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*C. [Signature]*  
CLERK OF THE COURT

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JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
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**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

8 **THE STATE OF NEVADA,**  
9 **Plaintiff,**

10 **-vs-**

11 **RICKIE SLAUGHTER,**  
12 **#1896569**

13 **Defendant.**

*No. 48742*  
CASE NO: C204957  
DEPT NO: III

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

DATE OF HEARING: 12/18/06  
TIME OF HEARING: 9:00 a.m.

18 THIS CAUSE having come on for hearing before the Honorable Douglas Herndon,  
19 District Judge, on the 18<sup>th</sup> day of December, 2006, the Petitioner being present, proceeding  
20 In Forma Pauperis, the Respondent being represented by DAVID ROGER, District Attorney,  
21 by and through MARC DIGIACOMO, Deputy District Attorney, and the Court having  
22 considered the matter, including briefs, transcripts, arguments of counsel, and documents on  
23 file herein, now therefore, the Court makes the following findings of fact and conclusions of  
24 law:

**FINDINGS OF FACT**

- 25 1) Defendant was charged by way of Information with the following crimes: one count  
26 of CONSPIRACY TO COMMIT KIDNAPPING (Felony – NRS 199.480, 200.030);  
27  
28 one count of CONSPIRACY TO COMMIT ROBBERY (Felony – NRS 199.480);

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1 one count of CONSPIRACY TO COMMIT MURDER (Felony - 199.480); two (2)  
2 counts of ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Felony -  
3 NRS 200.010, 200.030, 193.330,193.165); one count of BATTERY WITH USE OF  
4 A DEADLY WEAPON (Felony - NRS 200.481; one count of ATTEMPT  
5 ROBBERY WITH USE OF A DEADLY WEAPON (Felony - NRS 200.380,  
6 193.330, 193.165); one count of ROBBERY WITH USE OF A DEADLY WEAPON  
7 (Felony - NRS 200.380, 193.165); one count of BURGLARY WHILE IN  
8 POSSESSION OF A FIREARM (Felony - NRS 205.060); BURGLARY (Felony -  
9 NRS 205.060); six (6) counts of FIRST DEGREE KIDNAPPING WITH USE OF A  
10 DEADLY WEAPON (Felony - NRS 200.310,200.320,193.165) and one count of  
11 MAYHEM (Felony - NRS 200.280). Pursuant to plea negotiations, the State filed a  
12 fourth Amended Information dismissing thirteen out of the seventeen counts for  
13 which Defendant was initially charged.

14 2) On April 4, 2005, proceeding pro se with appointed stand-by counsel, Defendant pled  
15 guilty to: COUNT 1 - ATTEMPT MURDER WITH USE OF A DEADLY  
16 WEAPON (Felony - NRS 200.010, 200.030, 193.330, 193.165); COUNT 2 -  
17 ROBBERY WITH USE OF A DEADLY WEAPON (Felony - NRS 200.380,  
18 193.165); COUNT 3 - FIRST DEGREE KIDNAPPING (Felony - NRS 200.310,  
19 200.320); and COUNT 4 - FIRST DEGREE KIDNAPPING WITH USE OF A  
20 DEADLY WEAPON (Felony - NRS 200.310, 200.320, 193.165).

21 3) On August 08, 2005, Defendant was granted appointment of his stand-by counsel for  
22 representation at sentencing. The court, having heard argument from the State,  
23 Defendant and Defendant's counsel sentenced Defendant as follows: as to COUNT 1,  
24 a MAXIMUM of TWO HUNDRED FORTY (240) MONTHS and a MINIMUM of  
25 NINETY (90) MONTHS in the Nevada Department of Corrections (NDC), plus an  
26 equal and CONSECUTIVE MAXIMUM of TWO HUNDRED FORTY (240)  
27 MONTHS and a MINIMUM of NINETY (90) MONTHS for Use of a Deadly  
28 Weapon; on COUNT 2, a MAXIMUM of ONE HUNDRED EIGHTY (180)

1 MONTHS and a MINIMUM of SEVENTY-TWO (72) MONTHS in the Nevada  
2 Department of Corrections (NDC), plus an equal and CONSECUTIVE MAXIMUM  
3 of ONE HUNDRED EIGHTY (180) MONTHS and a MINIMUM of SEVENTY-  
4 TWO (72) MONTHS for Use of a Deadly Weapon, CONCURRENT with Count 1;  
5 on COUNT 3, a MAXIMUM of LIFE in the Nevada Department of Corrections  
6 (NDC), with a MINIMUM of 15 YEARS before Parole Eligibility, CONCURRENT  
7 with Counts 1 and 2; on COUNT 4, LIFE in the Nevada Department of Corrections  
8 (NDC), with a MINIMUM of 5 YEARS before Parole Eligibility, plus an equal and  
9 CONSECUTIVE LIFE in the Nevada Department of Prisons, with a MINIMUM of 5  
10 YEARS before Parole Eligibility for Use of a Deadly Weapon, CONCURRENT with  
11 Counts 1, 2, and 3, with NO Credit for Time Served. Judgment of Conviction was  
12 filed on August 31, 2005.

- 13 4) On August, 7, 2006, Defendant filed the instant Petition for Writ of Habeas Corpus  
14 (Post-Conviction).
- 15 5) The district court properly canvassed Defendant and properly accepted the guilty plea  
16 which was made knowingly, intelligently, voluntarily, and it suffers from no  
17 constitutional defects.
- 18 6) Defendant's claim that he was induced into pleading guilty by the prosecutor's  
19 misrepresentations of law upon entry of his plea is completely belied by the record.
- 20 7) The trial court took sufficient steps to ensure that Defendant's guilty plea was made in  
21 a knowing, intelligent, and voluntary manner.
- 22 8) Defendant signed a guilty plea agreement with the guidance and advice of stand-by  
23 counsel on April 4, 2005. The agreement states the range of punishment in explicit  
24 detail for the relevant charges. The agreement also contains an explicit "WAIVER  
25 OF RIGHTS" section which details all the meaningful constitutional trial rights  
26 Defendant is giving up by pleading guilty including the right to testify, the right to  
27 confront and cross-examine witnesses, the right to subpoena witnesses, and that each  
28 element of the charges must be proved by the State beyond a reasonable doubt.

1 Defendant's signature is affixed to the end of this document. There is also a separate  
2 "certificate of counsel" signed by Defendant's attorney that avers as an officer of the  
3 court that thorough discussions occurred with Defendant about all matters pertinent to  
4 the case.

- 5 9) There is absolutely no indication from the record that the Court based its sentencing  
6 decision on impalpable or highly suspect evidence.

7 CONCLUSIONS OF LAW

- 8 1) The law in Nevada directs that "[t]he trial court should view the guilty plea as  
9 presumptively valid and the burden should be on the defendant to establish that the  
10 plea was not entered knowingly and intelligently." Bryant v. State, 102 Nev. 268,  
11 272, 721 P.2d 364, 368 (1986). Further, a guilty plea should not be invalidated "as  
12 long as the totality of the circumstances, as shown by the record, demonstrates that  
13 the plea was knowingly and voluntarily made and that the defendant understood the  
14 nature of the offense and the consequences of the plea." State v. Freese, 116 Nev.  
15 1097, 1105, 13 P.3d 442, 448 (2000).

- 16 2) "To properly accept a guilty plea, a court must sufficiently canvass a defendant to  
17 determine if the defendant knowingly and intelligently entered into the plea."  
18 Williams v. State, 103 Nev. 227, 230, 737 P.2d 508, 510 (1987).

- 19 3) In Hanley v. State, the Court stated:

20 [I]n cases where a guilty plea is accepted, the record should affirmatively  
21 show that certain minimal requirements are met. These are generally:

- 22 1. an understanding waiver of constitutional rights and  
23 privileges;  
24 2. absence of coercion by threat or promise of leniency;  
25 3. understanding of the consequences of the plea, the range of  
26 punishments; and  
27 4. an understanding of the charge, the elements of the offense.

97 Nev. 130, 133, 624 P.2d 1387, 1389 (1981)(internal citations  
omitted).

- 28 4) There is no requirement in Nevada that a "ritualistic oral canvass of a defendant"

1 takes place prior to accepting a guilty plea, and the failure to conduct one does not  
2 invalidate a plea. Freese, 116 Nev. 1097, 1105, 13 P.3d 442, 448 (2000). The  
3 Supreme Court of Nevada "will not invalidate a plea as long as the totality of the  
4 circumstances, as shown by the record, demonstrates that the plea" was entered in a  
5 knowing and voluntary manner and defendant understood nature and consequences of  
6 the offense(s) and plea. Id. A court may not rely simply on a written plea agreement  
7 without some verbal interaction with a defendant. Id. Thus, a "colloquy" is  
8 constitutionally mandated, and a "colloquy" is but a conversation in a formal setting,  
9 such as that occurring between an official sitting in judgment of an accused at plea.  
10 See id.

- 11 5) The totality of the "record" to be evaluated for plea validity contains all of the  
12 following: (1) all interaction between the court and Defendant up to the moment of  
13 the plea; (2) an extensive and express written plea agreement signed by Defendant;  
14 and (3) a certification from Defendant's attorney that full discussions about the case  
15 and all relevant matters occurred with Defendant and that Defendant was sufficiently  
16 advised and prepared to enter the plea with no cause for legal concern; and (4) a plea  
17 "canvass" to verify that Defendant appreciated the consequences of the moment, and  
18 to give him one last chance to question any matter relevant to the proceedings. See  
19 State v. Freese, 116 Nev. 1097, 13 P.3d 442 (2000).
- 20 6) In Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984), the Court held  
21 that claims asserted in a petition for post-conviction relief must be supported with  
22 specific factual allegations, which if true, would entitle the petitioner to relief.
- 23 7) A defendant cannot repudiate any of the statements he makes on the record. Lundy v.  
24 Warden, 89 Nev. 419, 514 P.2d 212 (1973).

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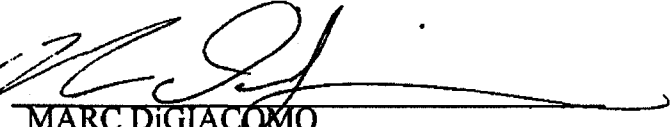
THEREFORE, IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus (Post-Conviction) shall be, and it is, hereby denied.

DATED this 25<sup>th</sup> day of January, 2007.

  
DISTRICT JUDGE

DAVID ROGER  
DISTRICT ATTORNEY  
Nevada Bar #002781

BY

  
MARC DIGIACOMO  
Chief Deputy District Attorney  
Nevada Bar #006955

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