 027

01/18/05 08:30 AM 05 DEFT'S PTN FOR WRIT OF HABEAS CORPUS /56

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Dick Kangas, Reporter/RecorderPARTIES: STATE OF NEVADA
004352 Owens, Steven S.
0001 D1 Floyd, Zane M
000824 Schieck, David M.Y
Y
N
Y

Defendant not present and in custody at the Nevada Department of Corrections. Mr. Schieck submitted on the pleadings. Brief argument by Mr. Owens in opposition to Defendant's petition. Court stated its findings and ORDERED, petition DENIED. State to prepare Findings of Fact. Mr. Schieck inquired of the Court whether it wanted him to continue as counsel for appeal. Court stated this matter is voluminous and Mr. Schieck is intimately familiar with the case and ORDERED him to continue representation.

NDC

03/09/05

E X H I B I T S

4:21 PM

CASE NO. 99-C-159897-C

CASE STATUS: ACTIVE

STATE OF NEVADA

[] vs Floyd, Zane M

[]

NO.	CODE	EXHIBIT DESCRIPTION	SUB	OF/OB	DATE	S
0001	P-1	/1-29 / PHOTOS	S	/	99/99/99	V
0002	P-30	/DOCUMENT	S	/	99/99/99	
0003	P-31	/INMATE REQUEST / LETTER	S	/OB	02/29/00	V
0004	P-32	/AREAL MAP	S	/	99/99/99	V
0005	P/	/TRIAL EXHIBITS 1 THRU 208 (SEE LIST)	S	/	07/12/00	V
0006	D/	/TRIAL EXHIBITS 1 THRU 6 (SEE LIST)	0001	/	07/12/00	V
0007	P//CT	/TRIAL EXHIBITS I THRU VII (SEE LIST)	S	/	07/12/00	V
0008	P//	/EV HEARING EXHIBITS	S	/	06/29/00	V

Certification of Copy

State of Nevada

County of Clark

SS:

I, Shirley B. Parraguirre, the duly elected, qualifying and acting Clerk of Clark County, in the State of Nevada, and Ex-Officio Clerk of the District Court, do hereby certify that the foregoing is a true, full and correct copy of the original:

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT
DOCKET ENTRIES; FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; NOTICE OF
ENTRY OF DECISION AND ORDER; DISTRICT COURT MINUTES; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

VS.

ZANE MICHAEL FLOYD,

Defendant(s),


Case No: C159897

Dept No: V

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 9 day of March 2005.

Shirley B. Parraguirre, Clark County Clerk


Robin J. Mills, Deputy Clerk

Robin J. Mills, Deputy Clerk