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CR98P0074B
STATE VS. LATISHA BABB (04) 12 Pages
District Court 07/26/2007 03:44 PM
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LISA A. RASMUSSEN

Nevada Bar No. 007491

WATT, TIEDER, HOFFAR & FITZGERALD, LLP

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Attorneys for Petitioner

Latisha Babb

FILED

2007 JUL 26 PM 3:44

RONALD A. LONGTIN, JR.

BY

DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF WASHOE

No. 49929

FILED

LATISHA BABB,

CASE NO. CR98P0074B

DEPT. NO.: 4

AUG 01 2007

Petitioner,

NOTICE OF APPEAL

vs.

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY Janette M. Bloom
DEPUTY CLERK

JENNIFER LOZOWSKY, ET AL,

Respondents.

The Petitioner, LATISHA BABB, by and through her counsel, Lisa A. Rasmussen, Esq., hereby appeals the Order Granting Motion to Dismiss Petition for Writ of Habeas Corpus (Post-Conviction) filed on April 5, 2007 and the Findings of Fact, Conclusions of Law and Judgment dated June 29, 2007 attached hereto as *Exhibit 1*.

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JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

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The appeal is timely filed. The Judgment was dated June 29, 2007.

Dated: July 26 2007

WATT, TIEDER, HOFFAR & FITZGERALD, LLP

Lisa A. Rasmussen #2115, for

LISA A. RASMUSSEN
Nevada Bar No. 007491
The Lakes Business Park
8831 W. Sahara Avenue
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Attorneys for Petitioner
LATISHA BABB

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The undersigned does hereby affirm that the attached document does not contain the social security number of any person.

DATED this 26 day of July, 2007.

WATT, TIEDER, HOFFAR & FITZGERALD, LLP

LISA A. RASMUSSEN
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8831 W. Sahara Avenue
Las Vegas, Nevada 89117

Attorneys for Petitioner
LATISHA BABB

EXHIBIT 1

FILED

APR 05 2007

RONALD A. LONGFORD, CLERK

By: *M. Malone*
DEPUTY CLERK

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF WASHOE

LATISHA MARIE BABB,

Petitioner,

v.

Case No. CR98P0074B

JENNIFER LOZOWSKY,
E.K. McDANIEL,

Dept. No. 4

Respondents.

ORDER GRANTING MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS
(POST-CONVICTION)

The State has moved to dismiss the petition for writ of habeas corpus asserting that it is untimely, abusive and successive and there are no allegations that, if proven, would tend to overcome the procedural bar. This is an interim order that will not dispose of all claims for relief because this court has granted leave to file a second supplement to the petition. This order addresses only the claims for relief found in the petition.

The petition is untimely. *See* NRS 34.726. The one year time limit in that statute applies to second petitions as well as first petitions. *Pellegrini v. State*, 117 Nev. 860, 34 P.2d 519 (2001). In order to overcome that mandatory procedural bar, the petitioner is required to allege and prove facts demonstrating that there was some external impediment that prevented her from bringing the petition

1 within the time allowed by the legislature. The excuse must be claim-specific. That is, the petitioner
2 must allege facts demonstrating some external impediment to bringing a specific claim before the court
3 within the time allowed by the legislature. *Pellegrini*, 117 Nev. at 887 (external impediments may
4 involve the factual or legal unavailability of the claim or some official interference with compliance).
5 Here, there are no such allegations. At part 19 of the petition, when asked to explain the delay, Babb's
6 current counsel explains how she brought the instant petition after a federal court ruled that her claims
7 were not exhausted. There is no allegations as to why the petitioner, Latisha Babb, did not present all of
8 her claims to the court within one year of the remittitur following her direct appeal. This issue is not
9 whether Babb's current counsel has been diligent, but whether Latisha Babb had some impediment to
10 bringing all of her claims in a timely petition. Part 19 of the petition does not address that issue at all.

11 At page 35 of the petition there is an allegation that may have been meant as the cause to excuse
12 the delay. At that part of the petition Babb alleges that her first post-conviction counsel was ineffective.
13 That allegation is insufficient as a matter of law because there is no right to the effective assistance of
14 post-conviction counsel in a non-capital case. *Pellegrini*, 117 Nev. at 887-888. Therefore, this court
15 concludes that the petition is untimely and that Babb has alleged no external impediment to complying
16 with state procedural law.

17 At oral arguments on the motion to dismiss, Babb sought to frame her excuse not in terms of
18 ineffective assistance of post-conviction counsel, but in terms of due process. This is apparently a
19 contention that state procedural rules that allow a claim to be forfeited without the express consent of the
20 petitioner fly in the face of the due process clause. The argument is incorrect. *See Ford v. Warden*, 111
21 Nev. 872, 901 P.2d 123 (1995). The state is not required to allow a post-conviction collateral attack at
22 all, and if the state elects to provide such a vehicle, it is free to enact its procedural rules as it sees fit.
23 The procedural rules applicable to a Nevada post-conviction habeas corpus action do not violate the due
24 process clause. *See Pellegrini, supra*.

25 The petition is also abusive and successive in that claims one through twenty-one were
26 previously raised or could have been previously raised either on direct appeal or in the first habeas

1 corpus action. *See* NRS 34.810. To overcome that mandatory procedural bar, the petitioner bears the
2 burden of demonstrating good cause and prejudice. For instance, on any claim that could have been
3 raised earlier, the petitioner must demonstrate some external impediment to bringing the claim in a
4 single, timely petition for writ of habeas corpus. *Pellegrini, supra*. Babb has made no effort to plead
5 such facts except for the allegation that prior post-conviction counsel was ineffective in advancing the
6 claims that trial counsel was ineffective. As indicated above, that claim is legally insufficient. *See*
7 *Mcaque v. Whitley*, 112 Nev. 159, 912 P.2d 255 (1996). Therefore, even if the petition was timely,
8 claims one through twenty-one would have to be dismissed.

9 When the parties appeared for argument on this motion, Babb's counsel suggested that she
10 wished to raise an additional argument, based on *McConnell v. State*, 120 Nev. 1043, 102 P.3d 606
11 (2004). The court granted leave to file an additional supplement raising a claim based on that decision
12 and will address the validity of that new claim later. For the moment, the court finds that the claims
13 extant must be dismissed.

14 DATED this 31 day of March, 2007.

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16 Connie J. Steinheimer
17 DISTRICT JUDGE
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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE

LATISHA MARIE BABB,

Petitioner,

v.

Case No. CR98P0074B

JENNIFER LOZOWSKY,
E.K. McDANIEL,

Dept. No. 4

Respondents.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT

Petitioner Babb stood trial with co-defendants Harte and Sirex. Babb was convicted of murder. The jury imposed a sentence of life without parole for Sirex and Babb. Harte was sentenced to death. Babb appealed but the judgment was affirmed. She then filed a petition for writ of habeas corpus. That was denied and she again appealed but the judgment was affirmed. She then filed a second petition. This court previously entered an interim order, ruling that all of the claims in the second petition would be dismissed as being untimely, abusive and successive. The court, however, allowed the opportunity to present new claims, not previously available, based on some recent developments in the law. Specifically, based on the holding in *Bejarano v. State*, 122 Nev. ___, 146 P.3d 265 (2006). The Court in that case held that a prior decision, *McConnell v. State*, 120 Nev. 1043, 102 P.3d 606 (2004) would be applied retroactively. *McConnell*, in turn, held that where a murder conviction is based upon a felony

1 murder theory, then the aggravating circumstance based on that same felony murder is not available in
2 the sentencing phase.

3 Babb filed a second supplement to the second petition, claiming that she is entitled to relief due
4 to those decisions. The State moved to dismiss that second supplement, contending that her arguments
5 are incorrect as a matter of law, primarily because Babb was not sentenced to death. On April 5, 2007,
6 this court heard oral arguments on that motion.

7 Babb first argues that her sentence would necessarily have been lower than co-defendant Harte's
8 and that Harte should not have been eligible for the death penalty. This contention is incorrect because
9 no jury instruction called for the jury to impose sentences based on comparing the sentences for the
10 various defendants. In *Strickland v. Washington*, 466 U.S. 668, 695, 104 S.Ct. 2052, 2068 (1994), the
11 Court held:

12 An assessment of the likelihood of a result more favorable to the defendant
13 must exclude the possibility of arbitrariness, whimsy, caprice,
14 'nullification,' and the like. A defendant has no entitlement to the luck of
15 a lawless decisionmaker, even if a lawless decision cannot be reviewed.
16 The assessment of prejudice should proceed on the assumption that the
17 decisionmaker is reasonably, conscientiously, and impartially applying the
18 standards that govern the decision. It should not depend on the
19 idiosyncracies of the particular decisionmaker.

20 Similarly, in other contexts, the law presumes that jurors followed their instructions. *Leonard v.*
21 *State*, 117 Nev. 53, 66, 17 P.3d 397, 405 (2001). The jury in this case was cautioned to consider the
22 defendants separately. A conscientious decision-maker would consider for each defendant both the
23 nature of the crime and the character of the defendant and impose a suitable sentence, without regard to
24 the other defendants. The notion that a jury would have imposed a lesser sentence for Babb if it had not
25 been allowed to impose the death penalty on co-defendant Harte is based on pure speculation and the
26 court finds that speculative claim of prejudice does not lead to relief for Babb.

27 Babb also presents the argument that she was entitled to be tried by a jury not composed of those
28 who felt they could impose the death penalty. As the Supreme Court has noted, the petitioner's position
29 is "illogical and hopelessly impractical." *Lockhart v. McCree*, 476 U.S. 162, 178, 106 S.Ct. 1758, 1767

1 (1986). In *Buchanan v. Kentucky*, 483 U.S. 402, 107 S.Ct. 2906 (1987), the Court held that a death-
2 qualified jury does not violate the rights of a defendant who is not facing the death penalty.
3 Furthermore, the court notes that the premise underlying the argument is that co-defendant Harte should
4 not have faced a capital charge. The court notes that there is ongoing litigation in Harte's case and his
5 fate has not yet been decided. The notion that he ought not to have faced a capital charge is still
6 undecided. Nevertheless, this order simply recognizes that the constitution does not demand a jury that
7 includes those who are willing to disregard the instructions of the court. Finally, the argument seems to
8 ignore the fact that a death-qualified jury is also a life-qualified jury. See *Morgan v. Illinois*, 504 U.S.
9 719, 112 S.Ct. 2222 (1992). Babb does not attempt to demonstrate how she was prejudiced by a jury
10 that included only those who were impartial and indifferent. This court finds no support for the notion
11 that a defendant has a right to be tried by a jury that includes those who are not impartial or indifferent
12 and so rejects the argument presented by Babb. There being no sufficient allegation of prejudice, no
13 hearing is warranted and dismissal is appropriate.

14 Upon consideration of the motion, the opposition and the arguments of the parties, the motion is
15 granted. Each claim in the petition, the supplement and the second supplement is dismissed.

16 DATED this 29 day of June, 2007.

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18 Connie I. Steinheim
19 DISTRICT JUDGE
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CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Washoe County District Attorney's Office and that, on this date, I deposited for mailing through the U.S. Mail Service at Reno, Washoe County, Nevada, postage prepaid, a true copy of the foregoing document, addressed to:

Lisa A. Rasmussen, Esq.
Watt, Tieder, Hoffar & Fitzgerald, LLP
Lakes Business Park
8831 W. Sahara Ave.
Las Vegas, NV 89117

Latisha Marie Babb #61433
Southern Nevada Women's Correctional Center
4370 Smiley Road
North Las Vegas, NV 89115

DATED: July 5, 2007.

Shelly Hudec

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Richard A. Gammick, Esq.
Terrence P. McCarthy, Esq.
Washoe County District Attorney's Office
P. O. Box 30083
Reno, NV 89520

Danielle L Santillana

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RONALD A. LONGTIN, JR.

BY  DEPUTY

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Attorneys for Petitioner
Latisha Babb

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

LATISHA BABB,

Petitioner,

vs.

JENNIFER LOZOWSKY, ET AL,

Respondents.

CASE NO. CR98P0074B
DEPT. NO.: 4

CASE APPEAL STATEMENT

1. Name of Appellant: Latisha Babb
2. Judge Issuing Decision/Order: Connie Steinheimer
3. Parties to District Court Proceeding: Latisha Babb, State of Nevada, and Jennifer Lozowsky.
4. Parties to the Appeal: Latisha Babb, State of Nevada, Jennifer Lozowsky and E.K. McDaniel.
5. Attorneys on behalf of the Parties:

Lisa A. Rasmussen, Esq.
Watt, Tieder, Hoffar & Fitzgerald, L.L.P.
8831 West Sahara Avenue
Las Vegas, Nevada 89117
(702) 822-2640
On behalf of Latisha Babb

1 Richard A. Gammick, Esq.
2 Terrence P. McCarthy, Esq.
3 Washoe County District Attorney's Office
4 P.O. Box 30083
5 Reno, Nevada 89520
6 (775) 328-3200
7 On behalf of State of Nevada, Jennifer Lozowsky and E.K. McDaniel

8 6. Appellant was represented by appointed counsel in the District Court at her trial
9 which commenced March 15, 1999.

10 7. Appellant is represented by appointed counsel for this appeal.

11 Appellant filed a federal habeas petition in the United States District Court,
12 District of Nevada, in January 2005. The undersigned was appointed to represent Ms.
13 Babb in the federal proceedings. In June 2006, the federal court ordered Ms. Babb's
14 federal Petition stayed in order for Ms. Babb to exhaust certain claims before the Second
15 Judicial District Court.

16 Pursuant to the federal court's order the undersigned filed a successor Petition
17 for Writ of Habeas Corpus in the Washoe County District Court shortly thereafter.

18 The undersigned sought appointment, as counsel for Ms. Babb, and the Second
19 Judicial District Court and appointed the undersigned to represent Ms. Babb effective
20 January 1, 2007.

21 The undersigned has not withdrawn from representation of Ms. Babb since that
22 date and remains her appointed counsel of record.

23 8. Appellant has been indigent since her arrest in November 13, 1997 and she has
24 been represented by appointed counsel continuously in both state and federal court
25 since that time.

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1 9. The proceedings herein, Ms. Babb's successor State Habeas Petition, commenced
2 on March 27, 2006.

3 Dated: July 26 2007

4 WATT, TIEDER, HOFFAR & FITZGERALD, LLP

5 *L.A. Rasmussen #2115, for*

6 LISA A. RASMUSSEN
7 Nevada Bar No. 007491
8 The Lakes Business Park
9 8831 W. Sahara Avenue
10 Las Vegas, Nevada 89117

11 Attorneys for Petitioner
12 LATISHA BABB
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AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the attached document does not contain the social security number of any person.

DATED this 26 day of July, 2007.

WATT, TIEDER, HOFFAR & FITZGERALD, LLP

Lisa A. Rasmussen #2115, for

LISA A. RASMUSSEN
Nevada Bar No. 007491
The Lakes Business Park
8831 W. Sahara Avenue
Las Vegas, Nevada 89117

Attorneys for Petitioner
LATISHA BABB

1 CERTIFICATE OF SERVICE

2 I hereby certify that I am an employee of the LAW OFFICES of MARTIN H. WIENER,
3 and that on this date I caused to be served, via United States Mail, a true and correct copy of the
4 attached by placing a copy of the same in a sealed envelope, postage prepaid, and addressed to the
5 following:

6 Richard A. Gammick, Esq.
7 Terrence P. McCarthy, Esq.
8 Washoe County District Attorney's Office
9 P. O. Box 30083
10 Reno, NV 89520

11 DATED this 26th day of JULY, 2007.

12 Daniell L Santillana
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SECOND JUDICIAL DISTRICT COURT, COUNTY OF WASHOE
FULL CASE HISTORY

PAGE: 1

Case No: CR98-0074 Filed: 01/09/98 Type: CRIMINAL
Title: STATE OF NEVADA VS. SHAWN HARTE ET AL
Dept: 4 Addl Info:

At issue: 00/00/00
Clerk: MB

Trial: 05/07/99 HEARING - SENTENCING

Restored Date: 03/25/98

E X H I B I T S

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1.C	PHOTOGRAPH Intro: 03/12/99 Off/Obj:	01	STATE	4	MT
2.A	PHOTOGRAPH Intro: 03/12/99 Off/Obj: OFF'D/NO OBJ.	01	STATE	4	MT
2.B	PHOTOGRAPH Intro: 03/12/99 Off/Obj: OFF'D/NO OBJ.	01	STATE	4	MT
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7.B	POLORIOD PHOTOGRAPH Intro: 03/12/99 Off/Obj: OFF'D/NO OBJ.	01	STATE	4	MT

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SECOND JUDICIAL DISTRICT COURT, COUNTY OF WASHOE
FULL CASE HISTORY

PAGE: 2

Case No: CR98-0074 Filed: 01/09/98 Type: CRIMINAL
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At issue: 00/00/00

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8.A	REDACTED LETTER BY HARTE Intro: 03/18/99 Off/Obj: OFF'D/NO OBJ.	01	STATE	4	MT
8.B	REDACTED PORTION OF LETTER WRITTEN BY HARTE Intro: 03/22/99 Off/Obj: OFF'D/OBJ.OVRRLD	01	STATE	4	MT
8.C	REDACTED LETTER BY HARTE Intro: 03/23/99 Off/Obj:	01	STATE	4	MT
9	ENVELOPE CONTAINING 7 PAGES - HARTE MATERIAL Intro: 03/12/99 Off/Obj: OFF'D/OBJ.OVRRLD	01	STATE	4	MT
10	VIDEO TAPE INTERVIEW WITH SIREX Intro: 03/12/99 Off/Obj:	01	STATE	4	MT
11.A	VIDEO TAPE INTERVIEW WITH HARTE Intro: 03/12/99 Off/Obj:	01	STATE	4	MT
11.B	VIDEO TAPE INTERVIEW WITH HARTE Intro: 03/12/99 Off/Obj:	01	STATE	4	MT
12.A	VIDEO TAPE INTERVIEW OF BABB Intro: 03/12/99 Off/Obj:	01	STATE	4	MT
12.B	VIDEO TAPE INTERVIEW OF BABB Intro: 03/12/99 Off/Obj:	01	STATE	4	MT
13.A	VIDEO TAPE - NEWS INTERVIEW BABB Intro: 03/12/99 Off/Obj:	01	STATE	4	MT
13.B	VIDEO TAPE - NEWS INTERVIEW BABB Intro: 03/12/99 Off/Obj:	01	STATE	4	MT
14	AUDIO TAPE - LANETTE BAGBY Intro: 03/12/99 Off/Obj:	01	STATE	4	MT
15	TYPED NOTE AND HANDWRITTING WITH ATTACHED NEWSPAPER CLIPPING Intro: 03/12/99 Off/Obj:	01	STATE	4	MT
16	MISSILE FRAGMENTS FROM VICTIM Intro: 03/12/99 Off/Obj: OFF'D/NO OBJ.	01	STATE	4	MT
17.A	SMITH AND WESSON .22 Intro: 03/12/99 Off/Obj: OFF'D/NO OBJ.	01	STATE	4	MT
17.B	BULLET FOR SMITH AND WESSON Intro: 03/12/99 Off/Obj: OFF'D/NO OBJ.	01	STATE	4	MT
17.C	MAGAZINE FOR SMITH AND WESSON Intro: 03/12/99 Off/Obj: OFF'D/NO OBJ.	01	STATE	4	MT
17.D	WILDCATE AMMUNITION Intro: 03/17/99 Off/Obj: OFF'D/NO OBJ.	01	STATE	4	MT
17.E	STINGER AMMUNITION Intro: 03/17/99 Off/Obj: OFF'D/NO OBJ.	01	STATE	4	MT
18.A	LORCIN .22 Intro: 03/12/99 Off/Obj: OFF'D/NO OBJ.	01	STATE	4	MT

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SECOND JUDICIAL DISTRICT COURT, COUNTY OF WASHOE
FULL CASE HISTORY

PAGE:

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Case No: CR98-0074 Filed: 01/09/98 Type: CRIMINAL
Title: STATE OF NEVADA VS. SHAWN HARTE ET AL

At issue: 00/00/00

E X H I B I T S

ID	Description	Type	Relshp	Dept	Clrk
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18.C	BULLETTTS FROM LORCIN .22 Intro: 03/17/99 Off/Obj: OFF'D/NO OBJ.	01	STATE	4	MT
19.A	PAPERS FROM TAXI CAB Intro: 03/12/99 Off/Obj: OFF'D/NO OBJ.	01	STATE	4	MT
19.B	PAPERS FROM TAXI CAB Intro: 03/12/99 Off/Obj: OFF'D/NO OBJ.	01	STATE	4	MT
20	MICRO AUDIO TAPE - CONSENT TO SEARCH SIREX Intro: 03/12/99 Off/Obj:	01	STATE	4	MT
21	MICRO AUDIO TAPE - INTERVIEW WITH BABB Intro: 03/12/99 Off/Obj:	01	STATE	4	MT
22	ENVELOPE WITH 6 CASSETTE TAPES Intro: 03/12/99 Off/Obj:	01	STATE	4	MT
23	MICRO AUDIO TAPES - INTERVIEW BY SIREX Intro: 03/12/99 Off/Obj:	01	STATE	4	MT
24	NEWSPAPER - 10/27/97 FROM BABB/HARTE RESIDENCE Intro: 03/12/99 Off/Obj: OFF'D/NO OBJ.	01	STATE	4	MT
24.A	REDACTED COPY OF NEWSPAPER ARTICLE Intro: 03/19/99 Off/Obj: OFF'D/NO OBJ.	01	STATE	4	MT
25	ITEMS FROM VICTIM Intro: 03/12/99 Off/Obj:	01	STATE	4	MT
26	RADIO SHACK WIRELESS MICRO-PHONE Intro: 03/12/99 Off/Obj: OFF'D/NO OBJ.	01	STATE	4	MT
27	BOX FROM SIREX'S HOUSE Intro: 03/12/99 Off/Obj: OFF'D/NO OBJ.	01	STATE	4	MT
28	.22 CALIBER CASING Intro: 03/12/99 Off/Obj: OFF'D/NO OBJ.	01	STATE	4	MT
29	MILITARY RECORDS OF HARTE Intro: 03/12/99 Off/Obj:	01	STATE	4	MT
30	MILITARY RECORDS OF SIREX Intro: 03/12/99 Off/Obj: OFF'D/NO OBJ.	01	STATE	4	MT
31.A	PHOTOGRAPH OF SIREX Intro: 03/12/99 Off/Obj: OFF'D/NO OBJ.	01	DEF:	4	MT
31.B	PHOTOGRAPH OF SIREX Intro: 03/12/99 Off/Obj: OFF'D/NO OBJ.	01	DEF:	4	MT
31.C	PHOTOGRAPH OF SIREX Intro: 03/12/99 Off/Obj: OFF'D/NO OBJ.	01	DEF:	4	MT
31.D	PHOTOGRAPH OF SIREX Intro: 03/12/99 Off/Obj: OFF'D/NO OBJ.	01	DEF:	4	MT
31.E	PHOTOGRAPH OF SIREX Intro: 03/12/99 Off/Obj: OFF'D/NO OBJ.	01	DEF:	4	MT
32	PHOTOGRAPH Intro: 03/16/99 Off/Obj: OFF'D/NO OBJ.	01	STATE	4	MT
33	PHOTOGRAPH Intro: 03/16/99 Off/Obj: OFF'D/NO OBJ.	01	STATE	4	MT

4/23/99 15:48

SECOND JUDICIAL DISTRICT COURT, COUNTY OF WASHOE
FULL CASE HISTORY

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Case No: CR98-0074 Filed: 01/09/98 Type: CRIMINAL
Title: STATE OF NEVADA VS. SHAWN HARTE ET AL

At issue: 00/00/00

E X H I B I T S

ID	Description	Type	Relshp	Dept	Clrk
34.A	PHOTOGRAPH	01	STATE	4	MT
	Intro: 03/22/99 Off/Obj: OFF'D/OBJ.OVRRLD		Admit:	03/22/99	
34.B	PHOTOGRAPH	01	STATE	4	MT
	Intro: 03/22/99 Off/Obj: OFF'D/OBJ.OVRRLD		Admit:	03/22/99	
34.C	PHOTOGRAPH	01	STATE	4	MT
	Intro: 03/22/99 Off/Obj: OFF'D/OBJ. OVRRLD		Admit:	03/22/99	
34.D	PHOTOGRAPH	01	STATE	4	MT
	Intro: 03/22/99 Off/Obj: OFF'D/OBJ. OVRRLD		Admit:	03/22/99	
34.E	PHOTOGRAPH	01	STATE	4	MT
	Intro: 03/22/99 Off/Obj: OFF'D/OBJ.OVRRLD		Admit:	03/22/99	
34.F	PHOTOGRAPH	01	STATE	4	MT
	Intro: 03/22/99 Off/Obj: OFF'D/OBJ.OVRRLD		Admit:	03/22/99	
34.G	PHOTOGRAPH	01	STATE	4	MT
	Intro: 03/22/99 Off/Obj: OFF'D/OBJ.OVRRLD		Admit:	03/22/99	
34.H	PHOTOGRAPH	01	STATE	4	MT
	Intro: 03/22/99 Off/Obj: OFF'D/OBJ. OVRRLD		Admit:	03/22/99	
34.I	PHOTOGRAPH	01	STATE	4	MT
	Intro: 03/22/99 Off/Obj: OFF'D/OBJ.OVRRLD		Admit:	03/22/99	
34.J	PHOTOGRAPH	01	STATE	4	MT
	Intro: 03/22/99 Off/Obj: OFF'D/OBJ. OVRRLD		Admit:	03/22/99	
34.K	PHOTOGRAPH	01	STATE	4	MT
	Intro: 03/22/99 Off/Obj: OFF'D/OBJ.OVRRLD		Admit:	03/22/99	
34.L	PHOTOGRAPH	01	STATE	4	MT
	Intro: 03/22/99 Off/Obj: OFF'D/OBJ. OVRRLD		Admit:	03/22/99	
35	FOOTPRINT ANALYSIS	01	STATE	4	MT
	Intro: 03/22/99 Off/Obj: OFF'D/OBJ.OVRRLD		Admit:	03/22/99	
36	PHOTOGRAPH	01	STATE	4	MT
	Intro: 03/22/99 Off/Obj: OFF'D/OBJ.OVRRLD		Admit:	03/22/99	
37	PHOTOGRAPH	01	STATE	4	MT
	Intro: 03/22/99 Off/Obj: OFF'D/OBJ.OVRRLD		Admit:	03/22/99	
38	SIGNED MIRANDA WAIVER BY S. HARTE	01	STATE	4	MT
	Intro: 03/22/99 Off/Obj: OFF'D/OBJ.OVRRLD		Admit:	03/22/99	
39	SMALL PHOTOGRAPH OF SIREX AND UNCLE	01	DEF:	4	MT
	Intro: 03/23/99 Off/Obj: OFF'D/NO OBJ.		Admit:	03/23/99	
40	MEDICAL RECORDS FROM WASHOE MEDICAL	01	DEF:	4	MT
	CENTER ON SIREX				
	Intro: 03/23/99 Off/Obj: OFF'D/NO OBJ.		Admit:	03/23/99	
41	PSYCHOLOGICAL EVALUATION OF LATISHA BABB	01	DEF:	4	MT
	Intro: 03/23/99 Off/Obj:		Admit:	00/00/00	
41.A	PSYCHOLOGICAL EVALUATION OF LATISHA BABB	01	DEF:	4	MT
	(REDACTED)				
	Intro: 03/23/99 Off/Obj: OFF'D/NO OBJ.		Admit:	03/23/99	
42		01	DEF:	4	MT
	Intro: 03/23/99 Off/Obj: DEMONSTRATIVE		Admit:	03/23/99	
43	PROBABILITY OF VIOLENCE RECIDIVISM	01	DEF:	4	MT
	WITH AND WITHOUT TREATMENT				
	Intro: 03/23/99 Off/Obj: OFFER WITHDRAWN		Admit:	03/23/99	

Case No: CR98-0074 Filed: 01/09/98 Type: CRIMINAL
Title: STATE OF NEVADA VS. SHAWN HARTE ET AL

At issue: 00/00/00

E X H I B I T S

ID	Description	Type	Relshp	Dept	Clrk
44	PHOTO ALBUM OF SHAWN HARTE	01	DEF:	4	MT
	Intro: 03/23/99 Off/Obj: OFF'D/NO OBJ.		Admit:	03/23/99	
E.1	JURY QUESTIONNAIRE OF MARCOS ALAS	01	COURT	4	MT
	Intro: 03/08/99 Off/Obj: STIPULATED		Admit:	03/08/99	
E.2	JURY QUESTIONNAIRE OF JEFFREY ALLAN	01	COURT	4	MT
	Intro: 03/08/99 Off/Obj: STIPULATED		Admit:	03/08/99	
E.3	JURY QUESTIONNAIRE OF ALAN K. ALPERS	01	COURT	4	MT
	Intro: 03/11/99 Off/Obj: STIPULATED		Admit:	03/11/99	
E.5	JURY QUESTIONNAIRE OF ROBERT L. BARTLETT	01	COURT	4	MT
	Intro: 03/08/99 Off/Obj: STIPULATED		Admit:	03/08/99	
E.6	JURY QUESTIONNAIRE OF JOHN R. BOGLE	01	COURT	4	MT
	Intro: 03/08/99 Off/Obj: STIPULATED		Admit:	03/08/99	
E.7	JURY QUESTIONNAIRE OF WILLIAM BOTELHO, JR.	01	COURT	4	MT
	Intro: 03/08/99 Off/Obj: STIPULATED		Admit:	03/08/99	
E.9	JURY QUESTIONNAIRE OF KELLY BRANT	01	COURT	4	MT
	Intro: 03/08/99 Off/Obj: STIPULATED		Admit:	03/08/99	
E.10	JURY QUESTIONNAIRE OF EMIL BRAUTIGAM	01	COURT	4	MT
	Intro: 03/08/99 Off/Obj: STIPULATED		Admit:	03/08/99	
E.11	JURY QUESTIONNAIRE OF GLEN P. BUDGE	01	COURT	4	MT
	Intro: 03/08/99 Off/Obj: STIPULATED		Admit:	03/08/99	
E.12	JURY QUESTIONNAIRE OF PAUL CANADY	01	COURT	4	MT
	Intro: 03/08/99 Off/Obj: STIPULATED		Admit:	03/08/99	
E.13	JURY QUESTIONNAIRE OF THOMAS CARPENTER	01	COURT	4	MT
	Intro: 03/11/99 Off/Obj: STIPULATED		Admit:	03/11/99	
E.15	JURY QUESTIONNAIRE OF SUN JA CHA	01	COURT	4	MT
	Intro: 03/08/99 Off/Obj: STIPULATED		Admit:	03/08/99	
E.16	JURY QUESTIONNAIRE OF LINDA K. CLARK	01	COURT	4	MT
	Intro: 03/11/99 Off/Obj: STIPULATED		Admit:	03/11/99	
E.17	JURY QUESTIONNAIRE OF OLIVIA COLLINGS	01	COURT	4	MT
	Intro: 03/08/99 Off/Obj: STIPULATED		Admit:	03/08/99	
E.18	JURY QUESTIONNAIRE OF LAURIE COLLINS	01	COURT	4	MT
	Intro: 03/08/99 Off/Obj: STIPULATED		Admit:	03/08/99	
E.19	JURY QUESTIONNAIRE OF ENRIQUE P. CORDOVA	01	COURT	4	MT
	Intro: 03/08/99 Off/Obj: STIPULATED		Admit:	03/08/99	
E.20	JURY QUESTIONNAIRE OF ARALYNNA M. COX	01	COURT	4	MT
	Intro: 03/08/99 Off/Obj: STIPULATED		Admit:	03/08/99	
E.21	JURY QUESTIONNAIRE OF JOHN P. CULLEN	01	COURT	4	MT
	Intro: 03/11/99 Off/Obj: STIPULATED		Admit:	03/11/99	
E.22	JURY QUESTIONNAIRE OF DAVID CUNNINGHAM	01	COURT	4	MT
	Intro: 03/08/99 Off/Obj: STIPULATED		Admit:	03/08/99	
E.24	JURY QUESTIONNAIRE OF LISA M. ELLIS	01	COURT	4	MT
	Intro: 03/08/99 Off/Obj: STIPULATED		Admit:	03/08/99	
E.25	JURY QUESTIONNAIRE OF ANITA L. EMMICH	01	COURT	4	MT
	Intro: 03/08/99 Off/Obj: STIPULATED		Admit:	03/08/99	
E.26	JURY QUESTIONNAIRE OF CRAIG FOUGNER	01	COURT	4	MT
	Intro: 03/08/99 Off/Obj: STIPULATED		Admit:	03/08/99	

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SECOND JUDICIAL DISTRICT COURT, COUNTY OF WASHOE
FULL CASE HISTORY

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Case No: CR98-0074 Filed: 01/09/98 Type: CRIMINAL
Title: STATE OF NEVADA VS. SHAWN HARTE ET AL

At issue: 00/00/00

E X H I B I T S

ID	Description	Type	Relshp	Dept	Clrk
E.27	JURY QUESTIONNAIRE OF JAMES T. FREEMAN Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.29	JURY QUESTIONNAIRE OF CHARLOTTE GARFINKLE Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.30	JURY QUESTIONNAIRE OF TRACY R. GOLDER Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.31	JURY QUESTIONNAIRE OF SHIRLEY M. GUMAGAY Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.32	JURY QUESTIONNAIRE OF OLIVIA A. GURULE' Intro: 03/11/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.33	JURY QUESTIONNAIRE OF OSMIN D. GUZMAN Intro: 03/08/99 Off/Obj: STIPULATION	01	COURT	4	MT
E.34	JURY QUESTIONNAIRE OF JAMES C. HAGAN Intro: 03/11/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.35	JURY QUESTIONNAIRE OF MELODY HEADLEY Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.36	JURY QUESTIONNAIRE OF SHARON K. HERBST Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.39	JURY QUESTIONNAIRE OF RODGER W. JOHNSON Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.40	JURY QUESTIONNAIRE OF JOHN J. JUDGE Intro: 03/11/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.41	JURY QUESTIONNAIRE OF DOUG KEY Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.42	JURY QUESTIONNAIRE OF RICHARD D. KIES Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.44	JURY QUESTIONNAIRE OF PATRICIA A. KING Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.45	JURY QUESTIONNAIRE OF ROBERT M. KINNISON Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.46	JURY QUESTIONNAIRE OF AMELIA L. LAVELLE Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.47	JURY QUESTIONNAIRE OF CRAIG LEANARD Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.48	JURY QUESTIONNAIRE OF JON A. LEVINE Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.49	JURY QUESTIONNAIRE OF KENNETH D. MACLAREN Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.50	JURY QUESTIONNAIRE OF ANTHONY W. MAHOMET Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.51	JURY QUESTIONNAIRE OF DAWN MALLARD Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.52	JURY QUESTIONNAIRE OF LINDA M. MARION Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.53	JURY QUESTIONNAIRE OF WILLIAM H. MARTIN Intro: 03/11/99 Off/Obj: STIPULATED	01	COURT	4	MT

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SECOND JUDICIAL DISTRICT COURT, COUNTY OF WASHOE
FULL CASE HISTORY

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Case No: CR98-0074 Filed: 01/09/98 Type: CRIMINAL
Title: STATE OF NEVADA VS. SHAWN HARTE ET AL

At issue: 00/00/00

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

ID	Description	Type	Relshp	Dept	Clrk
E.54	JURY QUESTIONNAIRE OF JUDE MAYNE Intro: 03/11/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.55	JURY QUESTIONNAIRE OF CYNTHIS L. MCMANMON-HICKS Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.56	JURY QUESTIONNAIRE OF DEBORAH L. MILLER Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.57	JURY QUESTIONNAIRE OF CYNTHIA A. MITCHELL Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.59	JURY QUESTIONNAIRE OF BARBARA J. MURRAY Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.62	JURY QUESTIONNAIRE OF PATRICK ODLE Intro: 03/11/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.63	JURY QUESTIONNAIRE OF THOMAS I. OERY Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.64	JURY QUESTIONNAIRE OF TONIA K. OTT- PARTIN Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.65	JURY QUESTIONNAIRE OF MICHAEL REGAN Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.67	JURY QUESTIONNAIRE OF LAURA M. RIOS Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.69	JURY QUESTIONNAIRE OF MOISES ROSAS Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.70	JURY QUESTIONNAIRE OF JOHN T. RUSHING Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.72	JURY QUESTIONNAIRE OF DIANA L. SANTOS Intro: 03/11/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.73	JURY QUESTIONNAIRE OF GREGORY R. SCHMIDT Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.75	JURY QUESTIONNAIRE OF SARA SHORT Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.76	JURY QUESTIONNAIRE OF CYNTHIA G. SIGUA Intro: 03/11/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.77	JURY QUESTIONNAIRE OF DAVID L. SMITH Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.80	JURY QUESTIONNAIRE OF ANNA L. TARRANT Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.81	JURY QUESTIONNAIRE OF JANET C. TIMMONS Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.82	JURY QUESTIONNAIRE OF JAMES W. TOUSSAINT Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.83	JURY QUESTIONNAIRE OF ROSS E. TRIPLETT Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.84	JURY QUESTIONNAIRE OF MATTHEW R. WALDEN Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT

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SECOND JUDICIAL DISTRICT COURT, COUNTY OF WASHOE
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Case No: CR98-0074 Filed: 01/09/98 Type: CRIMINAL
Title: STATE OF NEVADA VS. SHAWN HARTE ET AL

At issue: 00/00/00

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

ID	Description	Type	Relshp	Dept	Clrk
E.86	JURY QUESTIONNAIRE OF JOHN WEILAND Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.87	JURY QUESTIONNAIRE OF PATRICIA E. WELCH Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.88	JURY QUESTIONNAIRE OF MARY A. WILLIAMS Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT
E.89	JURY QUESTIONNAIRE OF DEVINA M. WILLINGHAM Intro: 03/08/99 Off/Obj: STIPULATED	01	COURT	4	MT

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TO THE PUBLIC

SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE

Case History - CR98P0074B

DEPT. D4

HON. CONNIE J. STEINHEIMER

Report Date & Time
7/27/2007
11:26:44AM

Case ID:	CR98P0074B	Case Description:	STATE VS. LATISHA BABB (D4) POST CONVICTION	Initial Filing Date:	12/4/2001
		Type:	Parties		

RESP	STATE OF NEVADA - STATE
APPE	LATISHA BABB - @104387
PETR	LATISHA BABB - @104387
PATY	Lisa A. Rasmussen, Esq. - 7491
DA	Richard Allen Gammick, Esq. - 1510
DATY	Gary Howard Hatlestad, Esq. - 1525

Charges

Charge No.	Charge Code	Charge Date	Charge Description
------------	-------------	-------------	--------------------

Plea Information

Charge No.	Plea Code	Plea Date	Plea Description
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Release Information

Custody Status

Hearings

Department	Event Description	Sched. Date & Time
1 D4	Tickle Start Code	2/26/2002 07:00:00

Extra Text: HAS SUPPLEMENTAL PETITION BEEN FILED?

Disposition:
T200 2/26/2002

Department	Event Description	Sched. Date & Time
2 D4	Tickle Start Code	4/2/2002 07:00:00

Extra Text: has stipulation extending time to file supplemental been filed?

Disposition:
T200 4/25/2002

-FOR INTERNAL COURT USE ONLY-
-NOT AN OFFICIAL DOCUMENT-
-REPORT MAY CONTAIN SEALED CASE INFORMATION-

Case		STATE VS. LATISHA BABB (D4)	
Case ID:	Description:	Case	Initial Filing Date: 12/4/2001
CR98P0074B	POST CONVICTION	Type:	
Department	Event Description	Sched. Date & Time	
3 D4	WRIT OF HABEAS CORPUS	9/2/2003 14:30:00	
Extra Text: Writ of Habeas Corpus Evidentiary Hearing		Disposition: D844 9/2/2003	
Department	Event Description	Sched. Date & Time	
4 D4	WRIT OF HABEAS CORPUS	9/26/2003 09:00:00	
Extra Text:		Disposition: D840 9/26/2003	
Department	Event Description	Sched. Date & Time	
5 D4	Tickle Start Code	5/31/2006 07:00:00	
Extra Text: HAS STATE RESPONDED TO THE PETITION		Disposition: T200 10/17/2006	
Department	Event Description	Sched. Date & Time	
6 D4	Tickle Start Code	10/16/2006 07:00:00	
Extra Text: HAS ORAL ARGUMENT ON MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS BEEN SET?		Disposition: T200 10/17/2006	
Department	Event Description	Sched. Date & Time	
7 D4	ORAL ARGUMENTS	11/30/2006 15:00:00	
Extra Text: MOTION TO DISMISS		Disposition: D845 11/28/2006 COURT RESET TO 1/10/07 AT 2:00 P.M.	
Department	Event Description	Sched. Date & Time	
8 D4	ORAL ARGUMENTS	1/10/2007 14:00:00	
Extra Text: MOTION TO DISMISS		Disposition: D435 1/10/2007 GRANTED MTN TO AMEND SECOND PETITION AS TO MCCONNELL ISSUE ONLY, MUST BE FILED /WIN 30 DAYS, WITH RESPONSE OR MTN TO DISMISS W/IN 45 DAYS MTN TO DISMISS AS TO ALL OTHER CLAIMS GRANTED ORAL ARGUMENTS ON MTN TO DISMISS AMENDED SECOND PETITION (IF FILED) SET	

**-FOR INTERNAL COURT USE ONLY-
-NOT AN OFFICIAL DOCUMENT-
-REPORT MAY CONTAIN SEALED CASE INFORMATION-**

Case ID: CR98P0074B **Case Description:** STATE VS. LATISHA BABB (D4)
Case Type: POST CONVICTION **Initial Filing Date:** 12/4/2001

Department **Event Description** **Sched. Date & Time**
9 D4 Tickle Start Code 4/2/2007 07:00:00

Extra Text: HAS PETITIONER RESPONDED TO THE MOTION TO DISMISS
Disposition:
T200 4/2/2007

Department **Event Description** **Sched. Date & Time**
10 D4 MOTION TO DISMISS... 4/5/2007 08:15:00

Extra Text: AMENDED SECOND PETITION
Disposition:
D425 4/5/2007 STATE TO PREPARE ORDER

Agency Cross Reference

Code **Agency Description** **Case Reference I.D.**
SC Supreme Court SCN 42886

Actions

Action Entry Date	Code	Code Description	Text
12/4/2001	3565	Pet Post-Conviction Relief	
12/4/2001	1075	Affidavit ...	AFFIDAVIT IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS
12/5/2001	3862	**Criminal Submit	DOCUMENT TITLE: PETITION FOR WRIT OF HABEAS CORPUS PARTY SUBMITTING: LATISHA BABB DATE SUBMITTED: 12-5-01 SUBMITTED BY: MA DATE RECEIVED JUDGE'S OFFICE: 12/10-01 premature submit FILED DATE & TITLE OF ORDER: Counsel for Petition/Setting Briefing Schedule
12/26/2001	2745	Ord Appointing ...	
2/26/2002	T200	Tickle End Code	
3/20/2002	3980	Stip and Order...	FOR EXTENSION OF TIME IN WHICH TO FILE SUPPLEMENTAL PETITION
4/25/2002	T200	Tickle End Code	
6/26/2002	4100	Supplemental Petition	
6/27/2002	3862	**Criminal Submit	DOCUMENT TITLE: SUPPLEMENTAL PET PARTY SUBMITTING: P. MEACHAM DATE SUBMITTED: 6/27/02 SUBMITTED BY: P. MEACHAM DATE RECEIVED JUDGE'S OFFICE: 7/3/02 FILED DATE & TITLE OF ORDER: PREMATURE SUBMIT FOR INTERIM CLAIM FOR FEES
6/27/2002	1665	Ex-Parte Application...	

**-FOR INTERNAL COURT USE ONLY-
-NOT AN OFFICIAL DOCUMENT-
-REPORT MAY CONTAIN SEALED CASE INFORMATION-**

Case ID: CR98P0074B		Case Description	Case Type	STATE VS. LATISHA BABB (D4)	POST CONVICTION	Initial Filing Date: 12/4/2001
6/27/2002	3860	Request for Submission			DOCUMENT TITLE: EX PARTE APPLICATION FOR FEES PARTY SUBMITTING: HUYNH DATE SUBMITTED: 7/1/02 SUBMITTED BY: P. MEACHAM DATE RECEIVED JUDGE'S OFFICE: 7/3/02 FILED DATE & TITLE OF ORDER: 7/10/02 order granting ORDER APPROVING EX PARTE APPLICATION FOR INTERIM CLAIM FOR FEES FOR PARTIAL DISMISSAL OF PET FOR WRIT	
7/10/2002	3370	Order ...				
8/7/2002	2490	Motion ...				
8/7/2002	1130	Answer ...			TO PET FOR WRIT	
8/21/2002	2645	Opposition to Mtn ...			FOR PARTIAL DISMISSAL OF PET AND SUPPLEMENTAL PET FOR WRIT	
8/27/2002	3860	Request for Submission			DOCUMENT TITLE: MTN FOR PARTIAL DISMISSAL PARTY SUBMITTING: DA DATE SUBMITTED: 8/28/02 SUBMITTED BY: P. MEACHAM DATE RECEIVED JUDGE'S OFFICE: 8/29/02	
8/27/2002	3897	Return				
1/27/2003	3370	Order ...			GRANTING MOTION FOR PARTIAL DISMISSAL OF PET FOR WRIT	
1/29/2003	1665	Ex-Parte Application...			FOR INTERIM CLAIM FOR FEES AND WAIVER	
1/29/2003	3860	Request for Submission			DOCUMENT TITLE: EX PARTE APPLICATION PARTY SUBMITTING: HUYNH DATE SUBMITTED: 1/30/03 SUBMITTED BY: P. MEACHAM DATE RECEIVED JUDGE'S OFFICE:	
2/5/2003	3370	Order ...			GRANTING COMPENSATION FOR SERVICES RENDERED	
3/31/2003	2525	Notice of Change of Address				
6/12/2003	1665	Ex-Parte Application...			EX PARTE APPLICATION FOR INTERIM CLAIM FOR FEES AND WAIVER	
6/12/2003	3860	Request for Submission			DOCUMENT TITLE: EX PARTE APPLICATION FOR INTERIM CLAIM FOR FEES AND WAIVER PARTY SUBMITTING: NATHALIE HUYNH DATE SUBMITTED: 6-23-03 SUBMITTED BY: GV DATE RECEIVED JUDGE'S OFFICE:	
6/18/2003	1250	Application for Setting			App to Set Writ of Habeas Corpus Evidentiary Hearing filed 6/18/03	
7/2/2003	3370	Order ...			GRANTING COMPENSATION FOR SERVICES RENDERED	
7/7/2003	4055	Subpoena				
8/6/2003	1260	Application Produce Prisoner				
8/6/2003	3340	Ord to Produce Prisoner				
9/4/2003	1250	Application for Setting				
9/23/2003	3980	Stip and Order...			ALLOWING TESTIMONY BY TELEPHONE	

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Case ID: CR98P0074B		Case Description	Case Type	STATE VS. LATISHA BABB (D4)	Initial Filing Date: 12/4/2001
9/26/2003	4050	Stipulation ...		POST CONVICTION	
10/8/2003	1665	Ex-Parte Application...		FOR TESTIMONY OF DEBBIE MERRITT TO BE TELEPHONIC (ORDER STRIKEN FROM DOCUMENT, COURT DENIED REQUEST IN OPEN COURT)	
10/8/2003	3860	Request for Submission		FOR INTERIM CLAIM FOR FEES AND WAIVER	
				DOCUMENT TITLE: EX PARTE APPLICATION FOR INTERIM CLAIM FOR FEES AND WAIVER	
				PARTY SUBMITTING: NATHALIE HUYNH	
				DATE SUBMITTED: 10-14-03	
				SUBMITTED BY: GVELARDE	
				DATE RECEIVED JUDGE'S OFFICE:	

10/17/2003	4185	Transcript ...		01-21-04 ORDER SENT TO DA'S OFFICE	
10/27/2003	3370	Order ...		09/26/03 - PETITION FOR WRIT OF HABEAS CORPUS	
11/14/2003	3105	Ord Granting ...		FOR PAYMENT OF FEES	
1/26/2004	1750	Findings, Conclusions & Judg		TRANSCRIPTION FEES	
1/26/2004	1315	** Case Closed		POST CONVICTION DENIED	
1/30/2004	2540	Notice of Entry of Ord			
2/23/2004	2515	Notice of Appeal Supreme Court			
2/23/2004	1310	Case Appeal Statement			
2/24/2004	1350	Certificate of Clerk			
2/24/2004	1365	Certificate of Transmittal			
2/25/2004	1665	Ex-Parte Application...		FOR INTERIM CLAIM FOR FEES AND WAIVER	
2/25/2004	3860	Request for Submission		DOCUMENT TITLE: EX PARTE APPLICATION FOR INTERIM CLAIM FOR FEES AND WAIVER	
				PARTY SUBMITTING: NATHALIE HUYNH, ESQ.	
				DATE SUBMITTED: 2-26-04	
				SUBMITTED BY: GVELARDE	
				DATE RECEIVED JUDGE'S OFFICE:	

3/4/2004	1188	Supreme Court Receipt for Doc		ORDER SIGNED 03-10-04	
3/4/2004	1187	**Supreme Court Case No. ...		SUPREME COURT CASE NO. 42886	
3/10/2004	3370	Order ...		SUPREME COURT CASE NO. 42886	
5/19/2004	1665	Ex-Parte Application...		GRANTING EX PARTE APPLICATION FOR INTERIM CLAIM FOR FEES & WAIVER	
5/19/2004	3860	Request for Submission		FOR INTERIM CLAIM FOR FEES	
				DOCUMENT TITLE: EX PARTE APPLICATION FOR INTERIM CLAIM FOR FEES	
				PARTY SUBMITTING: NATHALIE HUYNH, ESQ.	
				DATE SUBMITTED: 5-25-04	
				SUBMITTED BY: GVELARDE	
				DATE RECEIVED JUDGE'S OFFICE: 5/26/04	

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Case ID: CR98P0074B		Case Description:	Case Type:	STATE VS. LATISHA BABB (D4)	Initial Filing Date: 12/4/2001
6/7/2004	3370	Order ...		POST CONVICTION	FOR INTERIM CLAIM FOR FEES
11/8/2004	1665	Ex-Parte Application...			EX PARTE APPLICATION FOR INTERIM CLAIM FOR FEES AND WAIVER
11/8/2004	3860	Request for Submission			DOCUMENT TITLE: EX PARTE APPLICATION FOR INTERIM CLAIM FOR FEES AND WAIVER PARTY SUBMITTING: NATHALIE HUYNH, ESQ. DATE SUBMITTED: 11-10-04 SUBMITTED BY: GVELARDE DATE RECEIVED JUDGE'S OFFICE:
11/8/2004	2590	Notice Withdrawal of Attorney			
11/17/2004	4134	Supreme Court Order Affirming			SUPREME COURT CASE NO. 42886
11/19/2004	1675	Ex-Parte Ord...			FOR INTERIM FEES
12/1/2004	4145	Supreme Court Remittitur			SUPREME COURT CASE NO. 42886
12/1/2004	4111	Supreme Ct Clk's Cert & Judg			SUPREME COURT CASE NO. 42886
12/1/2004	4134	Supreme Court Order Affirming			SUPREME COURT CASE NO. 42886
3/27/2006	1325	** Case Reopened			
3/27/2006	3565	Pet Post-Conviction Relief			
4/4/2006	3862	**Criminal Submit			DOCUMENT TITLE: PETITION FOR POST CONVICTION PARTY SUBMITTING: LISA RASMUSSEN, ESQ. DATE SUBMITTED: 4-4-06 SUBMITTED BY: GVELARDE DATE RECEIVED JUDGE'S OFFICE: 4/5/06
4/5/2006	3373	Other ...			EXHIBITS TO PETITION FOR POST CONVICTION (VOLUME 1; EXHIBITS 1-27) ***DOCUMENTS LOCATED IN EVIDENCE ROOM***
4/5/2006	3373	Other ...			EXHIBITS TO PETITION FOR POST CONVICTION (VOLUME 7; EXHIBITS 42) ***DOCUMENTS LOCATED IN EVIDENCE ROOM***
4/5/2006	3373	Other ...			EXHIBITS TO PETITION FOR POST CONVICTION (VOLUME 11; EXHIBITS 66-71) ***DOCUMENTS LOCATED IN EVIDENCE ROOM***
4/5/2006	3373	Other ...			EXHIBITS TO PETITION FOR POST CONVICTION (VOLUME 10; EXHIBITS 54-65) ***DOCUMENTS LOCATED IN EVIDENCE ROOM***
4/5/2006	3373	Other ...			EXHIBITS TO PETITION FOR POST CONVICTION (VOLUME 9; EXHIBITS 44-53) ***DOCUMENTS LOCATED IN EVIDENCE ROOM***
4/5/2006	3373	Other ...			EXHIBITS TO PETITION FOR POST CONVICTION (VOLUME 8; EXHIBITS 43) ***DOCUMENTS LOCATED IN EVIDENCE ROOM***
4/5/2006	3373	Other ...			EXHIBITS TO PETITION FOR POST CONVICTION (VOLUME 6; EXHIBITS 38-41) ***DOCUMENTS LOCATED IN EVIDENCE ROOM***
4/5/2006	3373	Other ...			EXHIBITS TO PETITION FOR POST CONVICTION (VOLUME 2; EXHIBITS 28-33) ***DOCUMENTS LOCATED IN EVIDENCE ROOM***

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Case ID: CR98P0074B		Case Description:	STATE VS. LATISHA BABB (D4)	
		Type:	POST CONVICTION	Initial Filing Date: 12/4/2001
4/5/2006	3373	Other ...		
4/5/2006	3373	Other ...	EXHIBITS TO PETITION FOR POST CONVICTION (VOLUME 4; EXHIBITS 35)	
4/5/2006	3373	Other ...	***DOCUMENTS LOCATED IN EVIDENCE ROOM***	
4/5/2006	3373	Other ...	EXHIBITS TO PETITION FOR POST CONVICTION (VOLUME 5; EXHIBITS 36-37)	
4/5/2006	3373	Other ...	***DOCUMENTS LOCATED IN EVIDENCE ROOM***	
4/7/2006	3370	Order ...	EXHIBITS TO PETITION FOR POST CONVICTION (VOLUME 3; EXHIBITS 34)	
5/17/2006	1130	Answer ...	***DOCUMENTS LOCATED IN EVIDENCE ROOM***	
5/17/2006	2300	Mtn to Dismiss Pet	STATE HAS 45 DAYS TO RESPOND TO THE PETITION FOR POST CONVICTION	
5/30/2006	3897	Return	TO PETITION FOR POST CONVICTION	
6/13/2006	2645	Opposition to Mtn ...	FOR POST CONVICTION	
6/29/2006	3860	Request for Submission	RE: POST CONVICTION	
			TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS	
			DOCUMENT TITLE: MOTION TO DISMISS PETITION FO WRIT OF HABEAS CORPUS	
			PARTY SUBMITTING: TERRENCE P. MCCARTHY	
			DATE SUBMITTED: 6/29/06	
			SUBMITTED BY: LMATHEUS	
			DATE RECEIVED JUDGE'S OFFICE:	
9/28/2006	3347	Order to Set	ORAL ARGUMENT ON MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)	
10/17/2006	1250	Application for Setting	ORAL ARGUMENTS ON MOTION TO DISMISS 11/30/06 AT 3:00 P.M.	
10/17/2006	T200	Tickle End Code		
10/17/2006	T200	Tickle End Code		
11/28/2006	1250	Application for Setting	ORAL ARGUMENTS ON MOTION TO DISMISS 1/10/07 AT 2:00 P.M. (VACATES 11/30/06 HEARING AT 3:00 P.M.)	
1/8/2007	2610	Notice ...	OF FIRM CHANGE	
1/10/2007	MIN	**Minutes	MOTION TO DISMISS	
2/9/2007	4105	Supplemental ...	SUPPLEMENT TO PETITION FOR WRIT OF HABEAS CORPUS	
2/20/2007	3862	**Criminal Submit	DOCUMENT TITLE: SUPPLEMENT TO PETITION FOR WRIT OF HABEAS CORPUS	
			PARTY SUBMITTING: LISA RASMUSSEN	
			DATE SUBMITTED: 2/9/07	
			SUBMITTED BY: LMATHEUS	
			DATE RECEIVED JUDGE'S OFFICE: 2/23/07	
3/6/2007	3370	Order ...	APPOINTING LISA RASMUSSEN	
3/26/2007	2300	Mtn to Dismiss Pet	MOTION TO DISMISS SUPPLEMENT TO PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)	
4/2/2007	T200	Tickle End Code		

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Case ID: CR98P0074B		Case Description:	Case Type:	STATE VS. LATISHA BABB (D4)	Initial Filing Date: 12/4/2001
4/5/2007	MIN	**Minutes		POST CONVICTION	MOTION TO DISMISS AMENDED SECOND PETITION FOR POST CONVICTION
4/5/2007	3370	Order ...			GRANTING MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) IN PART/ALLOWING PETITIONER'S COUNSEL TO SUPPLEMENT THE PETITION AS TO THE MCCONNELL ISSUE
5/18/2007	4185	Transcript ...			04/05/07 - ORAL ARGUMENTS
5/18/2007	4185	Transcript ...			01/10/07 - MOTION TO DISMISS
6/29/2007	3370	Order ...			PAYMENT OF TRANSCRIPTION FEES BE GRANTED AND THAT THE STATE PUBLIC DEFENDER PAY CAPTIONS UNLIMITED OF NEVADA, INC THE SUM OF \$192.70
7/5/2007	1315	** Case Closed			
7/5/2007	1750	Findings, Conclusions & Judg			PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION), THE SUPPLEMENT AND THE SECOND SUPPLEMENT IS DISMISSED
7/26/2007	2540	Notice of Entry of Ord			
7/26/2007	2515	Notice of Appeal Supreme Court			
7/26/2007	1310	Case Appeal Statement			
7/27/2007	1350	Certificate of Clerk			
7/27/2007	1365	Certificate of Transmittal			

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ORIGINAL

FILED

APR 05 2007

RONALD A. LONGSTAFF, CLERK

By: *[Signature]*
DEPUTY CLERK

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF WASHOE

LATISHA MARIE BABB,

Petitioner,

v.

Case No. CR98P0074B

JENNIFER LOZOWSKY,
E.K. McDANIEL,

Dcpt. No. 4

Respondents.

ORDER GRANTING MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS
(POST-CONVICTION)

The State has moved to dismiss the petition for writ of habeas corpus asserting that it is untimely, abusive and successive and there are no allegations that, if proven, would tend to overcome the procedural bar. This is an interim order that will not dispose of all claims for relief because this court has granted leave to file a second supplement to the petition. This order addresses only the claims for relief found in the petition.

The petition is untimely. See NRS 34.726. The one year time limit in that statute applies to second petitions as well as first petitions. *Pellegrini v. State*, 117 Nev. 860, 34 P.2d 519 (2001). In order to overcome that mandatory procedural bar, the petitioner is required to allege and prove facts demonstrating that there was some external impediment that prevented her from bringing the petition

1 within the time allowed by the legislature. The excuse must be claim-specific. That is, the petitioner
2 must allege facts demonstrating some external impediment to bringing a specific claim before the court
3 within the time allowed by the legislature. *Pellegrini*, 117 Nev. at 887 (external impediments may
4 involve the factual or legal unavailability of the claim or some official interference with compliance).
5 Here, there are no such allegations. At part 19 of the petition, when asked to explain the delay, Babb's
6 current counsel explains how she brought the instant petition after a federal court ruled that her claims
7 were not exhausted. There is no allegations as to why the petitioner, Latisha Babb, did not present all of
8 her claims to the court within one year of the remittitur following her direct appeal. This issue is not
9 whether Babb's current counsel has been diligent, but whether Latisha Babb had some impediment to
10 bringing all of her claims in a timely petition. Part 19 of the petition does not address that issue at all.

11 At page 35 of the petition there is an allegation that may have been meant as the cause to excuse
12 the delay. At that part of the petition Babb alleges that her first post-conviction counsel was ineffective.
13 That allegation is insufficient as a matter of law because there is no right to the effective assistance of
14 post-conviction counsel in a non-capital case. *Pellegrini*, 117 Nev. at 887-888. Therefore, this court
15 concludes that the petition is untimely and that Babb has alleged no external impediment to complying
16 with state procedural law.

17 At oral arguments on the motion to dismiss, Babb sought to frame her excuse not in terms of
18 ineffective assistance of post-conviction counsel, but in terms of due process. This is apparently a
19 contention that state procedural rules that allow a claim to be forfeited without the express consent of the
20 petitioner fly in the face of the due process clause. The argument is incorrect. *See Ford v. Warden*, 111
21 Nev. 872, 901 P.2d 123 (1995). The state is not required to allow a post-conviction collateral attack at
22 all, and if the state elects to provide such a vehicle, it is free to enact its procedural rules as it sees fit.
23 The procedural rules applicable to a Nevada post-conviction habeas corpus action do not violate the due
24 process clause. *See Pellegrini, supra*.

25 The petition is also abusive and successive in that claims one through twenty-one were
26 previously raised or could have been previously raised either on direct appeal or in the first habeas

1 corpus action. See NRS 34.810. To overcome that mandatory procedural bar, the petitioner bears the
2 burden of demonstrating good cause and prejudice. For instance, on any claim that could have been
3 raised earlier, the petitioner must demonstrate some external impediment to bringing the claim in a
4 single, timely petition for writ of habeas corpus. *Pellegrini, supra*. Babb has made no effort to plead
5 such facts except for the allegation that prior post-conviction counsel was ineffective in advancing the
6 claims that trial counsel was ineffective. As indicated above, that claim is legally insufficient. See
7 *Mcaque v. Whitley*, 112 Nev. 159, 912 P.2d 255 (1996). Therefore, even if the petition was timely,
8 claims one through twenty-one would have to be dismissed.

9 When the parties appeared for argument on this motion, Babb's counsel suggested that she
10 wished to raise an additional argument, based on *McConnell v. State*, 120 Nev. 1043, 102 P.3d 606
11 (2004). The court granted leave to file an additional supplement raising a claim based on that decision
12 and will address the validity of that new claim later. For the moment, the court finds that the claims
13 extant must be dismissed.

14 DATED this 31 day of March, 2007.

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16 Connie J. Steinheimer
17 DISTRICT JUDGE
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FILED

2007 JUL -5 AM 11:14

RONALD A. LONGSTIN, JR.

BY *Becher*
DEPUTY

CR98P0074B DC-9900001251-049
STATE VS. LATISHA BABB (D4) 4 Pages
District Court 07/05/2007 11:14 AM
Washoe County
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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE

LATISHA MARIE BABB,

Petitioner,

v.

Case No. CR98P0074B

JENNIFER LOZOWSKY,
E.K. McDANIEL,

Dept. No. 4

Respondents.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT

Petitioner Babb stood trial with co-defendants Harte and Sirex. Babb was convicted of murder. The jury imposed a sentence of life without parole for Sirex and Babb. Harte was sentenced to death. Babb appealed but the judgment was affirmed. She then filed a petition for writ of habeas corpus. That was denied and she again appealed but the judgment was affirmed. She then filed a second petition. This court previously entered an interim order, ruling that all of the claims in the second petition would be dismissed as being untimely, abusive and successive. The court, however, allowed the opportunity to present new claims, not previously available, based on some recent developments in the law. Specifically, based on the holding in *Bejarano v. State*, 122 Nev. ___, 146 P.3d 265 (2006). The Court in that case held that a prior decision, *McConnell v. State*, 120 Nev. 1043, 102 P.3d 606 (2004) would be applied retroactively. *McConnell*, in turn, held that where a murder conviction is based upon a felony

1 murder theory, then the aggravating circumstance based on that same felony murder is not available in
2 the sentencing phase.

3 Babb filed a second supplement to the second petition, claiming that she is entitled to relief due
4 to those decisions. The State moved to dismiss that second supplement, contending that her arguments
5 are incorrect as a matter of law, primarily because Babb was not sentenced to death. On April 5, 2007,
6 this court heard oral arguments on that motion.

7 Babb first argues that her sentence would necessarily have been lower than co-defendant Harte's
8 and that Harte should not have been eligible for the death penalty. This contention is incorrect because
9 no jury instruction called for the jury to impose sentences based on comparing the sentences for the
10 various defendants. In *Strickland v. Washington*, 466 U.S. 668, 695, 104 S.Ct. 2052, 2068 (1994), the
11 Court held:

12 An assessment of the likelihood of a result more favorable to the defendant
13 must exclude the possibility of arbitrariness, whimsy, caprice,
14 'nullification,' and the like. A defendant has no entitlement to the luck of
15 a lawless decisionmaker, even if a lawless decision cannot be reviewed.
16 The assessment of prejudice should proceed on the assumption that the
17 decisionmaker is reasonably, conscientiously, and impartially applying the
18 standards that govern the decision. It should not depend on the
19 idiosyncracies of the particular decisionmaker.

20 Similarly, in other contexts, the law presumes that jurors followed their instructions. *Leonard v.*
21 *State*, 117 Nev. 53, 66, 17 P.3d 397, 405 (2001). The jury in this case was cautioned to consider the
22 defendants separately. A conscientious decision-maker would consider for each defendant both the
23 nature of the crime and the character of the defendant and impose a suitable sentence, without regard to
24 the other defendants. The notion that a jury would have imposed a lesser sentence for Babb if it had not
25 been allowed to impose the death penalty on co-defendant Harte is based on pure speculation and the
26 court finds that speculative claim of prejudice does not lead to relief for Babb.

27 Babb also presents the argument that she was entitled to be tried by a jury not composed of those
28 who felt they could impose the death penalty. As the Supreme Court has noted, the petitioner's position
29 is "illogical and hopelessly impractical." *Lockhart v. McCree*, 476 U.S. 162, 178, 106 S.Ct. 1758, 1767

1 (1986). In *Buchanan v. Kentucky*, 483 U.S. 402, 107 S.Ct. 2906 (1987), the Court held that a death-
2 qualified jury does not violate the rights of a defendant who is not facing the death penalty.
3 Furthermore, the court notes that the premise underlying the argument is that co-defendant Harte should
4 not have faced a capital charge. The court notes that there is ongoing litigation in Harte's case and his
5 fate has not yet been decided. The notion that he ought not to have faced a capital charge is still
6 undecided. Nevertheless, this order simply recognizes that the constitution does not demand a jury that
7 includes those who are willing to disregard the instructions of the court. Finally, the argument seems to
8 ignore the fact that a death-qualified jury is also a life-qualified jury. See *Morgan v. Illinois*, 504 U.S.
9 719, 112 S.Ct. 2222 (1992). Babb does not attempt to demonstrate how she was prejudiced by a jury
10 that included only those who were impartial and indifferent. This court finds no support for the notion
11 that a defendant has a right to be tried by a jury that includes those who are not impartial or indifferent
12 and so rejects the argument presented by Babb. There being no sufficient allegation of prejudice, no
13 hearing is warranted and dismissal is appropriate.

14 Upon consideration of the motion, the opposition and the arguments of the parties, the motion is
15 granted. Each claim in the petition, the supplement and the second supplement is dismissed.

16 DATED this 29 day of June, 2007.

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18 Connie J. Steinheim
19 DISTRICT JUDGE
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1 CERTIFICATE OF MAILING

2
3 Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Washoe County
4 District Attorney's Office and that, on this date, I deposited for mailing through the U.S. Mail Service at
5 Reno, Washoe County, Nevada, postage prepaid, a true copy of the foregoing document, addressed to:

6 Lisa A. Rasmussen, Esq.
7 Watt, Tieder, Hoffar & Fitzgerald, LLP
8 Lakes Business Park
8831 W. Sahara Ave.
Las Vegas, NV 89117

9 Latisha Marie Babb #61433
10 Southern Nevada Women's Correctional Center
4370 Smiley Road
11 North Las Vegas, NV 89115

12 DATED: July 5, 2007.

13 Shelly M. Tucker
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1 CODE: 2540

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FILED

2007 JUL 26 PM 4:30

RONALD A. LONGTIN, JR.

BY

DEPUTY

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

LATISHA MARIE BABB,

Petitioner,

CASE NO: CR98P0074B

VS.

DEPT. NO.: 4

THE STATE OF NEVADA,

Respondent,

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that on July 5, 2007 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 the 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 mail on July 26, 2007.

RONALD A. LONGTIN, JR.

Clerk of the Court

By

Deputy Clerk

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FILED

2007 JUL -5 AM 11:14

RONALD A. LONGSTIN, JR.

BY Deschen
DEPUTY

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

LATISHA MARIE BABB,

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JENNIFER LOZOWSKY,
E.K. McDANIEL,

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16 The assessment of prejudice should proceed on the assumption that the
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21 *State*, 117 Nev. 53, 66, 17 P.3d 397, 405 (2001). The jury in this case was cautioned to consider the
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23 nature of the crime and the character of the defendant and impose a suitable sentence, without regard to
24 the other defendants. The notion that a jury would have imposed a lesser sentence for Babb if it had not
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10 that included only those who were impartial and indifferent. This court finds no support for the notion
11 that a defendant has a right to be tried by a jury that includes those who are not impartial or indifferent
12 and so rejects the argument presented by Babb. There being no sufficient allegation of prejudice, no
13 hearing is warranted and dismissal is appropriate.

14 Upon consideration of the motion, the opposition and the arguments of the parties, the motion is
15 granted. Each claim in the petition, the supplement and the second supplement is dismissed.

16 DATED this 29 day of June, 2007.

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18 Connie I. Steinheim
19 DISTRICT JUDGE
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1
2 CERTIFICATE OF SERVICE

3 Case No. CR98P0074B

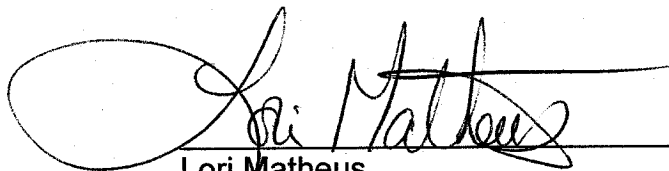
4 Pursuant to NRCP 5 (b), I certify that I am an employee of the Second
5 Judicial District Court, and that on the 26th day of July, 2007, I deposited in the Washoe
6 County mailing system for postage and mailing with the U.S. Postal Service in Reno,
7 Nevada, a true copy of the attached document, addresses to:

8 WASHOE COUNTY DISTRICT
9 ATTORNEY'S OFFICE
10 APPELLATE DIVISION
11 (Inter-office mail)

12 ATTORNEY GENERAL'S OFFICE
13 100 N. CARSON STREET
14 CARSON CITY, NV 89701-4717

15 LISA A. RASMUSSEN, ESQ.
16 WATT, TIEDER, HOFFAR & FITZGERALD
17 8831 W. SAHARA AVENUE
18 LAKES BUSINESS PARK
19 LAS VEGAS, NV 89117

20 LATISHA MARIE BABB #61433
21 SOUTHERN NEVADA WOMEN'S CORRECTIONAL CENTER
22 4370 SMILEY ROAD
23 NORTH LAS VEGAS, NV 89115

24
25
26
27
28

Lori Matheus
Deputy Clerk



DATE, JUDGE
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

4/5/07

MOTION TO DISMISS AMENDED SECOND PETITION FOR POST

HONORABLE

CONVICTION

CONNIE

STEINHEIMER

DEPT. NO.4

Counsel Lisa Rasmussen, Esq., present on behalf of the Petitioner, who previously waived her appearance at this hearing. Deputy District Attorney Terrence McCarthy, Esq., represented the State.

M. Stone

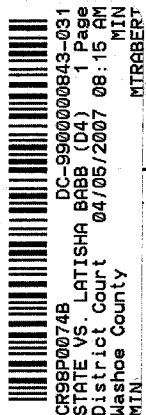
(Clerk)

S. Loder

(Reporter)

Motion to Dismiss Amended Second Petition for Post Conviction by State's counsel; presented argument; objection and argument by Petitioner's counsel; reply by State's counsel.

This Court finds that although there may be a procedural bar, this motion is being decided on the merits of the claims and further, that the Petitioner has not shown any prejudice, therefore, **COURT ENTERED ORDER** granting the Motion to Dismiss the Amended Second Petition for Post Conviction. State's counsel to prepare order.



CASE NO. CR98P0074B TITLE: LATISHA BABB VS. THE STATE OF NEVADA

DATE, JUDGE
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

1/10/07

MOTION TO DISMISS

HONORABLE

Petitioner not present being represented by Lisa Rasmussen, Esq. Deputy

CONNIE

District Attorney Terrence McCarthy, Esq., represented the State.

STEINHEIMER

Petitioner previously waived her appearance for this hearing.

DEPT. NO.4

Motion to Dismiss Petition by State's counsel; presented argument;

M. Stone

objection and argument by Petitioner's counsel; reply by State's counsel.

(Clerk)

Motion to Amend Petition by Petitioner's counsel; presented argument;

S. Loder

objection and argument by State's counsel; reply by Petitioner's counsel.

(Reporter)

Motion for Appointment of Counsel by Petitioner's counsel; no objection by State's counsel.

COURT ENTERED ORDER granting the Motion to Dismiss Petition as to all Claims except the McConnell Issue; granting the Motion to Amend the Petition as to the McConnell Issue only, which must be filed within thirty (30) days of this hearing, response to be filed within forty-five (45) days of the filing of the Amended Petition; granting the Motion for Appointment of Lisa Rasmussen as Counsel of Record, who shall be paid by the State of Nevada Public Defender's Office; and setting a hearing, at which arguments on a Motion to Dismiss Amended Petition shall be heard, if filed, or an Evidentiary Hearing on the Amended Petition will be set.

4/5/07

8:15 a.m.

Mtn to

Dismiss/Mtn

To Set Evid.

Hrg

CR98P0074B
STATE VS. LATISHA BABB (D4)
District Court
Washoe County
DC-9900000559-234
1 Page
01/10/2007 02:00 PM
MIN

CASE NO. CR98-0074

TITLE: THE STATE OF NEVADA VS. LATISHA MARIE BABB, WESTON
EDWARD SIREX and SHAWN RUSSELL HARTE

DATE, JUDGE
OFFICERS OF

PAGE ONE

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

5/7/99

ENTRY OF JUDGMENT AND IMPOSITION OF SENTENCE - All

HONORABLE

Defendants

CONNIE

STEINHEIMER

DEPT. NO.4

M. Stone

(Clerk)

D. Phipps

(Reporter)

Deputy District Attorneys Thomas Barb and Elliott Sattler represented the State. Defendant Latisha Marie Babb present with counsel, Paul Giese and Jerome Wright. Defendant Weston Edward Sirex present with counsel, Jack Alian and Jenny Hubach. Defendant Shawn Russell Harte present with counsel, Jack Ohlson and John Springgate. Probation Officer Robert Tucker also present.

Court noted receipt of reports for all Defendants. Defense counsel Wright presented argument for minimum possible penalty and concurrent time regarding Count II. Defense counsel Hubach presented argument for minimum possible penalty and concurrent time regarding Count II. Defense counsel Ohlson submitted matter on the record previously presented. State's counsel presented argument for the maximum possible sentence and for consecutive time regarding Count II.

Defendant Babb made statement on behalf of herself.

Defendant Sirex declined to make a statement on his own behalf.

Defendant Harte declined to make a statement on his own behalf.

Probation Officer Tucker stood on recommendation.

As to Defendant Babb, COURT ORDERED JUDGMENT ENTERED and sentenced defendant to the Nevada Department of Prisons for the term of Life without the Possibility of Parole, for Count I, with a consecutive term of Life without the Possibility of Parole for the use of a deadly weapon; and by imprisonment in the Nevada Department of Prisons for the maximum term of one hundred eighty (180) months with the minimum parole eligibility of seventy-two (72) months with credit for five hundred forty (540) days time served, for Count II, with a consecutive term of the maximum term of one hundred eighty (180) months with the minimum parole eligibility of seventy-two (72) months for the use of a deadly weapon. Count II is to be served concurrently with sentence in Count I. Defendant is further punished by submission to DNA analysis testing for the purpose of determining genetic markers; and payment of attorney's fees in the amount of Seven Hundred Fifty Dollars (\$750.00) to the Washoe County Public Defender's Office. Defendant is further ordered to pay a Twenty-Five Dollar (\$25.00) administrative assessment fee and a Two Hundred Fifty Dollar (\$250.00) DNA testing fee to the Clerk of the Second Judicial District Court.

As to Defendant Sirex, COURT ORDERED JUDGMENT ENTERED and

DATE, JUDGE
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COURT PRESENT

PAGE TWO

APPEARANCES-HEARINGCONT'D TO

5/7/99

ENTRY OF JUDGMENT AND IMPOSITION OF SENTENCE - AllHONORABLE Defendants

CONNIE sentenced defendant to the Nevada Department of Prisons for the term of
STEINHEIMER Life without the Possibility of Parole, for Count I, with a consecutive term of
DEPT. NO.4 Life without the Possibility of Parole for the use of a deadly weapon; and by
M. Stone imprisonment in the Nevada Department of Prisons for the maximum term
(Clerk) of one hundred eighty (180) months with the minimum parole eligibility of
D. Phipps seventy-two (72) months with credit for five hundred forty (540) days time
(Reporter) served, for Count II, with a consecutive term of the maximum term of one
hundred eighty (180) months with the minimum parole eligibility of seventy-
two (72) months for the use of a deadly weapon. The sentence in Count II
shall be served concurrently with the sentence in Count I. Defendant is
further punished by submission to DNA analysis testing for the purpose of
determining genetic markers; and payment of attorney's fees in the
amount of Seven Hundred Fifty Dollars (\$750.00) to the Washoe County
Public Defender's Office. Defendant is further ordered to pay a Twenty-
Five Dollar (\$25.00) administrative assessment fee and a Two Hundred
Fifty Dollar (\$250.00) DNA testing fee to the Clerk of the Second Judicial
District Court.

As to Defendant Harte, COURT ORDERED JUDGMENT ENTERED and
sentenced defendant to Death, for Count I; and by imprisonment in the
Nevada Department of Prisons for the maximum term of one hundred
eighty (180) months with the minimum parole eligibility of seventy-two (72)
months with credit for five hundred forty-one (541) days time served, for
Count II, with a consecutive term of the maximum term of one hundred
eighty (180) months with the minimum parole eligibility of seventy-two (72)
months for the use of a deadly weapon. The sentence in Count II shall be
served concurrently with the sentence in Count I. Defendant is further
punished by submission to DNA analysis testing for the purpose of
determining genetic markers; and payment of attorney's fees in the
amount of Seven Hundred Fifty Dollars (\$750.00) to the Washoe County
Public Defender's Office. Defendant is further ordered to pay a Twenty-
Five Dollar (\$25.00) administrative assessment fee and a Two Hundred
Fifty Dollar (\$250.00) DNA testing fee to the Clerk of the Second Judicial
District Court.

As to Defendant Harte, COURT FURTHER ENTERED ORDER that the
Director of the Department of Prisons shall carry out said Judgement by
executing the Defendant during the week commencing on Monday, the
16th day of August, 1999.

CASE NO. CR98-0074

TITLE: THE STATE OF NEVADA VS. LATISHA MARIE BABB, WESTON
EDWARD SIREX and SHAWN RUSSELL HARTE

DATE, JUDGE
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COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

5/7/99

ENTRY OF JUDGMENT AND IMPOSITION OF SENTENCE - All

HONORABLE Defendants

CONNIE Motion for release of evidence by Defense counsel Hubach; presented
STEINHEIMER argument. COURT ENTERED ORDER denying Motion pending appeal.

DEPT. NO.4

M. Stone

(Clerk)

D. Phipps

(Reporter)

CASE NO. CR98-0074 TITLE: THE STATE OF NEVADA VS. LATISHA MARIE BABB, WESTON EDWARD SIREX and SHAWN RUSSELL HARTE

DATE, JUDGE
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PAGE ONE

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

3/15/99

JURY TRIAL

HONORABLE

CONNIE

STEINHEIMER

DEPT. NO.4

M. Stone

(Clerk)

K. Yates/E.

Nelson

(Reporters)

Deputy District Attorneys Thomas Barb and Elliott Sattler represented the State. Defendant Babb present with counsel, Paul Giese and M. Jerome Wright. Defendant Sirex present with counsel, Jack Alian and Jenny Hubach. Defendant Harte present with counsel, John Ohlson and John Springgate. 10:24 a.m. Court convened.

Prospective jurors present.

Upon no objection by counsel and medical excuses being provided, COURT ENTERED ORDER excusing Juror Brant, to be recalled in 6 months; and excusing Juror Ott-Partin, to be recalled at the discretion of the Jury Commissioner.

Court personnel, respective counsel and defendants introduced to the jury panel.

Roll taken of prospective jurors; all present except Bogle and Key. Respective counsel stipulated to proceed in their absence. All prospective jurors sworn as to their qualifications to serve as trial jurors. Forty names drawn (Cunningham, Collins, Rosas, Carroll, Tarrant, Nikoley, Kies, Schmidt, Hopper, Hagan, Short, Garfinkle, Bartlett (excused upon stipulation of respective counsel), Rieger, Mayne, Bangert, Leonard, Gumagay, Triplett, Alpers, Ryan Johnson, Mitchell, Monroe, Timmons, Willingham, Scott, Cha, Cordova, Alas, Allan, Hickman, Judge, Emmich, Rogers, Oery, Mahomet, Watkins, Steele, Smith); and jurors seated.

10:45 a.m. John R. Bogle present and sworn as to his qualifications to serve as a trial juror.

11:00 a.m. Douglas R. Key present and sworn as to his qualifications to serve as a trial juror.

Prospective Jury Panel generally examined by Court.

Upon discussion at the bench and no objection by respective counsel, COURT excused juror Judge.

Another name drawn. Craig R. Fougner called, seated and generally examined by the Court.

Prospective Jury Panel further generally examined by Court.

Upon Juror Fougner's hearing disability and no objection by counsel, COURT excused Juror Fougner, to be recalled. When recalled Jury Commission must have hearing disability capability in the Courtroom.

Upon stipulation of respective counsel, COURT excused Juror Bogle due to medical reasons.

Another name drawn. Nina A. Killen called, seated and generally examined by Court.

CASE NO. CR98-0074 TITLE: THE STATE OF NEVADA VS. LATISHA MARIE BABB, WESTON EDWARD
SIREX and SHAWN RUSSELL HARTE

DATE, JUDGE
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COURT PRESENT APPEARANCES-HEARING

CONT'D TO

3/15/99 CONTINUED JURY TRIAL

K. Yates/E. Nelson
(Reporters) Upon discussion at the bench and no objection by respective counsel,
COURT excused Juror Garfinkle excused.

Another name drawn. Eulalia Brama called, seated and generally examined
by the Court.

Prospective Jury Panel further generally examined by Court.

Upon no objection by respective counsel, COURT excused Juror Collins to be
recalled in 3 months.

Another name drawn. Patricia E. Welch called, seated and generally
examined by the Court.

Prospective Jury Panel further generally examined by Court.

Upon no objections by respective counsel, COURT excused Juror Gumagay
to return on March 22, 1999; and excused Juror Cha due to language barrier.
Two additional names drawn. Paul A. Canady and Douglas R. Key called,
seated and generally examined by the Court.

12:30 p.m. Jury admonished. Court recessed.

2:00 p.m. Court reconvened with respective counsel and defendants present.
Prospective Jurors present. Clerk called roll; all present.

Upon no objection by respective counsel, COURT excused Juror Hagan due
to medical illness of mother.

Another name called. John T. Rushing called, seated and generally
examined by Court.

Upon direction of the Court, State's counsel Barb specifically examined the
prospective jury panel

Juror Oery challenged for cause by State's counsel Barb; traversed and
objected by defense counsel Springgate; challenge denied.

Prospective jury panel further specifically examined by State's counsel Barb.

Upon direction of the Court, defense counsel Hubach specifically examined
prospective jury panel.

3:25 p.m. Jury admonished. Court recessed.

3:40 p.m. Court reconvened with respective counsel and defendant's present.

Prospective jurors present.

Upon direction of the Court, defense counsel Giese specifically examined
prospective jury panel.

Juror Cunningham challenged for cause by defense counsel Giese; traversed

CASE NO. CR98-0074 TITLE: THE STATE OF NEVADA VS. LATISHA MARIE BABB, WESTON EDWARD SIREX and SHAWN RUSSELL HARTE

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COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

3/15/99

CONTINUED JURY TRIAL

K. Yates/D. and no objection by State's counsel Barb; challenge granted and juror Phipps excused.

(Reporter)

Another name drawn. Dianna Santo called, seated and generally examined by the Court and State's counsel Barb.

Defense counsel Giese further specifically examined the prospective jury panel.

Juror Santos challenged for cause by defense counsel Giese; traversed and objection by State's counsel Barb; challenge denied.

Defense counsel Giese further specifically examined the prospective jury panel.

Upon direction of the Court, defense counsel Springgate specifically examined the prospective jury panel.

Respective counsel passed the prospective juror panel for cause.

Court thanked and excused un-selected jurors.

5:00 p.m. Jury admonished. Court recessed.

5:40 p.m. Court reconvened with respective counsel and defendants present.

Respective counsel stipulated to the presence of all prospective jurors.

State's first peremptory challenge was of juror Rushing.

Defense's first peremptory challenge was of juror Santos.

State's second peremptory challenge was of juror Short.

Defense's second peremptory challenge was of juror Welch.

State's third peremptory challenge was of juror Rosas.

Defense's third peremptory challenge was of juror Tarrant.

State's fourth peremptory challenge was of juror Kies.

Defense's fourth peremptory challenge was of juror Schmidt.

State's fifth peremptory challenge was of juror Collings.

Defense's fifth peremptory challenge was of juror Mayne.

State's sixth peremptory challenge was of juror Mitchell.

Defense's sixth peremptory challenge was of juror Canady.

State's seventh peremptory challenge was of juror Timmons.

Defense's seventh peremptory challenge was of juror Triplett.

State's eighth peremptory challenge was of juror Alas.

Defense's eighth peremptory challenge was of juror Alpers.

State's ninth peremptory challenge was of juror Cordova.

Defense's ninth peremptory challenge was of juror Johnson.

State's tenth peremptory challenge was of juror Leonard.

Defense's tenth peremptory challenge was of juror Willingham.

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COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

3/15/99

CONTINUED JURY TRIAL

K. Yates/D. State's eleventh peremptory challenge was of juror Oery.
Phipps Defense's eleventh peremptory challenge was of juror Allan.
(Reporter) State's twelfth peremptory challenge was of juror Key.
Defense's twelfth peremptory challenge was of juror Emmrich.

State's peremptory challenge of alternate jurors was of juror Mahomet.
Defense's peremptory challenge of alternate jurors was of juror Smith.

The following twelve persons and two alternates were sworn to try this case:

Karoline K. Carroll	Jason C. Nikoley	Joy E. Hopper
Eulalia Brana	Gary V. Rieger	Lawrence D. Bangert
Julie C. Ryan	Anthony D. Monroe	Bradford L. Scott
Timothy E. Hickman	Nina A. Killen	Timothy B. Rogers
Alternates: Veronica J. Watkins and Karen K. Steele		

5:50 p.m. Jury admonished; said admonishment administered prior to each recess throughout the trial. Jury excused.

Outside the presence of the jury, discussion ensued regarding the Motion in Limine to exclude Expert Witnesses.

Request for Offer of Proof Hearing regarding the evidence to be presented by Defense's Expert Witnesses by defense counsel Ohlson; presented argument; objection and argument by State's counsel Barb. COURT ENTERED ORDER that Defense counsel Ohlson must secure the presence of the Expert Witnesses and the Court would hear the testimony prior to a ruling on the Motion in Limine.

Defense counsel Hubach joined in defense counsel Ohlson's Objection to the Motion in Limine.

Discussion ensued regarding the potential of the jury hearing that the Defendant's were in custody.

Request for substitution of witness to authenticate news cast tape by State's counsel Barb; presented argument; no objection by respective defense counsel. COURT ENTERED ORDER allowing Steve Miller to be substituted in place of Ethan Hart.

6:25 p.m. Court recessed. Defendants remanded to the custody of the sheriff.

CASE NO. CR98-0074 TITLE: THE STATE OF NEVADA VS. LATISHA MARIE BABB, WESTON EDWARD SIREX and SHAWN RUSSELL HARTE

DATE, JUDGE
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COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

3/16/99

CONTINUED JURY TRIAL

HONORABLE Deputy District Attorneys Thomas Barb and Elliott Sattler represented the
CONNIE State. Defendant Babb present with counsel, Paul Giese and M. Jerome
STEINHEIMER Wright. Defendant Sirex present with counsel, Jack Alian and Jenny Hubach.
DEPT. NO.4 Defendant Harte present with counsel, John Ohlson and John Springgate.

M. Stone 10: 40 a.m. Court reconvened outside the presence of the jury.

(Clerk) Defense counsel Giese reserved opening statement.

K. Yates/E. Defense counsel Hubach and Springgate wished to present an opening
Nelson statement after State's counsel.

(Reporters) 10:41 a.m. Jury entered. Respective counsel stipulated to the presence of the
jury.

Court Clerk read the Indictment aloud and indicated that pleas of not guilty
had previously been entered by each of the defendants.

State's counsel Elliott presented opening statement.

Defense counsel Hubach presented opening statement.

Defense counsel Springgate presented opening statement.

Defense counsel Giese reserved opening statement.

Respective defense counsel Giese and Springgate invoked the rule of
exclusion.

Gerald Vaughn called by State's counsel Elliott, sworn and testified; cross-
examined by respective defense counsel Alian, Wright and Springgate;
redirect examined.

EXHIBIT 2A offered by State's counsel Elliott; no objection by respective
defense counsel; ordered admitted into evidence.

Witness Vaughn further redirect examined.

EXHIBIT 2B offered by State's counsel Elliott; no objection by respective
defense counsel; ordered admitted into evidence.

Witness Vaughn further redirect examined; excused.

John Lagamma called by State's counsel Elliott, sworn and testified; cross-
examined by respective defense counsel Alian, Wright and Springgate;

CASE NO. CR98-0074 TITLE: THE STATE OF NEVADA VS. LATISHA MARIE BABB, WESTON EDWARD SIREX and SHAWN RUSSELL HARTE

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APPEARANCES-HEARING

CONT'D TO

3/16/99

CONTINUED JURY TRIAL

K. Yates/E. excused.

Nelson

(Reporters)

12:03 p.m. Jury admonished and excused. Outside the presence of the jury, Defense counsel made statement regarding his offer of proof regarding the Motion to exclude Expert Testimony.

12:05 p.m. Court recessed.

1:43 p.m. Court reconvened outside the presence of the jury with respective counsel and defendants present.

Discussion ensued regarding the schedule of trial.

State's counsel Barb provided respective defense counsel with the curriculum vitae of Kevin Lattyak.

1:46 p.m. Jury entered. Respective counsel stipulated to the presence of the jury.

Ron Holst called by State's counsel Sattler, sworn and testified; cross-examined by respective defense counsel Alian and Springgate; excused.

Joey Machado called by State's counsel Sattler, sworn and testified; cross-examined by defense counsel Alian and Springgate; redirect examined; excused.

Kandi Payne-Davis called by State's counsel Sattler, sworn and testified.

EXHIBIT 7A offered by State's counsel Sattler; no objection by respective defense counsel; ordered admitted into evidence.

Witness further direct examined.

EXHIBIT 7C offered by State's counsel Sattler; no objection by respective defense counsel; ordered admitted into evidence.

Witness further direct examined; cross-examined by respective defense counsel; redirect examined.

EXHIBIT 19A offered by State's counsel Sattler; no objection by respective defense counsel; ordered admitted into evidence.

Witness Payne-Davis further redirect examined; recross-examined by

CASE NO. CR98-0074 TITLE: THE STATE OF NEVADA VS. LATISHA MARIE BABB, WESTON EDWARD SIREX and SHAWN RUSSELL HARTE

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COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

3/16/99

CONTINUED JURY TRIAL

K. Yates/E. respective defense counsel Alian and Springgate; excused.

Nelson

(Reporters)

2:45 p.m. Jury admonished. Court recessed.

3:12 p.m. Court reconvened outside the presence of the jury with respective counsel and defendants present for a petrocilli hearing.

State's counsel Barb set forth offer of proof.

Jim Stewart called by State's counsel Barb, sworn and testified; cross-examined by defense counsel Springgate.

Upon request by defense counsel Springgate; joinder by respective defense counsel Alian and Giese; objection by State's counsel Barb; denied.

Witness Stewart further cross-examined by respective defense counsel Springgate, Giese and Alian; redirect examined; excused, subject to recall.

Discussion ensued regarding schedule of witnesses.

4:00 p.m. Jury entered. Respective counsel stipulated to the presence of the jury.

Court excused jury panel until March 17, 1999, at 10:30 a.m.

4:01 p.m. Jury admonished and excused.

Bill Coleman called by State's counsel Barb, sworn and testified; cross-examined by respective defense counsel Springgate and Alian; excused, subject to recall.

Mark Joseph called by State's counsel Barb, sworn and testified; cross-examined by respective defense counsel Alian and Springgate.

Motion for Continuance of Petricelli hearing for disclosure of video tapes by respective defense counsel Springgate and Giese; presented argument; objection and argument by State's counsel Barb.

Upon clarification by the State, COURT ENTERED ORDER allowing testimony from Witness Joseph as set forth by State's counsel Barb and nothing more until further hearing.

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COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

3/16/99 CONTINUED JURY TRIAL

K. Yates/E. Witness Joseph excused, subject to recall.

Nelson

(Reporters)

Defense counsel Springgate made further statement.

COURT ENTERED ORDER that Churchill County Witnesses may only state they were investigating an incident and a lawful search warrant of the vehicle and home were received and complied with.

Upon discussion regarding the exhibits, State's counsel Barb indicated that Exhibits 9, 5C and 5D will not be used during the guilt phase of this trial.

5:13 Court recessed. Defendants remand to the custody of the sheriff.

3/17/99

CONTINUED JURY TRIAL

HONORABLE

CONNIE

STEINHEIMER

DEPT. NO.4

M. Stone

(Clerk)

E. Nelson

(Reporter)

Deputy District Attorneys Thomas Barb and Elliott Sattler represented the State. Defendant Babb present with counsel, Paul Giese and M. Jerome Wright. Defendant Sirex present with counsel, Jack Alian and Jenny Hubach. Defendant Harte present with counsel, John Ohlson and John Springgate. 10:20 a.m. Court reconvened outside presence of jury.

Rev. Robert Retner called by defense counsel Ohlson, sworn and testified; cross-examined by State's counsel Barb; excused.

State's counsel Barb made statement regarding Petricelli hearing and tape produced by FBI. Respective defense counsel indicated that they had in fact received the tape with questioning by the FBI.

10:45 a.m. Jury entered. Respective counsel stipulated to the presence of the jury.

Jim Woods called by State's counsel Sattler, sworn and testified; cross-examined by defense counsel Hubach; excused.

Jim Stewart called by State's counsel Barb, sworn and testified.

EXHIBIT 4A offered by State's counsel Barb; no objection by respective

CASE NO. CR98-0074 TITLE: THE STATE OF NEVADA VS. LATISHA MARIE BABB, WESTON EDWARD SIREX and SHAWN RUSSELL HARTE

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COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

3/17/99

CONTINUED JURY TRIAL

E. Nelson
(Reporter)

defense counsel; ordered admitted into evidence.

Witness Stewart further direct examined; cross-examined by respective defense counsel Giese and Springgate; excused.

Mark Joseph called by State's counsel Barb, sworn and testified.

EXHIBIT 4B AND 4C offered by State's counsel Barb; no objection by respective defense counsel, ordered admitted into evidence.

Witness Joseph further direct examined; cross-examined by respective defense counsel Giese and Springgate; excused.

Billy J. Coleman called by State's counsel Barb, sworn and testified.

EXHIBIT 5A offered by State's counsel Barb; no objection by respective defense counsel; ordered admitted into evidence.

Witness Coleman further direct examined.

EXHIBIT 24 offered by State's counsel Barb; no objection by respective defense counsel; ordered admitted into evidence.

Witness Coleman further direct examined; cross-examined by respective defense counsel Giese and Springgate; redirect examined; excused.

Chuck Lowe called by State's counsel Sattler, sworn and testified.

EXHIBIT 2C offered by State's counsel Sattler; no objection by respective defense counsel; ordered admitted into evidence.

Witness Lowe further direct examined.

EXHIBIT 28 offered by State's counsel Sattler; no objection by respective defense counsel; ordered admitted into evidence.

Witness Lowe further direct examined.

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COURT PRESENT	APPEARANCES-HEARING	CONT'D TO
3/17/99	<u>CONTINUED JURY TRIAL</u>	

E. Nelson
(Reporters)

EXHIBIT 19B offered by State's counsel Sattler; no objection by respective defense counsel; ordered admitted into evidence.

Witness Lowe further direct examined.

EXHIBIT 16 offered by State's counsel Sattler; no objection by respective defense counsel; ordered admitted into evidence.

Witness Lowe further direct examined.

EXHIBIT 17A offered by State's counsel Sattler; no objection by respective defense counsel; ordered admitted into evidence.

Witness Lowe further direct examined.

12:00 p.m. Jury admonished and excused. Outside the presence of the jury, discussion ensued regarding the schedule of trial.

12:03 p.m. Court recessed.

1:35 p.m. Court reconvened outside the presence of the jury with respective counsel and defendants present.

EXHIBITS 17D AND 17E marked by State's counsel Sattler.

Motion to Redact Exhibit 24 by respective defense counsel; presented argument; objection and argument by State's counsel Barb. COURT reserved ruling.

1:44 p.m. Jury entered. Respective counsel stipulated to the presence of the jury.

Witness Lowe, heretofore sworn, resumed stand and was further direct examined.

EXHIBIT 17B offered by State's counsel Sattler; no objection by respective defense counsel; ordered admitted into evidence.

Witness Lowe further direct examined.

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E. Nelson

(Reporter)

EXHIBIT 17C offered by State's counsel Sattler; no objection by respective defense counsel; ordered admitted into evidence.

Witness Lowe further direct examined.

EXHIBIT 17D offered by State's counsel Sattler; no objection by respective defense counsel; ordered admitted into evidence.

Witness Lowe further direct examined.

EXHIBIT 17E offered by State's counsel Sattler; no objection by respective defense counsel; ordered admitted into evidence.

Witness Lowe further direct examined.

EXHIBIT 26 offered by State's counsel Sattler; no objection by respective defense counsel; ordered admitted into evidence.

Witness Lowe further direct examined.

EXHIBIT 33 offered by State's counsel Sattler; no objection by respective defense counsel; ordered admitted into evidence.

Witness Lowe further direct examined; cross-examined by respective defense counsel Hubach, Giese and Springgate; redirect examined; excused.

J. L. Straits called by State's counsel Sattler, sworn and testified.

EXHIBIT 18A and 18B offered by State's counsel Sattler; no objection by respective defense counsel; ordered admitted into evidence.

Witness Straits further direct examined.

EXHIBIT 18C marked and offered by State's counsel Sattler; no objection by respective defense counsel; ordered admitted into evidence.

Witness Straits further direct examined.

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E. Nelson
(Reporter)

EXHIBIT 32 offered by State's counsel Sattler; no objection by respective defense counsel; ordered admitted into evidence.

Witness Straits further direct examined.

EXHIBIT 3B offered by State's counsel Sattler; no objection by respective defense counsel; ordered admitted into evidence.

Witness Straits further direct examined.

EXHIBIT 6A, 6B, 6C and 6D offered by State's counsel Sattler; no objection by respective defense counsel; ordered admitted into evidence.

Witness Straits further direct examined.

EXHIBIT 27 offered by State's counsel Sattler; no objection by respective defense counsel; ordered admitted into evidence.

Witness Straits further direct examined.

EXHIBIT 3A offered by State's counsel Sattler; no objection by respective defense counsel; ordered admitted into evidence.

Witness Straits further direct examined; cross-examined by respective defense counsel Hubach and Springgate; excused.

Kevin Lattyak called by State's counsel Barb, sworn and testified; cross examined by respective defense counsel Alian and Springgate; redirect examined; recross-examined by defense counsel Springgate; further examined by State's counsel Barb and respective defense counsel Springgate and Alian; excused.

Jim Beltron called by State's counsel Barb, sworn and testified; cross-examined by defense counsel Alian.

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EXHIBITS 31A - 31E offered by defense counsel Alian; no objection by State's counsel Barb or respective defense counsel; ordered admitted into evidence.

Witness Beltron cross-examined by defense counsel Springgate; redirect examined; recross-examined by defense counsel Springgate; excused.

3:27 p.m. Jury admonished. Court recessed.

4:06 p.m. Court reconvened with respective counsel and defendants present. Respective counsel stipulated to the presence of the jury.

Larry Canfield called by State's counsel Elliott, sworn and testified; cross-examined by defense counsel Alian; excused.

David Palosaari called by State's counsel Barb, sworn and testified.

EXHIBIT 1A offered by State's counsel Barb; no objection by respective defense counsel; ordered admitted into evidence.

Witness Palosaari further direct examined; cross-examined by respective defense counsel Alian and Springgate; redirect examined; recross-examined by defense counsel Alian; excused.

4:30 Jury admonished and excused. Outside the presence of the jury, discussion ensued regarding the schedule of witnesses and redaction to Exhibit 8.

Upon arguments regarding exhibit 8, COURT ENTERED ORDER allowing for exhibit 8 to be redacted.

EXHIBIT 8A marked by State's counsel Barb.

Defendants Sirex, Babb and Harte canvassed as to their rights against self incrimination.

Court addressed Defendants Babb and Harte regarding contact with each other.

4:52 p.m. Court recessed. Defendants remanded to the custody of the sheriff.

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CONTINUED JURY TRIAL

HONORABLE Deputy District Attorneys Thomas Barb and Elliott Sattler represented the
CONNIE J. State. Defendant Babb present with counsel, Paul Giese and M. Jerome
STEINHEIMER Wright. Defendant Sirex present with counsel, Jack Alian and Jenny Hubach.
M. Stone Defendant Harte present with counsel, John Ohlson and John Springgate.
(Clerk) 8:15 a.m. Court reconvened outside the presence of the jury.
E. Nelson Defense counsel Ohlson presented offer of proof evidence against the Motion
(Reporter) to Exclude Expert Witness Testimony.

Charles Durante called by Defense counsel Ohlson, sworn and testified;
cross-examined by State's counsel Barb; redirect examined; recross
examined; excused.

8:35 a.m. Court recessed.

10:30 a.m. Court reconvened outside the presence of the jury, with respective
counsel and defendants present.

Defense counsel Giese requested that Court remain in recess until he is able
to complete a criminal hearing in another department. COURT ENTERED
ORDER allowing for the delay. COURT FURTHER ORDERED Bailiff to inform
jury of delay.

10:35 a.m. Court recessed.

11:13 a.m. Court reconvened with respective counsel and defendants
present. Respective counsel stipulated to the presence of the jury.

EXHIBITS 13A AND 13B, respective counsel stipulated to the foundation of
the evidence.

Jennifer Crowe called by State's counsel Barb, sworn and testified; cross-
examined by defense counsel Giese; excused.

Lanette Bagby called by State's counsel Barb, sworn and testified.

EXHIBIT 8 offered by State's counsel Barb; objection by defense counsel
Springgate and Giese; offer withdrawn.

Witness Bagby further direct examined.

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E. Nelson
(Reporter)

EXHIBIT 8A marked and offered by State's counsel Barb; no objection by respective defense counsel; ordered admitted into evidence.

Witness Bagby further direct examined; excused.

State's counsel rested.

Defense counsel Hubach rested.

Defense counsel Giese rested.

Defense counsel Springgate rested.

11:30 a.m. Jury admonished and excused. Outside the presence of the jury, discussion ensued regarding Exhibit 24.

Respective Defendants invoked the right against self incrimination.

Defense counsel Ohlson set forth further offer of proof regarding the Motion to exclude Expert Witnesses.

Myra Soifer called by defense counsel Ohlson, sworn and testified; cross-examined by State's counsel Barb; excused.

Defense counsel Ohlson presented further objection to Motion to Exclude.

State's counsel Barb presented reply to the Objection.

COURT took matter under submission.

Defendants waived right to be present at the discussions regarding jury instructions and exhibit 24.

11:50 a.m. Court recessed. Defendants remanded to the custody of the sheriff.

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HONORABLE
CONNIE J.

STEINHEIMER

M. Stone-(Clerk)

E. Nelson
(Reporter)

Deputy District Attorneys Thomas Barb and Elliott Sattler represented the State. Defendant Babb present with counsel, Paul Giese and M. Jerome Wright. Defendant Sirex present with counsel, Jack Alian and Jenny Hubach. Defendant Harte present with counsel, John Ohlson and John Springgate.

9:42 a.m. Court reconvened outside the presence of the jury.

Court set forth order of the jury instructions. Respective counsel had no further

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E. Nelson
(Reporter)

instructions to offer. Respective counsel Barb, Hubach, and Giese had no further objections to the Instructions. Defense counsel Ohlson set forth objection to Instructions 17 and 23; joinder by defense counsel Alian. COURT OVERRULED objection and allowed for the instruction. Respective counsel had no objection to the verdict forms.

Respective counsel stipulated to the reading of the instructions prior to arguments.

Upon request by State's counsel Barb and stipulation by respective defense counsel, COURT ENTERED ORDER amending the Indictment to reflect Robbery in the amount of \$84.00.

EXHIBIT 24A admitted into evidence upon stipulation by respective counsel. EXHIBIT 24 to remain admitted but not delivered to the jury.

9:56 a.m. Court recessed.

10:15 a.m. Court reconvened outside the presence of the jury with respective counsel and defendants present.

Upon request by State's counsel, COURT ENTERED ORDER allowing Deputy Belton to be exempt from the Rule of Exclusion for closing arguments.

10:17 a.m. Jury entered. Respective counsel stipulated to the presence of the jury.

Court read Instructions aloud.

State's counsel Barb presented opening argument.

Defense counsel Hubach presented answering argument.

Defense counsel Giese presented answering argument.

11:45 a.m. Jury admonished. Court recessed.

12:05 p.m. Court reconvened with respective counsel and defendants present. Respective counsel stipulated to the presence of the jury.

Defense counsel Springgate presented answering argument.

State's counsel Barb presented closing argument.

1:00 p.m. Law Clerk sworn to take charge of the Alternate Jurors. Bailiff sworn to take charge of the Jurors for deliberation.

Outside the presence of the jury, COURT ENTERED ORDER granting the

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Motion to Exclude Expert Witness Testimony.

(Reporter)

1:15 p.m. Court recessed.

3:04 p.m. Court reconvened with respective counsel and defendants present. Court informed parties of Question No. 1 from the jury. Upon no objections by respective counsel, COURT ORDERED Answer to Question No. 1 delivered to the Jury.

3:07 p.m. Court recessed.

3:58 p.m. Court reconvened with respective counsel and defendants present. Respective counsel stipulated to the presence of the jury.

Clerk called Roll.

Jury returned the following verdicts:

VERDICT

We, the jury in the above-entitled matter, find the Defendant, WESTON EDWARD SIREX, GUILTY of COUNT II. ROBBERY.

DATED this 19th day of March, 1999.

(sgd) Bradford L. Scott
FOREPERSON

If you found the Defendant guilty of Robbery, you must answer the following question: Was a deadly weapon used in the commission of this Robbery as defined in these instructions?

X Yes No

(sgd) Bradford L. Scott
FOREPERSON

VERDICT

We, the jury in the above-entitled matter, find the Defendant, LATISHA MARIE BABB, GUILTY of COUNT II. ROBBERY.

DATED this 19th day of March, 1999.

(sgd) Bradford L. Scott
FOREPERSON

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E. Nelson

(Reporter)

If you found the Defendant guilty of Robbery, you must answer the following question: Was a deadly weapon used in the commission of this Robbery as defined in these instructions?

X Yes

____ No

(sgd) Bradford L. Scott
FOREPERSON

VERDICT

We, the jury in the above-entitled matter, find the Defendant, SHAWN RUSSELL HARTE, GUILTY of COUNT II. ROBBERY.

DATED this 19th day of March, 1999.

(sgd) Bradford L. Scott
FOREPERSON

If you found the Defendant guilty of Robbery, you must answer the following question: Was a deadly weapon used in the commission of this Robbery as defined in these instructions?

X Yes

____ No

(sgd) Bradford L. Scott
FOREPERSON

VERDICT

We, the jury in the above-entitled matter, find the Defendant, WESTON EDWARD SIREX, GUILTY of MURDER.

DATED this 19th day of March, 1999.

(sgd) Bradford L. Scott
FOREPERSON

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E. Nelson
(Reporter)

Having found the Defendant guilty of Murder, you must answer the following question: Was it Murder of the First Degree or Murder of the Second Degree?

X Murder of the First Degree
____ Murder of the Second Degree

(sgd) Bradford L. Scott
FOREPERSON

If you found the Defendant guilty of Murder, you must answer the following question: Was a deadly weapon used in the commission of this Murder as defined in these instructions?

Yes X No ____

(sgd) Bradford L. Scott
FOREPERSON

VERDICT

We, the jury in the above-entitled matter, find the Defendant, LATISHA MARIE BABB, GUILTY of MURDER.

DATED this 19th day of March, 1999.

(sgd) Bradford L. Scott
FOREPERSON

Having found the defendant guilty of Murder, you must answer the following question: Was it Murder of the First Degree or Murder of the Second Degree?

X Murder of the First Degree
____ Murder of the Second Degree

(sgd) Bradford L. Scott
FOREPERSON

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If you have found the Defendant guilty of Murder, you must answer the following question: Was a deadly weapon used in the commission of this Murder as defined in these instructions?

X Yes ___ No

(sgd) Bradford L. Scott
FOREPERSON

VERDICT

We, the jury in the above-entitled matter, find the Defendant, SHAWN RUSSELL HARTE, GUILTY of MURDER.

DATED this 19th day of March, 1999.

(sgd) Bradford L. Scott

Having found the Defendant guilty of Murder, you must answer the following question: Was it Murder of the First Degree or First of the Second Degree?

X Murder of the First Degree
___ Murder of the Second Degree

(sgd) Bradford L. Scott

If you have found the defendant guilty of Murder, you must answer the following question: Was a deadly weapon used in the commission of this Murder as defined in these instructions?

Yes X No ___

(sgd) Bradford L. Scott

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(Reporter)

Court inquired of the jurors as a whole if this was the verdict to which they agreed and there were no negative responses.

Upon motion by defense counsel Giese, COURT ORDERED THE JURY POLLED. To the question, "Are these your verdicts as read?", posed to each of the jurors individually, as to each Defendant, each responded "Yes".

Court admonished the Jury Panel and the Alternates and Ordered them to return for the Penalty Phase of the Trial on March 22, 1999, at 10:00 a.m.

4:11 p.m. Court recessed.

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PENALTY JURY TRIAL

HONORABLE
CONNIE J.
STEINHEIMER
DEPT. NO. 4
M. Stone
(Clerk)
E. Nelson
(Reporter)

Deputy District Attorneys Thomas Barb and Elliott Sattler represented the State. Defendant Latisha Marie Babb present with counsel, Paul Giese and M. Jerome Wright. Defendant Weston Edward Sirex present with counsel, Jenny Hubach and Jack Alian. Defendant Shawn Russell Harte present with counsel, John Ohlson and John Springgate.

8:42 a.m. Court reconvened outside the presence of the jury for prior bad acts hearing.

Abraham Lee called by State's counsel Elliott, sworn and testified.

EXHIBIT 34A - 34L marked by State's counsel Elliott.

Witness Lee further direct examined.

EXHIBIT 34A - 34L offered by State's counsel Elliott; no objection by respective defense counsel; ordered admitted into evidences for purposes of this hearing only.

Witness Lee cross-examined by defense counsel Alian; excused.

Billy J. Coleman called by State's counsel Barb, sworn and testified.

EXHIBIT 9, 5A and 5C offered by State's counsel Barb; voir dire by Defense counsel Wright; objection to 5C and 9 by defense counsel Ohlson; joinder by defense counsel Wright and Alian; reply by State's counsel Barb; ordered admitted into evidence for purposes of this hearing only.

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Witness Coleman further direct examined; cross-examined by respective defense counsel Alian, Wright and Ohlson; redirect examined by State's counsel Barb; recross by defense counsel Wright; excused.

Mark Joseph called by State's counsel Barb, sworn and testified; cross-examined by respective defense counsel Alian, Giese and Ohlson; excused, subject to recall.

Jim Beltron called by State's counsel Barb, sworn and testified; cross-examined by respective defense counsel Giese and Ohlson; excused, subject to recall.

State's counsel presented argument.

Respective defense counsel Alian, Wright and Ohlson presented objection to the testimony of the witnesses.

State's counsel present further argument.

COURT ENTERED ORDER that State's counsel could not bring in testimony regarding fingerprints unless Defense counsel inquires in that area first; and that the Motion in Limine to exclude prior bad act testimony is denied.

10:30 a.m. Court recessed.

10:52 a.m. Court reconvened with respective counsel and defendants present. Respective counsel stipulated to the presence of the Jury.

State's counsel Barb presented opening statement.

Defense counsel Hubach presented opening statement.

Defense counsel Wright presented opening statement.

Defense counsel Ohlson presented opening statement.

Abraham Lee called by State's counsel Sattler, sworn and testified.

EXHIBIT 34A - 34 L offered by State's counsel Sattler; no objection by respective defense counsel Alian and Giese; objection by defense counsel Ohlson; ordered admitted into evidence.

Witness Lee further direct examined; excused.

Billy Coleman called by State's counsel Barb, sworn and testified.

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E. Nelson
(Reporter) EXHIBIT 35 marked by State's counsel Barb.

Witness Coleman further direct examined.

EXHIBIT 35 offered by State's counsel Barb; no objection by respective defense counsel Alian and Giese; objection by defense counsel Ohlson; ordered admitted into evidence.

Witness Coleman further direct examined.

EXHIBIT 24 offered by State's counsel Barb; objection by respective defense counsel; COURT took matter under advisement.

Witness Coleman further direct examined.

EXHIBIT 5B offered by State's counsel Barb; objection by respective defense counsel Alian and Giese; voir dire and objection by defense counsel Ohlson.

Witness Coleman further direct examined.

EXHIBIT 5C offered by State's counsel Barb; objection by respective defense counsel Alian and Giese; voir dire and objection by defense counsel Ohlson; ordered admitted into evidence.

Witness Coleman further direct examined.

EXHIBIT 9 offered by State's counsel Barb; objection by respective defense counsel Alian, Giese and Ohlson; ordered admitted into evidence.

Witness Coleman further direct examined.

EXHIBIT 5D offered by State's counsel Barb; objection by respective counsel Alian and Giese; voir dire by defense counsel Ohlson.

Witness Coleman further direct examined.

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E. Nelson

(Reporter)

EXHIBIT 5D re-offered by State's counsel Barb; no objection by respective defense counsel; ordered admitted into evidence.

Witness Coleman further direct examined.

EXHIBIT 36 marked by State's counsel Barb.

Witness Coleman further direct examined.

EXHIBIT 36 offered by State's counsel Barb; no objection by respective defense counsel; ordered admitted into evidence.

Witness Coleman further direct examined; cross-examined by defense counsel Giese and Ohlson.

EXHIBIT 37 marked by State's counsel Barb.

Witness Coleman further redirect examined.

EXHIBIT 37 offered by State's counsel Barb; no objection by respective defense counsel; ordered admitted into evidence.

Witness Coleman further redirect examined; excused.

12:06 p.m. Jury admonished and excused. Outside the presence of the jury, Court clarified ruling regarding Exhibits 5C and 9.

Discussion ensued regarding exhibits admitted during the Guilt Phase of the Trial. Court canvassed Defendants regarding their right against self incrimination.

12:12 p.m. Court recessed.

1:36 Court reconvened with respective counsel and defendants present. Respective counsel stipulated to the presence of the jury.

Jim Belton called by State's counsel Barb, sworn and testified.

EXHIBIT 38 marked by State's counsel Barb.

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(Reporter)

Witness Beltron further direct examined.

EXHIBIT 38 offered by State's counsel Barb; no objection by respective defense counsel; ordered admitted into evidence.

Witness Beltron further direct examined.

EXHIBIT 8 offered by State's counsel Barb; objection by respective defense counsel Giese and Ohlson.

1:53 p.m. Jury admonished and excused. Outside the presence of the jury, State's counsel Barb presented argument regarding Exhibit 8. Defense counsel Giese withdrew objection. Defense counsel Ohlson present objection. State's counsel Barb presented further argument.

Upon further discussion, EXHIBIT 8B being marked and no objections, COURT ENTERED ORDER admitting Exhibit 8B into evidence.

2:17 p.m. Jury entered. Respective counsel stipulated to the presence of the jury.

Witness Beltron further direct examined.

EXHIBIT 8B offered by State's counsel Barb; no objection by respective defense counsel; ordered admitted into evidence.

Witness Beltron further direct examined; cross-examined by defense counsel Wright; excused.

Jim Joseph called by State's counsel Barb, sworn and testified; cross-examined by defense counsel Ohlson; redirect examined; excused.

2:37 p.m. Jury admonished and excused. Outside the presence of the jury, State's counsel presented respective defense counsel with a typed statement from the Victim's family.

Upon no objection, COURT ALLOWED the Victim Impact statement to be read aloud to the Jury by the Victim's brother.

2:44 p.m. Jury entered. Respective counsel stipulated to the presence of the jury.

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E. Nelson
(Reporter)

Tony Castro called by State's counsel Sattler, sworn and testified; cross-examined by defense counsel Ohlson; excused.

State's counsel rested.

2:54 p.m. Jury admonished and excused. Outside the presence of the jury, discussion ensued regarding the schedule of witnesses.

2:58 p.m. Court recessed.

3:08 p.m. Court reconvened with respective counsel and defendants present. Respective counsel stipulated to the presence of the jury.

Jim Beltron, heretofore sworn, called by defense counsel Hubach and direct examined; excused.

3:14 p.m. Jury admonished and excused. Outside the presence of the jury, Defendants advised of their rights against self incrimination.

3:18 p.m. Court recessed.

CONTINUED PENALTY JURY TRIAL

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HONORABLE
CONNIE J.
STEINHEIMER

DEPT. NO. 4

M. Stone
(Clerk)

E. Nelson
(Reporter)

Deputy District Attorneys Thomas W. Barb and Elliott Sattler represented the State. Defendant Babb present with counsel, Paul C. Giese and M. Jerome Wright. Defendant Sirex present with counsel, Jack A. Alian and Jenny D. Hubach. Defendant Harte present with counsel, John Ohlson and John P. Springgate.

9:42 p.m. Court reconvened. Respective counsel stipulated to the presence of the jury.

Heidi Manson called by defense counsel Hubach, sworn and testified; excused.

Roy Parry called by defense counsel Hubach, sworn and testified; cross-examined by State's counsel Barb and Defense counsel Ohlson; excused.

Ronald Mueller called by defense counsel Hubach, sworn and testified; cross-examined by State's counsel Barb and defense counsel Ohlson; redirect

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E. Nelson	examined; recross-examined by State's counsel Barb and defense counsel
(Reporter)	Ohlson; excused.

Stephanie Roysten called by defense counsel Aliam, sworn and testified; cross-examined by State's counsel Barb; excused.

Mary Smith called by defense counsel Hubach, sworn and testified; cross-examined by State's counsel Barb; excused.

11:10 a.m. Jury admonished and excused. Outside the presence of the jury, COURT advised the defendant to stop conversing with each other.

11:15 a.m. Court recessed.

11:25 a.m. Jury entered. Respective counsel stipulated to the presence of the jury.

Penelope Peer called by defense counsel Hubach, sworn and testified.

EXHIBIT 39 offered by defense counsel Hubach; no objection by State's counsel and respective defense counsel Giese and Ohlson; ordered admitted into evidence.

Witness Peer further direct examined; excused.

Jerry Howle, M.D., called by defense counsel Hubach, sworn and testified.

EXHIBIT 30 offered by defense counsel Hubach; no objection by State's counsel and respective defense counsel Giese and Ohlson; ordered admitted into evidence.

Witness Howle further direct examined.

EXHIBIT 40 marked and offered by defense counsel Hubach; no objection by State's counsel and respective defense counsel Giese and Ohlson; ordered admitted into evidence.

Witness Howle further direct examined; cross-examined by State's counsel Barb and defense counsel Ohlson; redirect examined; recross-examined by State's counsel Barb; excused.

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CONTINUED PENALTY JURY TRIAL

E. Nelson

Defense counsel Hubach rested.

(Reporter)

12:03 p.m. Jury admonished. Court recessed.

1:37 p.m. Court reconvened outside the presence of the jury with respective counsel and defendants present.

All Defendants invoked their right against self incrimination. COURT ENTERED ORDER that the Defendants may re-open prior to reading of instructions, if they wish to testify.

1:40 p.m. Jury entered. Respective counsel stipulated to the presence of the jury.

Mary Beth Babb called by defense counsel Wright, sworn and testified; excused.

Martha Mahaffey, Ph.D., called by defense counsel Giese, sworn and testified.

EXHIBIT 41 marked.

Witness Mahaffey further direct examined.

2:13 p.m. Jury excused. Outside the presence of the jury, discussion ensued regarding exhibits.

EXHIBIT 42 and 43 marked by defense counsel Giese.

Discussion ensued with respective counsel. COURT ENTERED ORDER allowing exhibit 42 admitted as demonstrative only; and allowing exhibit 43 admitted, but will also allow for a continuance of the trial for further discovery if requested by the State. Defense counsel Giese withdrew offer of exhibit 43.

2:30 p.m. Jury entered. Respective counsel stipulated to the presence of the jury.

Witness Mahaffey, heretofore sworn, resumed stand and was further direct examined.

EXHIBIT 41 offered by defense counsel Giese; objection by defense counsel

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E. Nelson
(Reporter)

Ohlson; no objection by State's counsel Barb and defense counsel Hubach.
Upon redaction to Exhibit 41, EXHIBIT 41A marked and ordered admitted into
evidence upon no objections by respective counsel.

Witness Mahaffey further direct examined.

3:30 p.m. Jury admonished. Court recessed.

4:19 p.m. Court reconvened with respective counsel and defendants present.
Respective counsel stipulated to the presence of the jury.

Witness Mahaffey, heretofore sworn, resumed stand and was cross-
examined by State's counsel Sattler.

EXHIBIT 8C marked by State's counsel Sattler.

Witness Mahaffey further cross-examined; redirect examined; recross-
examined; excused.

Defense counsel Giese rested.

Linda Solomon called by defense counsel Ohlson, sworn and testified.

EXHIBIT 44 marked by defense counsel Ohlson.

Witness Solomon further direct examined.

EXHIBIT 44 offered by defense counsel Ohlson; no objection by State's
counsel and respective defense counsel; ordered admitted into evidence.

Witness Solomon further direct examined; cross-examined by State's counsel
Barb; redirect examined; excused.

Defense counsel Ohlson rested.

EXHIBIT 8C re-offered by State's counsel Barb; COURT reserved ruling.

State's counsel Barb rested rebuttal.

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E. Nelson

(Reporter)

Defendant Babb made statement in allocution.

4:45 p.m. Jury admonished and excused. Outside the presence of the jury, discussion ensued regarding the Jury Instructions.

Court set forth order of Instructions. Defense counsel Ohlson had one additional Instruction to offer; joinder by respective defense counsel Giese and Alian; objection by State's counsel Barb; COURT denied use of offered Instruction and marked it as Defendant Harte's Offered Instruction A.

Defense counsel Giese had one Special Verdict to offer; objection by State's counsel Barb; COURT denied use of Offered Special Verdict and marked it as Defendant Babb's Offered Special Verdict Form B.

Defense counsel Hubach had one Special Verdict to offer; objection by State's counsel Barb; COURT denied use of Offered Special Verdict and marked in as Defendant Sirex' Offered Special Verdict Form C.

Respective counsel had no further objections or instructions to offer.

Respective counsel stipulated to reading the Instructions prior to arguments. COURT ENTERED ORDER denying Motion to Strike Aggravating Circumstances.

Motion to exclude Exhibit 24 from the Jury by defense counsel Ohlson; objection and argument by State's counsel Barb; COURT ENTERED ORDER denying motion, upon finding that the necessity for a redaction has become moot.

Discussion ensued regarding Exhibit 8C.

5:15 p.m. Court recessed.

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HONORABLE

CONTINUED PENALTY JURY TRIAL

CONNIE J.

STEINHEIMER

DEPT. NO. 4

M. Stone

(Clerk)

E. Nelson

(Reporter)

Deputy District Attorneys Thomas Barb and Elliott Sattler represented the State. Defendant Babb present with counsel, Paul C. Giese and M. Jerome Wright. Defendant Sirex present with counsel, Jack A. Alian and Jenny D. Hubach. Defendant Harte present with counsel, John Ohlson and John P. Springgate.

11:34 a.m. Court reconvened outside the presence of the jury.

Motion for Juror Ryan to be Discharged from Service by defense counsel Ohlson; presented argument.

District Attorney Richard A. Gammick made statement to the Court.

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CONTINUED PENALTY JURY TRIAL

E. Nelson
(Reporter)

Motion for Mistrial by defense counsel Alian; joinder by defense counsel Giese; presented argument; objection and argument by State's counsel Barb.

Respective defense counsel re-offered Defendant Harte's Offered Instruction A; presented argument; objection and argument by State's counsel Barb;
COURT ENTERED ORDER denying request.

11:45 a.m. Juror Scott entered courtroom and was examined by the Court regarding Question from Jury; admonished and excused.

11:47 a.m. Juror Ryan entered courtroom and was examined by the Court; admonished and excused.

COURT ENTERED ORDER finding that neither Juror Scott nor Ryan had any improper conduct, therefore, denied the Motion to Discharge Juror Ryan and the Motion for Mistrial.

Discussion ensued regarding Jury Instructions.

11:55 a.m. Court recessed..

12:45 p.m. Court reconvened outside the presence of the jury with respective counsel and defendants present.

Upon request by State's counsel and no objection by respective defense counsel, COURT ENTERED ORDER allowing for a Cautionary Instruction.

12:47 p.m. Jury entered. Respective counsel stipulated to the presence of the jury.

Court read Cautionary Instruction aloud.

Court read Jury Instructions aloud.

State's counsel Sattler presented opening argument.

Defense counsel Hubach presented answering argument.

2:10 p.m. Jury admonished and excused. Outside the presence of the jury, discussion ensued regarding the Cautionary Instruction.

2:15 p.m. Court recessed.

2:31 p.m. Court reconvened with respective counsel and defendants present. Respective counsel stipulated to the presence of the jury.

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E. Nelson

Defense counsel Giese presented answering argument.

(Reporter)

Defense counsel Ohlson presented answering argument.

3:49 p.m. Jury admonished and excused. Outside the presence of the jury, Discussion ensued regarding the reference in defense counsel Ohlson's argument about the Victim being Catholic.

3:51 p.m. Jury entered. Respective counsel stipulated to the presence of the jury.

Defense counsel Ohlson presented further answering argument.
State's counsel Sattler presented closing argument.

4:35 p.m. Law Clerk sworn to take charge of the Alternate Jurors. Bailiff sworn to take charge of the Jurors for deliberation.

7:34 p.m. Court reconvened in chambers with respective counsel present. Court informed parties of Question No. 4 from the jury. Upon no objections by respective counsel, COURT ORDERED Answer to Question No. 4 delivered to the Jury.

7:50 p.m. Court recessed.

8:10 p.m. Court reconvened in chambers with respective counsel present. Court informed parties of Question No. 6 from the jury. Upon no objections by respective counsel, COURT ORDERED Answer to Question No. 6 delivered to the Jury.

8:15 p.m. Court recessed.

9:20 p.m. Court reconvened in chambers with respective counsel present. Court informed parties of Question No. 7 from the jury.

During discussion regarding Question No. 7, COURT informed by the Bailiff that the jury had reached a verdict.

9:25 p.m. Court recessed.

9:35 p.m. Court reconvened with respective counsel and defendants present.

Clerk called Roll.

Jury returned the following verdicts:

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3/24/99

CONTINUED PENALTY JURY TRIAL

E. Nelson

(Reporter)

VERDICT

We, the jury in the above-entitled action, find beyond a reasonable doubt that the murder, as alleged in Count I, of John Castro committed by the defendant was aggravated by the following circumstance or circumstances which have been checked below:

 X 1. The murder of John Castro was committed by the defendant LATISHA MARIE BABB during the course of a robbery;

 2. The murder of John Castro was committed by the defendant LATISHA MARIE BABB to avoid prosecution; or

 3. No aggravating circumstance or circumstances were proven beyond a reasonable doubt.

Further, We, the jury in the above-entitled action, having previously found the defendant, LATISHA MARIE BABB, guilty of Count I. MURDER WITH THE USE OF A DEADLY WEAPON,

Set the penalty to be imposed as follows: (Check One)

 A term of fifty (50) years in the Nevada Department of Prisons.

 Life in the Nevada Department of Prisons with the possibility of parole.

 X Life in the Nevada Department of Prisons without the possibility of parole.

 Having found beyond a reasonable doubt that an aggravating circumstance or circumstances exist in this case and that any mitigating circumstance or circumstances are not sufficient to outweigh the aggravating circumstance or circumstances and no other reason exists not to impose therefore, by reason thereof, set the penalty imposed upon the defendant at death.

found,
death,
to be

DATED this 24 day of March, 1999.

(sgd) Bradford L. Scott
PRESIDING JUROR

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3/24/99 CONTINUED PENALTY JURY TRIAL

E. Nelson
(Reporter)

APPEARANCES-HEARING

CONT'D TO

VERDICT

We, the jury in the above-entitled action, find beyond a reasonable doubt that the murder, as alleged in Count I, of John Castro committed by the defendant was aggravated by the following circumstance or circumstances which have been checked below:

 X 1. The murder of John Castro was committed by the defendant WESTON EDWARD SIREX during the course of a robbery;

 2. The murder of John Castro was committed by the defendant WESTON EDWARD SIREX to avoid prosecution; or

 3. No aggravating circumstance or circumstances were proven beyond a reasonable doubt.

Further, We, the jury in the above-entitled action, having previously found the defendant, WESTON EDWARD SIREX, guilty of Count I. MURDER WITH THE USE OF A DEADLY WEAPON,

Set the penalty to be imposed as follows: (Check One)

- | | |
|---------------|--|
| <u> </u> | A term of fifty (50) years in the Nevada Department of Prisons. |
| <u> </u> | Life in the Nevada Department of Prisons with the possibility of parole. |
| <u> X </u> | Life in the Nevada Department of Prisons without the possibility of parole. |
| <u> </u> | Having found beyond a reasonable doubt that an aggravating circumstance or circumstances exist in this case and that any mitigating circumstance or circumstances are not sufficient to outweigh the aggravating circumstance or circumstances and no other reason exists not to impose therefore, by reason thereof, set the penalty imposed upon the defendant at death. |

found,
death,
to be

DATED this 24th day of March, 1999.

(sgd) Bradford L. Scott
PRESIDING JUROR

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CONTINUED PENALTY JURY TRIAL

E. Nelson
(Reporter)

VERDICT

We, the jury in the above-entitled action, find beyond a reasonable doubt that the murder, as alleged in Count I, of John Castro committed by the defendant was aggravated by the following circumstance or circumstances which have been checked below:

X 1. The murder of John Castro was committed by the defendant SHAWN RUSSELL HARTE during the course of a robbery;

_____ 2. The murder of John Castro was committed by the defendant SHAWN RUSSELL HARTE to avoid prosecution; or

_____ 3. No aggravating circumstance or circumstances were proven beyond a reasonable doubt.

Further, We, the jury in the above-entitled action, having previously found the defendant, SHAWN RUSSELL HARTE, guilty of Count I. MURDER WITH THE USE OF A DEADLY WEAPON,

Set the penalty to be imposed as follows: (Check One)

_____ A term of fifty (50) years in the Nevada Department of Prisons.

_____ Life in the Nevada Department of Prisons with the possibility of parole.

_____ Life in the Nevada Department of Prisons without the possibility of parole.

X Having found beyond a reasonable doubt that an aggravating circumstance or circumstances exist in this case and that any mitigating circumstance or circumstances are not sufficient to outweigh the aggravating circumstance or circumstances and no other reason exists not to impose therefore, by reason thereof, set the penalty imposed upon the defendant at death.

found,
death,
to be

DATED this 24th day of March, 1999.

(sgd) Bradford L. Scott
PRESIDING JUROR

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CONTINUED PENALTY JURY TRIAL

E. Nelson
(Reporter)

Court inquired of the jurors as a whole if this was the verdict to which they
agreed and there were no negative responses.

5/7/99

Upon motion by defense counsel Giese, COURT ORDERED THE JURY
POLLED. To the question, "Are these your verdicts as read?", posed to each
of the jurors individually, as to each Defendant, each responded "Yes".

1:30 p.m.

Sentencing

(All Deft.)

COURT ORDERED Defendants referred to Probation Department for PSI on
Count II and continued for entry of judgment, consideration of probation
report and imposition of sentences on Counts I and II.

9:50 p.m. Court recessed. Defendants remanded to the custody of the sheriff.

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CONTINUED VOIR DIRE (JURY SELECTION)

HONORABLE

CONNIE

STEINHEIMER

DEPT. NO. 4

M. Stone

(Clerk)

D. Phipps

(Reporter)

Deputy District Attorneys Thomas Barb and Elliott Sattler represented the State. Defendant Babb not present, appearance previously waived, being represented by counsel, Paul Giese and Jerome Wright. Defendant Sirex not present, appearance previously waived, being represented by counsel, Jack Alian and Jenny Hubach. Defendant Harte not present, appearance previously waived, being represented by counsel, John Ohlson and John Springgate.

3:10 p.m. Court convened with prospective jurors present.

Court addressed prospective jurors. Court personnel and respective counsel introduced to the jury panel.

Roll taken of prospective jurors; all present.

All prospective jurors sworn as to their qualifications to serve as trial jurors.

First panel of prospective jurors excused to complete Special Juror Instruction "A" and Special Juror Questionnaire.

Outside the presence of the Jury, State's counsel provided Court with photographs to be marked in evidence.

3:20 p.m. Court recessed.

MOTION TO CONFIRM TRIAL DATE/PRE-TRIAL MOTIONS

4:00 p.m. Court reconvened with respective counsel and defendants present.

Court noted receipt of Confidential Voir Dire provided by respective counsel and the Written Questionnaires from the Jury.

Court notified counsel of the Jurors released after exercising personal exemption, listed as follows: Jurors Elliott, Freemonth, Ogera and Witt.

EXHIBITS 1A, 1B, 1C, 2A, 2B, 2C, 3A, 3B, 4A, 4B, 4C, 5A, 5B, 5C and 5D

marked by State's counsel Barb; objection to 1A, 2C, 4B and 5D by respective defense counsel Hubach, Giese and Springgate.

COURT ENTERED ORDER granting the Defense's Motion in Limine to exclude photographs in part. Court did not allow Exhibits 1A and 1C.

Discussion ensued regarding Courtroom set-up and policies.

Upon discussion regarding the defense's use of their peremptory challenges and designation of counsel Giese, COURT ENTERED ORDER allowing the Defense to have counsel Giese exercise all peremptory challenges as directed by other defense counsel. If counsel Giese is not following the

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3/11/99

D. Phipps
(Reporter)

CONTINUED MOTION TO CONFIRM TRIAL DATE/PRE-TRIAL MOTIONS

direction of other defense counsel, then an objection must be made immediately.

Court informed respective counsel of the questions that would not be allowed in voir dire. Respective defense counsel set forth objection to any Whitherspoon question to the Jury by the State. COURT ENTERED ORDER allowing the State to ask Whitherspoon questions of the jury panel.

5:10 p.m. Court recessed until 9:00 a.m. on March 12, 1999. Defendant remanded to the custody of the sheriff.

3/12/99

K. Yates
(Reporter)

CONTINUED MOTION TO CONFIRM TRIAL DATE/PRE-TRIAL MOTIONS

Deputy District Attorneys Thomas Barb and Elliott Sattler represented the State. Defendant Babb present with counsel, Paul Giese and Jerome Wright. Defendant Sirex present with counsel, Jack Alian and Jenny Hubach. Defendant Harte present with counsel, John Ohlson and John Springgate. 9:50 a.m. Court reconvened.

Court further informed respective counsel of the questions that would not be allowed in voir dire. Respective counsel Hubach and Giese made statement regarding the stricken questions.

Motion in Limine exclude Expert Witness by State's counsel; objection and argument by Defense counsel Ohlson; joinder to objection by defense counsel Giese; reply by State's counsel Barb. COURT took matter under advisement.

State's counsel Barb made statement regarding the military records of Defendant Harte and Sirex.

Request to endorse new witness by State's counsel Barb; presented argument; objection and argument by defense counsel Ohlson; no objection by defense counsel Giese; reply by State's counsel Barb. COURT ENTERED ORDER granting request to endorse witness and allowing Deputy Stoffel to be called as a witness, but defense counsel may renew objection upon the witness being called.

Upon discussion, COURT ORDERED counsel to provide the clerk with a

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CONTINUED MOTION TO CONFIRM TRIAL DATE/PRE-TRIAL MOTIONS

K. Yates

witness list by 2:00 p.m. on 3/12/99.

(Reporter)

Upon request by respective counsel, COURT ENTERED ORDER invoking the rule of exclusion with the exception of victim's wife, and the Defendant's mothers. Respective counsel to identify those people to the Bailiff.

11:00 a.m. Court recessed. Defendant remanded to the custody of the Sheriff.

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JURY SELECTION - TELEPHONIC

HONORABLE

CONNIE

STEINHEIMER

DEPT. NO.4

M. Stone

(Clerk)

E. Nelson

(Reporter)

Deputy District Attorney Thomas Barb represented the State. Defendant Babb not present, appearance previously waived, being represented by counsel, Jerome Wright. Defendant Sirex not present, appearance previously waived, being represented by counsel, Jack Alian. Defendant Harte not present, appearance previously waived, being represented by counsel, John Ohlson and John Springgate.

COURT informed respective counsel of Juror Guzman's conflict with jury selection.

Upon no objection by respective counsel and respective defense counsel having authority to agree on behalf of the Defendants, COURT ENTERED ORDER excusing Juror Guzman.

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3/8/99

VOIR DIRE (JURY SELECTION)

HONORABLE
CONNIE

STEINHEIMER

DEPT. NO.4

M. Stone

(Clerk)

E. Nelson

(Reporter)

Deputy District Attorneys Thomas Barb and Elliott Sattler represented the State. Defendant Babb not present, appearance previously waived, being represented by counsel, Paul Giese and Jerome Wright. Defendant Sirex not present, appearance previously waived, being represented by counsel, Jack Alian and Jenny Hubach. Defendant Harte not present, appearance previously waived, being represented by counsel, John Ohlson and John Springgate.

2:07 p.m. Court convened.

Motion for Additional Questions on the Jury Questionnaire by defense counsel Ohlson; presented argument. COURT ENTERED ORDER denying request as to the questions being asked in the questionnaire, but not during actual voir dire.

Upon request by respective defense counsel, COURT ENTERED ORDER allowing counsel to file their voir dire questions on March 9, 1999, at 5:00 p.m.

2:30 p.m. First panel of prospective jurors present.

Court addressed prospective jurors. Court personnel and respective counsel introduced to the jury panel.

Roll taken of prospective jurors; all present except jurors Elliott, Freemonth, Gurule, Hagan, Headley, Martin, Mayne, Nikoley and Ryan.

Upon request, Juror MacLaren sworn by affirmation.

All prospective jurors sworn as to their qualifications to serve as trial jurors.

First panel of prospective jurors excused to complete Special Juror Instruction "A" and Special Juror Questionnaire.

2:45 p.m. Court recessed.

2:50 p.m. Court reconvened with respective counsel present.

Second panel of prospective jurors present.

Court addressed prospective jurors. Court personnel and respective counsel introduced to the jury panel.

Roll taken of prospective jurors; all present except jurors Alpers, Carpenter, Clark, Cullen, Judge, Monroe, O'Gara, Odle, Santos, Sigua, Stanley and Witt.

All prospective jurors sworn as to their qualifications to serve as trial jurors.

First panel of prospective jurors excused to complete Special Juror Instruction "A" and Special Juror Questionnaire.

Outside presence of jury, State's counsel requested the return of video tapes in evidence. Upon no objection, COURT ENTERED ORDER granting request. COURT FURTHER ENTERED ORDER that the Jury Commissioner must attempt

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VOIR DIRE (JURY SELECTION)

E. Nelson
(Reporter)

to contact all absent jurors and order them to appear on March 11, 1999, at 3:00 p.m.

State's counsel gave video and audio tapes to Defense.

COURT ENTERED ORDER that respective defense counsel must review all tapes immediately and notify Court if a continuance of the trial is needed.

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PRE-TRIAL MOTIONSHONORABLE
CONNIE
STEINHEIMER
DEPT. NO.4
M. Stone
(Clerk)
K. Ramage
(Reporter)

Deputy District Attorneys Thomas Barb and Elliott Sattler represented the State. Defendant Latisha M. Babb present with counsel, Paul Giese and M. Jerome Wright. Defendant Weston E. Sirex present with counsel, Jack Alian and Jenny Hubach. Defendant Shawn R. Harte present with counsel, John Ohlson and John P. Springgate.

Court noted receipt of applications from all counsel regarding the New Rule 250. COURT FOUND all lead counsel qualified under the New Rule 250 to be counsel of record in a Death Penalty Case.

Motion to Sever by defense counsel Hubach; presented argument; joinder by defense counsel Giese; submitted on the pleadings by defense counsel Springgate; objection and argument by State's counsel Barb; reply by defense counsel Hubach and Giese; further argument by State's counsel Barb.

Motion to Suppress Statements made by Defendant Sirex.

Larry Canfield called by State's counsel Barb, sworn and testified; cross-examined by defense counsel Alian; excused.

Objection and argument by State's counsel Barb; argument by defense counsel Hubach; reply by State's counsel Barb.

10:40 a.m. Court recessed. Defendants remanded to the custody of the sheriff.

11:00 a.m. Court reconvened with respective counsel and defendants present.

Motion to Suppress Statements made by Defendant Harte.

James Belton called by State's counsel Elliott, sworn and testified; cross-examined by defense counsel Springgate; redirect examined; excused.

Objection and argument by State's counsel Sattler; argument by defense counsel Springgate; reply by State's counsel Sattler.

Motion for a lapse of time between the guilty and penalty phases by defense counsel Hubach; presented argument. COURT ORDERED that if

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PRE-TRIAL MOTIONS

HONORABLE the jury returns a verdict for the Guilty Phase prior to 3:00 p.m., then the
CONNIE Penalty Phase shall be heard the following day at 10:00 a.m. If the Jury
STEINHEIMER returns a verdict for the Guilt Phase after 3:00 p.m., then the Penalty Phase
DEPT. NO.4 shall be held two days after the Guilt Phase at 10:00 a.m.

M. Stone

(Clerk) Motion for State to divulge any information complied regarding the Jury
K. Ramage Panel by Defense counsel Hubach; submitted on the pleadings. COURT
(Reporter) ENTERED ORDER that any information received by the State by use of the
Juror's social security number must be disclosed to the defense by
Monday, March 8, 1999. All counsel will be able to pick up list of jurors
from the jury commissioner by Wednesday, March 3, 1999.

COURT FURTHER ENTERED ORDER taking the Motion to Sever, Motions to
Suppress, Motion to Declare Death Penalty Statutes Unconstitutional,
Motion to Dismiss State's Notice of Intent to Seek the Death Penalty and
Motion to Strike Aggravating Circumstances under advisement.

COURT FURTHER ENTERED ORDER holding the Motion to Preclude or
Limit Photographs in abeyance pending further hearing.

Motion for Written Jury Questionnaire by defense counsel Hubach;
presented argument; joinder by defense counsel Giese and Ohlson;
objection and argument by State's counsel Barb. COURT took matter
under advisement. Defendants waive right to be present at the Jury
Questionnaire portion of the trial, if allowed.

12:00 a.m. Court recessed. Defendant remanded to the custody of the
sheriff.

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and

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CONT'D TO

1/28/99

CONTINUED PRE-TRIAL MOTIONS - ALL DEFENDANTS

HONORABLE
CONNIE
STEINHEIMER
DEPT. NO.4
M. Stone
(Clerk)
D. Arnaud
(Reporter)

Deputy District Attorneys Thomas Barb and Elliott Sattler represented the State. Defendant Babb present with counsel, Paul Giese and M. Jerome Wright. Defendant Sirex present with counsel, Jack A. Alian and Jenny D. Hubach. Defendant Harte present with counsel, John Ohlson and John P. Springgate.
Defense counsel Ohlson apologized for his untimeliness.
Discussion ensued regarding the New Rule 250 and counsel's qualifications. COURT ENTERED FINDING that all defense counsel are Rule 250 competent under the rule that applies at this hearing.
Upon agreement of all counsel, the Motion regarding the constitutionality of the death penalty and the aggravators held in abeyance pending supplemental motions being filed based on the New Rule 250. Court set forth the following briefing schedule: that the supplemental motions must be filed and served on all counsel and the Court by 5:00 p.m. on February 3, 1999; that the responses to those motions must be filed and served on all counsel and the Court by 5:00 p.m. on February 5, 1999; and the motions shall be submitted on the pleadings without oral argument on February 8, 1999.

Discussion ensued regarding the Notice of Intent to Seek the Death Penalty and the Discovery Statutes. Upon finding that the Discovery Statute in all aspects applies to Death Penalty cases unless exempted in the New Rule 250 and that the penalty phase of a Death Penalty Trial is not a separate trial, COURT ORDERED respective counsel to comply with all aspects of the Discovery Statutes.

Motion to Severe by defense counsel Hubach; presented argument; joinder and argument by defense counsel Giese.

Discussion ensued regarding the use of a Jury Questionnaire and Voir Dire.
COURT ORDERED this matter continued for all defense counsel to be fully prepared to argue all motions. Motions may be supplemented if deemed necessary.
Court recessed. Defendant remanded to the custody of the sheriff.

CASE NO. CR98-0074 TITLE: THE STATE OF NEVADA VS. LATISHA M. BABB, WESTON E. SIREX and SHAWN R. HARTE

DATE, JUDGE
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

1/8/99	<u>PRE-TRIAL MOTIONS (ALL DEFENDANTS)</u>	1/28/99
HONORABLE	Deputy District Attorneys Thomas W. Barb and Elliott Sattler represented	2:00 a.m.
CONNIE	the State. Defendant Latisha Babb present with counsel, Jerome Wright.	Cont'd Pre-
STEINHEIMER	Defendant Weston Sirex present with counsel, Jack Alian and Jenny	Trial Mtns
DEPT. NO.4	Hubach. Defendant Shawn Harte present with counsel, John Ohlson and	
M. Stone	John Springgate.	
(Clerk)	Upon defense counsel Paul Giese not being present, COURT ENTERED	
K. Ramage	ORDER continuing matter.	
(Reporter)	Court advised counsel of the new 250 Rule regarding the Death Penalty	
	and that all counsel in this case must re-qualify as death penalty qualified.	
	COURT ORDERED all counsel to pick up a draft copy of a Rule 250	
	Questionnaire and return a completed copy to the Court by January 13,	
	1999, at 12:00 p.m.	
	COURT FURTHER ORDERED State's counsel to fulfill it's requirements by	
	January 21, 1999.	

State's counsel supplied the Defense with redacted statements and newspaper articles.

Upon no objection, COURT will review the tape and transcripts of the defendant's statements to police prior to the next pre-trial motion.

EXHIBITS A - D marked and admitted for purposes of the pre-trial motions hearing only.

CASE NO. CR98-0074 CASE NO. TITLE: THE STATE OF NEVADA VS. LATISHA M. BABB, WESTON E. SIREX and SHAWN R. HARTE

DATE, JUDGE
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CASE NO.

10/22/98

STATUS CONFERENCE - ALL DEFENDANTS

HONORABLE

CONNIE

STEINHEIMER

DEPT. NO. 4

M. Stone

(Clerk)

D. Phipps

(Reporter)

Deputy District Attorneys Thomas Barb and Elliott Sattler represented the State. Defendant Babb present with counsel, Paul Giese and M. Jerome Wright. Defendant Sirex present with counsel, Jack Alian and Jenny Hubach. Defendant Harte present with counsel, John Ohlson and John Springgate.

Discussion ensued regarding proposed voir dire. COURT ORDERED proposed voir dire submitted to the Court 1 week prior to trial.

Motion for additional peremptory challenges for jury selection by Defendant's counsel Hubach; no objection by State's counsel Barb; no objection by Defendant's counsel Ohlson, as long as the Defendant's do not have to share peremptory challenges. COURT ENTERED ORDER granting motion allowing twelve challenges per side if and only if the Motion to Sever is not granted.

Motion for sequestered voir dire denied with leave to renew during jury selection. COURT FURTHER ORDERED respective counsel to provide proposed written jury questionnaires thirty days prior, whether they are agreed upon or not.

Respective counsel stipulated to the release of the Taxi Cab from evidence at the Washoe County Sheriff's Office.

Motion to Sever to be heard January 8, 1999. Any Motions that counsel does not wish oral arguments may be submitted formally once fully briefed.

Defendants remanded to custody.

4:20 p.m. Court recessed.

CASE NO. CR98-0074 STATE OF NEVADA VS. LATISHA MARIE BABB
WESTON EDWARD SIREX
SHAWN RUSSELL HARTE

DATE, JUDGE
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

8/4/98

MOTION TO RELEASE EVIDENCE

HONORABLE

Deputy District Attorney Elliott Sattler and Deputy District Attorney Thomas W. Barb represented the State.

CONNIE

Defendant, Latisha Marie Babb, was present with counsel, Paul C. Giese, Esq. and M. Jerome Wright, Esq.

STEINHEIMER

DEPT. NO. 4

Defendant, Weston Edward Sirex, was present with counsel, Jack Alian, Esq. and Jenny D. Hubach, Esq.

B. Walker

(Clerk)

E. Nelson

(Reporter)

Defendant, Shawn Russell Harte, was present with counsel, John Ohlson, Esq. and John P. Springgate, Esq.

Respective counsel for the Defendants stated their objection to the motion and deferred to Counsel Alian.

Roy Lee Street was called by counsel for the State, Deputy District Attorney Sattler, sworn and testified.

Deputy District Attorney Sattler assured respective counsel and the Court that the "cab" will be properly preserved until further Order of the Court.

COURT ORDERED: Motion denied. Counsel for the Defendants to secure an expert to go over the vehicle. Any further motions are to be formally submitted to the Court.

Defendants remanded to the custody of the Sheriff.

CASE NO. CR98-0074 TITLE: THE STATE OF NEVADA VS. LATISHA MARIE BABB, WESTON EDWARD SIREX AND SHAWN RUSSELL HARTE

DATE, JUDGE
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

4/7/98	<u>ARRAIGNMENT ON INDICTMENT - ALL DEFENDANTS</u>	
HONORABLE	Deputy District Attorney Thomas Barb and Elliott Sattler represented the	10/22/98
CONNIE	State. Defendant Babb present with counsel, Paul Giese. Defendant Sirex	4:00 p.m.
STEINHEIMER	present with counsel, Jack Alian and Jenny Hubach. Defendant Harte present	Status Conf.
DEPT. NO.4	with counsel, John Ohlson and John Springgate.	
M. Stone	Defendants handed copy of Indictment; indicated to the Court that names as	1/8/99
(Clerk)	set forth on same was their true names; and waived reading. Defendants	10:00 a.m.
L. Clarkson	Babb and Harte entered pleas of not guilty to the charges set forth therein.	Pre-Trial Mtns
(Reporter)	Defendant Sirex stood mute and Court entered pleas of not guilty to the	
	charges set forth therein for him.	3/11/98
	Defendants did waive the 60-Day Rule.	4:00 p.m.
	COURT ORDERED counsel to met momentarily to discuss potential trial dates	Motion to
	in March of 1999, although State requested earliest possible trial date.	Confirm
	Upon agreement of counsel, COURT ORDERED this matter set for jury trial	
	on March 15, 1999, at 9:00 a.m. and further set forth the hearing briefing	3/15/99
	schedule.	10:00 a.m.
	Defendants remanded to custody.	Jury Trial

CASE NO. CR98-0074 TITLE: THE STATE OF NEVADA VS. LATISHA MARIE BABB, WESTON EDWARD SIREX and SHAWN RUSSELL HARTE

DATE, JUDGE
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

2/26/98

HONORABLE

CONNIE

STEINHEIMER

DEPT. NO. 4

M. Stone

(Clerk)

K. Bokelmann

(Reporter)

MOTION TO DETERMINE VALIDITY OF WAIVER OF CONFLICT OF INTEREST (BABB AND HARTE)/REPORT ON PSYCHIATRIC EVALUATION REPORTS (SIREX)

Deputy District Attorneys Thomas Barb and Elliott Sattler represented the State. Defendant Harte present with counsel, Public Defender Michael Specchio, and Deputy Public Defender Maizie Pusich. Defendant Sirex present with counsel, Jack Alian and Jenny Hubach. Defendant Babb present with counsel, Paul Giese.

Discussion ensued regarding competency of Defendant Babb. Defense counsel Pusich indicated to the Court that Defendant Babb never showed signs of incompetency during her representation of the Defendant.

Motion to Determine Validity of Waiver of Conflict of Interest in the Public Defender representing either Defendant Babb or Defendant Harte by State's counsel Barb; presented argument; objection and argument by Defense counsel Specchio.

COURT ENTERED ORDERED granting the Motion and removing the Washoe County Public Defender's Office from representing any of the Defendants in this matter. Court shall appoint counsel for Defendant Harte.

Court noted receipt of reports from psychiatrists on Defendant Sirex; advised counsel of findings set forth therein.

COURT ENTERED ORDER finding defendant Sirex competent to stand trial and to aid counsel in preparation of that trial pursuant to statute.

Motion for Remand to Justice Court by defense counsel Alian; presented argument; no objection by State's counsel.

Upon no objection by all counsel, COURT ENTERED ORDERED granting Motion for remand as to all Defendants.

All counsel set forth death penalty qualifications. COURT ORDERED counsel Giese to consult the Court, in-camera, and Defendant Babb regarding his co-counsel prior to co-counsel being accepted by the Court.

CASE NO. CR98-0074 TITLE: THE STATE OF NEVADA VS. LATISHA MARIE BABB, WESTON EDWARD SIREX AND SHAWN RUSSELL HARTE

DATE, JUDGE
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

1/22/98	<u>ARRAIGNMENT - ALL DEFENDANTS</u>	
HONORABLE	Deputy District Attorney Thomas Barb and Elliott Sattler represented the	
CONNIE	State. Defendants Babb and Harte present with counsel, Deputy Public	<u>3/4/98</u>
STEINHEIMER	Defender, Cotter Conway, and Public Defender, Micheal Specchio.	<u>9:00 a.m.</u>
DEPT. NO. 4	Discussion ensued regarding the potential conflict of the Public	<u>Rpt on Psych</u>
M. Stone	Defender's Office representing two defendants in the same case. COURT	<u>Eval. - Sirex</u>
(Clerk)	finds that the conflict is waived for this hearing only.	
L. Clarkson	Defendant Sirex present with counsel, Jenny Hubach and Jack Aliam.	<u>3/4/98</u>
(Reporter)	Defendants handed copy of Information; and indicated to the Court that	<u>9:00 a.m.</u>
	their name as set forth on same was their true names.	<u>Entry of Plea</u>
	Defendants Babb and Harte waived formal reading of the Information.	<u>Babb and</u>
	Upon motion by defense counsel Hubach regarding Defendant Sirex and	<u>Harte</u>
	no objection by State's counsel, COURT ORDERED psychiatric evaluation	
	of defendant Sirex pursuant to statute.	
	Defendants Babb and Harte waived the 60-Day Rule as to this continuance	
	only and COURT ORDERED this matter continued for entry of plea.	
	Defendants remanded to the custody of the sheriff.	

DATE, JUDGE
OFFICERS OF

PAGE ONE

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

9/26/03 PETITION FOR POST CONVICTION

HONORABLE Petitioner Latisha Babb present with counsel Nathalie Huynh, Esq. Deputy
CONNIE District Attorney Terrence McCarthy, Esq., represented the State.

STEINHEIMER

DEPT. NO.4 **EXHIBITS A and B** marked by Petitioner's counsel.

M. Stone

(Clerk) 9:15 a.m. Court convened.

L. Clarkson

(Reporter)

Discussion ensued regarding the Stipulation received from Counsel regarding the Testimony of Debbie Merritt. COURT ENTERED ORDER denying the stipulation to allow for telephonic testimony of Debora Merritt upon finding that the Court could not properly evaluation the impact of the testimony over the telephone.

Theresa Toney, via telephone, called by Petitioner's counsel, sworn and testified; cross-examined; redirect examined; excused.

M. Jerome Wright, Esq., called by Petitioner's counsel, sworn and testified; cross-examined; recross-examined; excused.

Emelinda Dart called by Petitioner's counsel, sworn and testified; cross-examined; redirect examined; excused.

10:30 a.m. Court recessed.

10:45 a.m. Court and counsel met in chambers to further discuss the Stipulation regarding Debora Merritt's Testimony. Upon the Witness being unable to travel due to health, COURT ENTERED ORDER that the testimony will be allowed to be presented telephonically.

Debora Merritt, via telephone, called by Petitioner's counsel, sworn and testified; cross-examined; redirect examined; examined by the Court; excused.

Curtis Conklin called by Petitioner's counsel, sworn and testified; excused.

Mary Beth Babb called by Petitioner's counsel, sworn and testified; excused.

Latisha Babb called by Petitioner's counsel, sworn and testified.

CASE NO. CR98P0074B TITLE: LATISHA BABB VS. THE STATE OF NEVADA

DATE, JUDGE
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

9/26/03

PETITION FOR POST CONVICTION

Continued

11:55 a.m. Court recessed.

1:40 p.m. Court reconvened with respective counsel and Petitioner present.

Kenneth Peele called by Petitioner's counsel, sworn and testified; cross-examined; excused.

Yolanda Conklin called by Petitioner's counsel, sworn and testified; excused.

Paul Giese called by Petitioner's counsel, sworn and testified; cross-examined; redirect examined; excused.

Latisha Babb, heretofore sworn, resumed stand and was further direct examined; cross-examined; redirect examined; recross-examined; excused.

Ricky Conklin called by Petitioner's counsel, sworn and testified; cross-examined; excused.

EXHIBITS A and B offered by Petitioner's counsel; no objection by State's counsel; ordered admitted into evidence.

Petitioner's counsel presented opening argument.

State's counsel presented answering argument.

Petitioner's counsel presented closing argument.

State's counsel presented further argument.

COURT took matter under advisement.

4:00 p.m. Court recessed.

STATE OF NEVADA

Case No. CR98-0074

-vs-

LATISHA MARIE BABB

Trial Date: MARCH 15, 1999, through MARCH 24, 1999

Judge: CONNIE J. STEINHEIMER

Dept. No. 4

D.A.: THOMAS BARB AND ELLIOTT SATTLER

Deft's Atty: PAUL GIESE AND JERRY WRIGHT Type: APPOINTED

Clerk: M. Stone

Reporter: D. Phipps

VERDICT(S):

**COUNT I: MURDER IN THE FIRST DEGREE WITH THE USE OF A
DEADLY WEAPON - GUILTY**

COUNT II: ROBBERY WITH THE USE OF A DEADLY WEAPON

**Sentencing Date and Time: MAY 7, 1999, 1:30 P.M. AS TO COUNT II
AND IMPOSITION OF JURY VERDICT AS TO COUNT I**

PSI request sent: 3/27/99

CRIMINAL PROGRESS SHEET

Case No. CR98-0074
Latisha Marie Babb (TW)

STATUS: Custody ☒ NIC ☐
 Bail ☐ OR ☐

Bail Amount: _____
 Date Inf(Ind) filed: 3-25-98
 Amended Inf. filed: _____

Arraignment Date: 4-7-98

Dept. No: 4 Reporter: L. Clarborn

True Name: ☒ Same as above

Handed Copy ☒

Not Guilty ☒ By: _____

Waived Reading ☒

Requested Time to Plea ☐

Waived PSI ☐

Guilty ☐ Nolo ☐ To: _____

Juv. Ref. _____

P & P Ref. _____

Waived 60 Day: Yes ☒
 Date 4-7-98 No ☐

Continued To: _____

10-22-98 4:00 For: Status Conf

1-8-99 10:00 For: pre-trial mtg

3-11-99 4:00 For: mtc

3-15-99 10:00 For: Jury Trial

5-7-99 1:30 For: Sentencing

Sentencing Date: 5-7-99 Dept. No. 4 Reporter: PA D. Phipps

Disposition: \$2500; \$750 Atty fee; \$250 DNA testing fee; Ct I- life w/o possibility of parole; w/concur like term for use of d.w.; Ct II- NSP- max 180 mos, min 72 mos w/concur like term for use of d.w.; Ct II concurs w/Ct I; DNA analysis tests

Time Served: 540 Bail Exonerated ☐

Motions: 8/4/98 mtn for release of evidence denied

10-22-99 mtn for add. peremptory challenges granted; if mtn to sever is denied, parties stip to release of evidence

1-8-99^{4:22a 99} pre-trial mtn order entered (see minutes)

3-15-99 trial commenced; Ct I- guilty 1st Degree - Ct II- guilty- sentenced by jury Ct I- life w/o possibility of parole; sentencing w/ Ct II

CRIMINAL PROGRESS SHEET

Case No. CR98-0074
LATISHA MARIE BABB (TN)

STATUS: Custody ☒ NIC ☐
 Bail ☐ OR ☐

Bail Amount: _____
 Date Inf/Ind filed: 1.15.98
 Amended Inf. filed: _____

Arraignment Date: 1.22.98

Dept. No: 4 Reporter: L. Clarkson

True Name: ☒ same as above

Handed Copy ☒
 Waived Reading ☒
 Requested Time to Plea ☒
 Waived PSI ☐

Not Guilty ☐ By: _____

Guilty ☐ Nolo ☐ To: _____

Waived 60 Day: Yes ☐
 Date _____ No ☐

Juv. Ref. _____

P & P Ref. _____

Continued To: 3.4.98 9:00 For: O.O.P

For: _____

For: _____

For: _____

For: _____

Sentencing Date: _____ Dept. No. _____ Reporter: _____

Disposition: _____

Time Served: _____ Bail Exonerated ☐

Motions: 2.26.98 cml giese ind qualified to try death
penalty case; giese to consult ct + deft re:
co-cml; case remanded

Exhibits

Title: **LATISHA BABB VS. THE STATE OF NEVADA**

PLTF: **LATISHA BABB** PATY: **NATHALIE HUYNH, ESQ.**

DEFT: **THE STATE OF NEVADA** DATY: **TERRENCE MCCARTHY, ESQ.**

Case No: **CR98P0074B**

Dept. No: **4** Clerk: **M. STONE**

Date: **9/29/2003**

Exhibit No.	Party	Description	Marked	Offered	Admitted
A.	Petitioner	Photographs – Petitioner's Family	9/26/03	No Objection	9/26/03
B.	Petitioner	Letters from Petitioner's Family and Friends	9/26/03	No Objection	9/26/03

FILED

JUL 27 2007

RONALD A. LONGTIN, JR., CLERK
By:  DEPUTY CLERK

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

LATISHA BABB,

Appellant(s)

Case No. **CR98P0074B**

vs.

Dept. No. **4**

THE STATE OF NEVADA ,

Respondent(s)

CERTIFICATE OF CLERK

I hereby certify that the enclosed documents are certified copies of the original pleadings on file with the Second Judicial District Court, in accordance with the Revised Rules of Appellant Procedure Rule D(1).

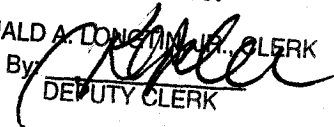
Dated: **July 27, 2007**

Ronald Longtin, Jr. Court Clerk,

By:  **Cathy Kepler, Appeals Clerk**

FILED

JUL 27 2007

RONALD A. LONGTIN, JR., CLERK
By: 
DEPUTY CLERK

1365

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

LATISHA BABB,

Appellant(s)

Case No. **CR98P0074B**

vs.

Dept. No. **4**

THE STATE OF NEVADA ,


Respondent(s)

CERTIFICATE OF TRANSMITTAL

I hereby certify that the enclosed the Notice of Appeal and other required documents (certified copies) were delivered to the Second Judicial District Court mailroom system for transmittal to the Nevada Supreme Court.

Dated: **July 27, 2007**

Ronald Longtin, Jr., Clerk of the Court

By: 
Cathy Kepler, Appeals Clerk

**SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK**

LATISHA MARIE BABB,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 49929
District Court Case No. CR980074

RECEIPT FOR DOCUMENTS

TO: Watt, Tieder, Hoffar & Fitzgerald, LLP and Lisa A. Rasmussen
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Ronald A. Longtin Jr., District Court Clerk

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

08/01/07 Filing Fee Waived: Criminal.

08/01/07 Filed Certified Copy of Notice of Appeal.
Appeal docketed in the Supreme Court this day. (Docketing statement mailed to counsel
for appellant.)

DATE: August 01, 2007

Janette M. Bloom, Clerk of Court

By: RM
Deputy Clerk