

1 **NOTC**
2 **FRANNY A. FORSMAN**
3 **Federal Public Defender**
4 **Nevada Bar No. 0014**
5 **TIFFANI D. HURST**
6 **Assistant Federal Public Defender**
7 **Nevada Bar SCR 49.11(4)**
8 **Illinois Bar No. 6278909**
9 **411 East Bonneville Avenue, Suite 250**
10 **Las Vegas, Nevada 89101**
11 **Phone (702) 388-6577**
12 **Fax (702) 388-5819**
13 **Attorneys for Petitioner**

FILED

APR 7 9 18 AM '08

CLERK OF COURT

No. 51409

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

FILED

APR 11 2008

10 **ZANE M. FLOYD,**
11 **Petitioner,**

CASE NO. C159897
DEPT. V

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *H. [signature]*
DEPUTY CLERK

12 **vs.**

NOTICE OF APPEAL

13 **E.K. McDANIEL, Warden,**
14 **CATHERINE CORTEZ-MASTO,**
15 **Attorney General for the State of**
16 **Nevada, et. al.**

Respondents.

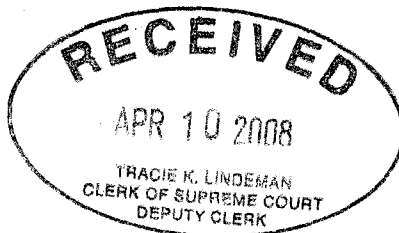
17 **NOTICE is hereby given that petitioner, Zane M. Floyd, appeals to the Nevada**
18 **Supreme Court from the Findings of Fact and Conclusions of Law and Order denying the Petition**
19 **for Post-Conviction Relief entered in this action on April 2, 2008. Notice of Entry of Decision and**
20 **Order of the foregoing order was filed and mailed on April 3, 2008.**

21 **Respectfully submitted this 7th day of April 2008.**

22 **FRANNY A. FORSMAN**
23 **Federal Public Defender**

24 *[Signature]*

25 **Tiffani D. Hurst**
26 **Assistant Federal Public Defender**



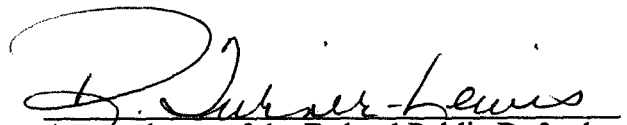
1 **CERTIFICATE OF MAILING**

2 In accordance with Rule 5(b) of the Nevada Rules of Civil Procedure, the undersigned hereby
3 certifies that on this 7th day of April 2008, she caused to be deposited for mailing in the United
4 States mail, first-class postage prepaid, a true and correct copy of the foregoing **NOTICE OF**
5 **APPEAL** addressed to the parties as follows:

6
7 Catherine Cortez Masto
8 Attorney General
9 Robert E. Wieland
10 Senior Deputy Attorney General
11 Criminal Justice Division
12 5420 Kietzke Lane, Suite 202
13 Reno, Nevada 89511

14
15 Office of the District Attorney
16 Regional Justice Center, Third Floor
17 Attn: Steven Owens, Deputy District Attorney
18 200 Lewis Avenue
19 PO Box 552212
20 Las Vegas, Nevada 89155

21
22 Zane Floyd
23 Id No. 66514
24 Ely State Prison
25 P.O. Box 1989
26 Ely, Nevada 89301

27
28 
An employee of the Federal Public Defender

1 ASTA
FRANNY A. FORSMAN
2 Federal Public Defender
Nevada Bar No. 0014
3 TIFFANI D. HURST
Assistant Federal Public Defender
4 Nevada Bar SCR 49.11(4)
Illinois Bar No. 6278909
5 411 East Bonneville Avenue, Suite 250
Las Vegas, Nevada 89101
6 Phone (702) 388-6577
Fax (702) 388-5819
7 Attorneys for Petitioner

FILED

APR 7 9 18 AM '08

CLERK OF DISTRICT COURT

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 ZANE M. FLOYD,
11
12 Petitioner,

CASE NO. C159897
DEPT. V

13 vs.

CASE APPEAL STATEMENT

14 E.K. McDANIEL, Warden,
15 CATHERINE CORTEZ-MASTO,
Attorney General for the State of
Nevada, et. al.

16 Respondents.

17 CASE APPEAL STATEMENT

- 18 1. Name of petitioner filing this case appeal statement:
19 Zane M. Floyd
20 2. Identify the judge issuing the order appealed from:
21 Honorable Jacqui Glass
22 3. All parties to the proceedings in the district court:
23 Same as in caption; State of Nevada is real party in interest.
24 4. All parties involved in this appeal:
25 Same as in caption; State of Nevada is real party in interest.

26 ///

27 ///

1 5. Set forth the name, law firm, address and telephone number of all counsel on
2 appeal and party or parties whom they represent:

3 Franny Forsman
4 Federal Public Defender
5 Tiffani D. Hurst
6 Assistant Federal Public Defender
7 Brian Abbington
8 Assistant Federal Public Defender
9 411 E. Bonneville, Ste. 250
10 Las Vegas, NV 89101
11 (702) 388-6577

12 Counsel for Petitioner, Zane M. Floyd

13 David Roger
14 Clark County District Attorney
15 Steven S. Owens
16 Chief Deputy District Attorney
17 Office of the District Attorney
18 Regional Justice Center, Third Floor
19 200 Lewis Avenue
20 Las Vegas, Nevada 89155
21 (702) 671-2750

22 and

23 Catherine Cortez Masto
24 Attorney General of Nevada
25 Victor Hugo Schulze II
26 Deputy Attorney General
27 Attorney General's Office
28 555 E. Washington Ave., #3900
Las Vegas, Nevada 89101
(702) 486-3110

Counsel for Warden and State of Nevada

6. Whether petitioner/appellant was represented by appointed or retained counsel
in the district court:

On June 8, 2007, Federal Public Defender Franny A. Forsman and Assistant Federal
Public Defender David Anthony filed a state habeas petition for Petitioner, Floyd v.
E.K. McDaniel et al., Case No. C159897, Eighth Judicial District Court, Clark
County, Nevada. On August 22, 2007, the Supreme Court of Nevada entered an
Order Granting Limited Right to Practice Law in the State of Nevada for Assistant
Federal Defenders Tiffani D. Hurst and Brian Abbington at which time they became
counsel of record on behalf of Mr. Floyd.

1 7. **Whether petitioner/appellant was granted leave to proceed in forma pauperis,**
2 **and the date of entry of the district court order granting such leave:**

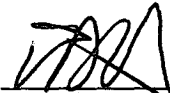
3 Petitioner/appellant was previously granted leave to proceed *in forma pauperis* in the
4 pending federal proceeding, Floyd v. E.K. McDaniel et al., Case No. 2:06-cv-00471-
5 PMP-LRL on April 17, 1996.

6 8. **Date proceedings commenced in the district court (e.g., date complaint,**
7 **indictment, information or petition was filed):**

8 Petition for writ of habeas corpus was filed on June 8, 2007.

9 Respectfully submitted this 7th day of April 2008.

10 FRANNY A. FORSMAN
11 Federal Public Defender

12 
13 TIFFANI D. HURST
14 Nevada Bar SCR 49.11(4)
15 Illinois Bar No. 6278909
16 Assistant Federal Public Defender

17 Attorneys for Petitioner/Appellant
18
19
20
21
22
23
24
25
26
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

**Catherine Cortez Masto
Attorney General
Robert E. Wieland
Senior Deputy Attorney General
Criminal Justice Division
5420 Kietzke Lane, Suite 202
Reno, Nevada 89511**

**Office of the District Attorney
Regional Justice Center, Third Floor
Attn: Steven Owens, Deputy District Attorney
200 Lewis Avenue
PO Box 552212
Las Vegas, Nevada 89155**

4

DATE: 04/08/08
CASE NO. 99-C-159897-C

I N D E X

TIME 8:30 AM
JUDGE:Glass, Jackie

STATE OF NEVADA

[] vs Floyd, Zane M

[]

0001 D1 Zane M Floyd
P O Box 1989
Ely, NV 89301

000014 Forsman, Frances A.
NO. 1 Office of Federal Public Def.
411 E Bonneville Ave Suite250
Las Vegas, NV 89101

0002 W Traci R Carter

?????? ## UNKNOWN ##

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

(Continued to page 2)

| NO. | FILED/REC CODE | REASON/DESCRIPTION | FOR | OC | SCH/PER | C |
|------|----------------|---|--------------|----|----------|---|
| 0028 | 12/27/99 | REQT/NOTICE OF MOTION AND MOTION FOR USE OF DEMONSTRATIVE EXHIBITS DURING THE STATES OPENING STATEMENT | 0001 0001 | | 01/06/00 | Y |
| 0029 | 12/27/99 | REQT/NOTICE OF MOTION AND MOTION TO COMPEL INDEPENDENT PSYCHIATRIC AND OR PSYCHOLOGICAL AND OR PHYSIOLOGICAL EXAMINATION | 0001 0001 | | 01/06/00 | Y |
| 0030 | 12/30/99 | MOT /DEFT'S MOTION TO SEVER COUNTS | 0001 | DN | 02/07/00 | |
| 0031 | 01/06/00 | MOT /ALL PENDING MOTIONS 01/06/00 | 0001 | | 01/06/00 | |
| 0032 | 01/05/00 | REQT/MOTION FOR CHANGE OF VENUE | 0001 | | | |
| 0033 | 01/06/00 | OPPS/OPPOSITION TO DEFENDANTS MOTION TO SEVER COUNTS | 0001 0001 | | | |
| 0034 | 01/10/00 | MOT /DEFT'S MOTION TO FEDERALIZE ALL MOTIONS/ REQUESTS/OTHER APPLICATIONS FOR PROC | 0001 0001 | OC | 02/29/00 | |
| 0035 | 01/07/00 | OPPS/SUPPLEMENT TO STATES OPPOSITION TO DEFENDANTS MOTION TO SEVER COUNTS | 0001 0001 | | | |
| 0036 | 01/10/00 | RPLY/DEFENDANTS REPLY TO STATES OPPOSITION TO MOTION TO SEVER COUNTS | 0001 0001 | | | |
| 0037 | 01/10/00 | REQT/MOTION TO FEDERALIZE ALL MOTIONS OBJECTIONS REQUESTS AND OTHER APPLICATION FOR THE ABOVE ENTITLED CASE | 0001 0001 | | 02/07/00 | Y |
| 0038 | 01/11/00 | ROC /RECEIPT OF COPY | 0001 | | 01/11/00 | |
| 0039 | 01/11/00 | OPPS/STATES OPPOSITION TO DEFENDANTS MOTION FOR CHANGE OF VENUE | 0001 0001 | | | |
| 0040 | 01/13/00 | MOT /DEFT'S MOTION TO PARTIALLY STRIKE AGGRAVATING CIRCUMSTANCES/ALLEGED EVIDEN | 0001 0001 | | 02/29/00 | |
| 0041 | 01/14/00 | MOT /DEFT'S MOTION TO DISMISS STATE'S NOTICE OF INTENT TO SEEK DEATH PENALTY BECAUSE | 0001 0001 | DN | 02/07/00 | |
| 0042 | 01/13/00 | OPPS/OPPOSITION TO MOTION TO FEDERALIZE ALL MOTIONS OBJECTIONS REQUESTS AND OTHER APPLICATIONS | 0001 0001 | | | Y |
| 0043 | 01/14/00 | MOT /DEFT'S MOTION IN LIMINE CONCERNING REMOVAL OF JURORS BY THE PROSECUTOR | 0001 0001 | DN | 02/07/00 | |
| 0044 | 01/18/00 | MOT /DEFT'S MOTION IN LIMINE FOR ORDER PROHIBITING PROSECUTION MISCONDUCT IN | 0001 0001 | DN | 02/07/00 | |
| 0045 | 01/18/00 | MOT /DEFT'S SUPPLEMENTAL MOTION FOR CHANGE OF VENUE AND REPLY TO STATES OPPOSITION | 0001 0001 | DN | 02/07/00 | |
| 0046 | 01/14/00 | REQT/DEFENDANTS MOTION TO DISMISS STATES NOTICE OF INTENT TO SEEK DEATH PENALTY BECAUSE NEVADAS DEATH PENALTY STATUTE IS UNCONSTITUTIONAL | 0001 0001 | | 02/07/00 | Y |
| 0047 | 01/11/00 | MOT /DEFT'S MOTION FOR ATTORNEY CONDUCTED, SEQUESTERED INDIVIDUAL VOIR DIRE | 0001 0001 | DN | 02/07/00 | |
| 0048 | 01/19/00 | MOT /DEFT'S MOTION IN LIMINE TO PRECLUDE THE STATE FROM USING PREJUDICIAL PHOTOGRAPHS | 0001 0001 | GP | 02/07/00 | |
| 0049 | 01/19/00 | REQT/MOTION IN LIMINE TO PRECLUDE THE STATE FROM USING PREJUDICIAL PHOTOGRAPHS AS DEMONSTRATIVE EXHIBITS OR FROM MOVING TO ADMIT SUCH PHOTOGRAPHS INTO EVIDENCE | 0001 0001 | | 02/07/00 | Y |
| 0050 | 01/20/00 | MOT /DEFT'S MOTION TO ALLOW THE DEFENSE TO ARGUE LAST IN PENALTY PHASE | 0001 0001 | DN | 02/07/00 | |
| 0051 | 01/20/00 | MOT /DEFT'S MOTION TO SEQUESTER JURORS | 0001 | DN | 02/07/00 | |
| 0052 | 01/20/00 | MOT /DEFT'S MOTION TO SUPPRESS THE DEFT'S STATEMENTS TO THE POLICE | 0001 0001 | | 02/29/00 | |

(Continued to page 3)

| NO. | FILED/REC CODE | REASON/DESCRIPTION | FOR | OC | SCH/PER | C |
|------|----------------|---|--------------|----|----------|---|
| 0053 | 01/20/00 | OPPS/DEFENDANTS OPPOSITION TO THE STATES MOTION TO COMPEL INDEPENDENT | 0001 0001 | | | Y |
| | | PSYCHIATRIC AND OR PSYCHOLOGICAL AND OR PHYSIOLOGICAL EXAMINATION | | | | |
| 0054 | 01/20/00 | EXH /SUPPLEMENTAL EXHIBIT TO MOTION FOR CHANGE OF VENUE | 0001 0001 | | | |
| 0055 | 01/20/00 | OPPS/DEFENDANTS OPPOSITION TO THE STATES MOTION FOR USE OF DEMONSTRATIVE | 0001 0001 | | | Y |
| | | EXHIBITS DURING THE STATES OPENING STATEMENT | | | | |
| 0056 | 01/20/00 | OPPS/DEFENDANTS OPPOSITION TO THE STATES MOTION IN LIMINE REGARDING STATE OF | 0001 0001 | | | Y |
| | | MIND TESTIMONY | | | | |
| 0058 | 01/24/00 | MOT /DEFT'S REQUEST MATERIAL WITNESS TRACI ROSE CARTER ID#1474987 | 0002 0002 | MH | 01/27/00 | |
| 0059 | 01/21/00 | LIST/SECOND NOTICE OF WITNESSES | 0001 | | | |
| 0060 | 01/25/00 | TRAN/REPORTER'S TRANSCRIPT OF JAN 6, 2000 STATUS CHECK:TRIAL READINESS/ALL MOTIONS | 0001 0001 | | 01/06/00 | |
| 0061 | 01/25/00 | ROC /RECEIPT OF COPY | 0001 | | 01/25/00 | |
| 0062 | 01/27/00 | OPPS/STATES OPPOSITION TO DEFENDANTS MOTION TO SUPPRESS DEFENDANTS STATEMENTS TO | 0001 0001 | | | Y |
| | | THE POLICE | | | | |
| 0063 | 01/27/00 | RSPN/STATES RESPONSE TO DEFENDANTS MOTION IN LIMINE CONCERNING REMOVAL OF JURORS | 0001 0001 | | | Y |
| | | BY THE PROSECUTOR (FOR CAUSE BASED UPON OBJECTIONS TO DEATH PENALTY) | | | | |
| 0064 | 01/27/00 | OPPS/OPPOSITION TO DEFENDANTS MOTION IN LIMINE TO EXCLUDE PREJUDICIAL | 0001 0001 | | | Y |
| | | PHOTOGRAPHS AS DEMONSTRATIVE EXHIBITS OR FROM MOVING TO ADMIT SUCH PHOTOGRAPHS INTO EVIDENCE | | | | |
| 0065 | 01/27/00 | RSPN/RESPONSE IN OPPOSITION TO DEFENDANTS MOTION TO PARTIALLY STRIKE AGGRAVATING | 0001 0001 | | | Y |
| | | CIRCUMSTANCES AND ALLEGED EVIDENCE IN SUPPORT THEREOF | | | | |
| 0066 | 01/27/00 | OPPS/OPPOSITION TO DEFENDANTS MOTION FOR SEQUESTERED INDIVIDUAL VOIR DIRE | 0001 0001 | | | |
| 0067 | 01/27/00 | OPPS/OPPOSITION TO DEFENDANTS MOTION TO ALLOW THE DEFENSE TO ARGUE LAST AT | 0001 0001 | | | Y |
| | | THE PENALTY PHASE | | | | |
| 0068 | 01/27/00 | RSPN/STATES RESPONSE TO DEFENDANTS MOTION TO SEQUESTER JURORS | 0001 0001 | | | |
| 0069 | 01/27/00 | OPPS/OPPOSITION TO DEFENDANTS MOTION TO DISMISS STATES NOTICE OF INTENT TO | 0001 0001 | | | Y |
| | | SEEK DEATH PENALTY ON CONSTITUTIONAL GROUNDS | | | | |
| 0070 | 01/27/00 | OPPS/OPPOSITION TO DEFENDANTS MOTION FOR ORDER PROHIBITING PROSECUTION | 0001 0001 | | | Y |
| | | MISCONDUCT IN ARGUMENT | | | | |
| 0071 | 01/27/00 | REQT/MOTION TO USE TRANSCRIPT OF DEFENDANTS STATEMENTS | 0001 0001 | | 02/07/00 | |
| 0072 | 01/31/00 | TRAN/TRANSCRIPT OF PROCEEDINGS: DEFENDANT'S REQUEST-MATERIAL WITNESS TRACI ROSE | 0001 0001 | | 01/27/00 | Y |
| | | CARTER | | | | |
| 0073 | 02/01/00 | MOT /TRACI CARTER'S MOTION FOR HOUSE ARREST IN LIEU OF CUSTODY FOR MATERIAL WITNESS | | DN | 02/07/00 | |
| 0074 | 02/01/00 | REQT/MOTION FOR HOUSE ARREST IN LIEU OF CUSTODY FOR MATERIAL WITNESS | 0002 0002 | | 02/07/00 | Y |

(Continued to page 4)

| NO. | FILED/REC CODE | REASON/DESCRIPTION | FOR | OC | SCH/PER | C |
|---|----------------|---|------|----|----------|---|
| TRACI ROSE CARTER ID# 1474987 | | | | | | |
| 0075 | 02/01/00 | ROC /RECEIPT OF COPY | | | 02/01/00 | |
| 0076 | 02/02/00 | RPLY/DEFENDANTS REPLY TO STATES OPPOSITION | 0001 | | | Y |
| | | TO PARTIALLY STRIKE AGGRAVATING | 0001 | | | |
| CIRCUMSTANCES AND ALLEGED EVIDENCE IN SUPPORT THEREOF | | | | | | |
| 0077 | 02/02/00 | REQT/MEDIA REQUEST | | | | |
| 0078 | 02/02/00 | ORDR/ORDER GRANTING PERMISSION OF MEDIA ENTRY | | | | |
| 0079 | 02/02/00 | LIST/NOTICE OF WITNESSES | 0001 | | | |
| 0080 | 02/03/00 | LIST/NOTICE OF EXPERT WITNESSES | 0001 | | | |
| 0081 | 02/08/00 | LIST/SUPPLEMENTAL NOTICE OF WITNESSES | 0001 | | | |
| 0082 | 02/14/00 | HEAR/AT THE REQUEST OF THE COURT: HALF WAY | 0002 | | 02/24/00 | |
| | | HOUSE | 0002 | | | |
| 0083 | 02/15/00 | OCAL/STATUS CHECK: DEPOSITION | 0002 | | 02/29/00 | |
| 0084 | 02/15/00 | MOT /DEFT'S MOTION TO CONTINUE TRIAL | 0001 | | 02/29/00 | |
| 0085 | 02/15/00 | OCAL/STATUS CHECK: DEPOSITION OF TRACI CARTER | 0001 | | 02/29/00 | |
| 0086 | 02/15/00 | MEMO/MEMORANDUM OF LAW ON ADMISSIBILITY OF | 0001 | | | Y |
| | | 911 TAPES UNDER THE PRESENT SENSE | 0001 | | | |
| IMPRESSION AND EXCITED UTTERANCE EXCEPTIONS TO THE HEARSAY RULE | | | | | | |
| 0087 | 02/14/00 | SUPP/SUPPLEMENT TO NOTICE OF EVIDENCE IN | 0001 | | | |
| | | SUPPORT OF AGGRAVATION | 0001 | | | |
| 0088 | 02/15/00 | LIST/NOTICE OF EXPERT WITNESSES | 0001 | | | |
| 0089 | 02/17/00 | MOT /ALL PENDING MOTIONS 2/7/00 | AL | | 02/07/00 | |
| 0090 | 02/15/00 | TRAN/REPORTER'S TRANSCRIPT OF PROCEEDINGS | 0001 | | 02/07/00 | Y |
| | | DEFENDANT'S PENDING MOTIONS, TRACI | 0001 | | | |
| CARTER'S MOTION FOR HOUSE ARREST IN LIEU OF CUSTODY FOR MATERIAL WITNESS, | | | | | | |
| STATUS CHECK: TRIAL READINESS/SET DATE FOR JURY QUESTIONNAIRE | | | | | | |
| 0091 | 02/16/00 | APPL/STATES SECOND APPLICATION FOR | 0001 | | | Y |
| | | INDEPENDENT PSYCHIATRIC EXAMINATION | 0001 | | | |
| AND REQUEST FOR IMMEDIATE RECIPROCAL DISCOVERY | | | | | | |
| 0092 | 02/16/00 | ORDR/OPPOSITION TO DEFENDANTS MOTION TO | 0001 | | | |
| | | CONTINUE TRIAL AND ORDER SEALING | 0001 | | | |
| 0093 | 02/17/00 | LIST/SUPPLEMENTAL NOTICE OF WITNESSES | 0001 | | | |
| 0094 | 02/18/00 | LIST/DEFENDANTS SUPPLEMENTAL NOTICE OF EXPERT | 0001 | | | |
| | | WITNESSES | 0001 | | | |
| 0095 | 02/18/00 | RPLY/REPLY TO STATES OPPOSITION TO | 0001 | | | Y |
| | | DEFENDANTS MOTION TO CONTINUE TRIAL - | 0001 | | | |
| UNDER SEAL | | | | | | |
| 0096 | 02/24/00 | JURY/TRIAL BY JURY VJ 6/20/00 | 0001 | VC | 07/10/00 | |
| 0097 | 02/23/00 | OPPS/OPPOSITION TO THE ALLOWANCE OF VIDEO | 0001 | | | |
| | | TAPED DEPOSITION OF TRACY CARTER | 0001 | | | |
| 0098 | 02/24/00 | ANSW/DEFENDANTS ANSWER TO STATES SECOND | 0001 | | | Y |
| | | APPLICATION FOR INDEPENDENT PSYCHIATRIC | 0001 | | | |
| EXAMINATION AND REQUEST FOR IMMEDIATE RECIPROCAL DISCOVERY | | | | | | |
| 0099 | 02/25/00 | ORDR/ORDER FOR RELEASE OF MATERIAL WITNESS | 0001 | | | |
| | | TRACIE ROSE CARTER | 0001 | | | |
| 0100 | 02/25/00 | PTAT/STATES POINTS AND AUTHORITIES ON THE | 0001 | | | Y |
| | | USE OF VIDEOTAPE INSTEAD OF STENOGRAPHY | 0001 | | | |
| TO RECORD THE DEPOSITION OF TRACIE ROSE CARTER | | | | | | |
| 0101 | 02/28/00 | ORDR/ORDER | 0001 | | | |
| 0102 | 02/29/00 | OCAL/STATUS CHECK: DEPOSITION OF TRACI | 0002 | | 03/01/00 | |
| | | CARTER, MATERIAL WITNESS | 0002 | | | |
| 0103 | 02/29/00 | MOT /STATE'S SECOND APPLICATION FOR PSYCH | 0001 | GR | 05/18/00 | |
| | | EXAM AND REQUEST FOR IMMEDIATE RECIP DIS | 0001 | | | |

(Continued to page 5)

| NO. | FILED/REC CODE | REASON/DESCRIPTION | FOR | OC | SCH/PER | C |
|--|----------------|---|------|----|----------|---|
| 0104 | 02/29/00 | HEAR/EVIDENTIARY HEARING: DEFT'S MOTION TO SUPPRESS VJ 6/22/00 | 0001 | VC | 07/05/00 | |
| 0105 | 02/29/00 | OCAL/STATUS CHECK: JURY QUESTIONNAIRE VJ 6/29/00 | 0001 | VC | 07/05/00 | |
| 0106 | 03/06/00 | NOEV/NOTICE OF EXHIBIT(S) IN THE VAULT | | | 03/02/00 | |
| 0107 | 03/03/00 | NOTC/NOTICE OF ENTRY OF ORDER | 0001 | | 03/03/00 | |
| 0108 | 03/06/00 | TRAN/REPORTER'S TRANSCRIPT AT REQUEST OF COURT RELEASE TO HALFWAY HOUSE | 0001 | | 02/15/00 | |
| 0110 | 03/08/00 | MOT /STATE'S MOTION TO USE TRANSCRIPTS OF MOTION | 0001 | GR | 02/07/00 | |
| 0111 | 03/06/00 | TRAN/REPORTER'S TRANSCRIPT RELEASE TO HALFWAY HOUSE | | | 02/15/00 | |
| 0112 | 03/13/00 | TRAN/REPORTER'S TRANSCRIPT OF PROCEEDINGS STATE'S SECOND APPLICATION FOR | 0001 | | 03/09/00 | Y |
| INDEPENDANT PSYCHIATRIC EXAMINATION AND REQUEST FOR IMMEDIATE RECIPROCAL DISCOVERY | | | | | | |
| 0113 | 03/13/00 | TRAN/REPORTER'S TRANSCRIPT OF VIDEO DEPOSITION OF TRACIE CARTER | 0002 | | 03/01/00 | |
| 0114 | 03/17/00 | ORDR/ORDER GRANTING STATES MOTION FOR INDEPENDENT PSYCHIATRIC EXAMINATION AND RECIPROCAL DISCOVERY. | 0001 | | | Y |
| 0115 | 03/21/00 | ORDR/ORDER APPOINTING COUNSEL FOR MATERIAL WITNESS TRACI ROSE CARTER ID #1474987 | 0001 | | | |
| 0116 | 04/05/00 | NOTC/NOTICE OF ENTRY OF ORDER | 0001 | | 04/05/00 | |
| 0117 | 04/27/00 | ORDR/ORDER | 0001 | HG | 04/18/00 | |
| 0118 | 05/03/00 | NOTC/NOTICE OF ENTRY OF ORDER | 0001 | | 05/03/00 | |
| 0119 | 05/09/00 | TRAN/REPORTER'S TRANSCRIPT OF PROCEEDINGS - STATE'S SECOND APPLICATION FOR | 0001 | | 04/18/00 | Y |
| INDEPENDENT PSYCHIATRIC EXAMINATION AND REQUEST FOR IMMEDIATE RECIPROCAL DISCOVERY | | | | | | |
| 0120 | 05/09/00 | INFO/AMENDED INFORMATION | 0001 | | 05/09/00 | |
| 0121 | 05/11/00 | MOT /STATE'S MOTION FOR PRODUCTION OF DATA | 0001 | OC | 06/20/00 | |
| 0122 | 05/11/00 | REQT/NOTICE OF MOTION AND MOTION FOR PRODUCTION OF DATE SUPPORTING | 0001 | HG | 05/18/00 | Y |
| PSYCHOLOGISTS FINDINGS IN REPORT | | | | | | |
| 0123 | 05/18/00 | MOT /ALL PENDING MOTIONS 5/18/00 | 0001 | | 05/18/00 | |
| 0124 | 06/02/00 | TRAN/REPORTER'S TRANSCRIPT OF PROCEEDINGS | 0001 | | 06/02/00 | |
| 0125 | 06/07/00 | LIST/SECOND SUPPLEMENTAL NOTICE OF WITNESSES | 0001 | | | |
| 0126 | 06/14/00 | MOT /STATE'S MTN TO RESET EVIDENTIARY HEARING ON VOLUNTARINESS OF CONFESSION | 0001 | | 06/22/00 | |
| 0127 | 06/13/00 | LIST/SUPPLEMENTAL NOTICE OF EXPERT WITNESSES | 0001 | | | |
| 0128 | 06/14/00 | NOTC/NOTICE OF MOTION AND MOTION TO RESET EVIDENTIARY HEARING ON VOLUNTARINESS | 0001 | | | Y |
| OF CONFESSION | | | | | | |
| 0129 | 06/15/00 | ORDR/ORDER | 0001 | HG | 06/01/00 | |
| 0130 | 06/16/00 | ROC /RECEIPT OF COPY | 0001 | | 06/16/00 | |
| 0131 | 06/20/00 | MOT /ALL PENDING MOTIONS 6/20/00 | 0001 | | 06/20/00 | |
| 0132 | 06/20/00 | JURY/TRIAL BY JURY | 0001 | | 07/13/00 | |
| 0133 | 06/22/00 | HEAR/EVIDENTIARY HEARING: DEFT'S MOTION TO SUPPRESS | 0001 | DP | 06/29/00 | |
| 0134 | 06/21/00 | EXPR/EX PARTE ORDER | 0001 | | | |
| 0135 | 06/23/00 | ORDR/ORDER FOR PRODUCTION OF INMATE ZANE MICHAEL FLOYD FROM THE CLARK COUNTY | 0001 | HG | 06/28/00 | Y |

(Continued to page 6)

| NO. | FILED/REC CODE | REASON/DESCRIPTION | FOR | OC | SCH/PER | C |
|--|----------------|---|------|----|----------|---|
| DETENTION CENTER TO DR MORTILLAROS OFFICE LOCATED AT 501 S RANCHO DR SUITE F37 | | | | | | |
| 0136 | 06/23/00 | ORDR/ORDER ALLOWING INDEPENDENT PSYCHIATRIC EXAMINATION | 0001 | | | |
| 0137 | 06/23/00 | ORDR/ORDER | 0001 | | | |
| 0138 | 06/27/00 | TRAN/TRANSCRIPT OF PROCEEDINGS - STATE'S MOTION FOR PRODUCTION OF DATA | 0001 | | 06/20/00 | Y |
| SUPPORTING PSYCHOLOGISTS FINDINGS IN REPORT STATE'S MOTION TO RESET EVIDENTIARY HEARING ON VOLUNTARINESS OF CONFESSION | | | | | | |
| 0139 | 06/27/00 | TRAN/TRANSCRIPT OF PROCEEDINGS - STATE'S MOTION TO RESET EVIDENTIARY HEARING ON VOLUNTARINESS OF CONFESSION | 0001 | | 06/22/00 | Y |
| 0140 | 06/26/00 | RSPN/RESPONSE TO STATES MEMORANDUM OF LAW ON ADMISSIBILITY OF 911 TAPES UNDER THE PRESENT SENSE IMPRESSION AND EXCITED UTTERANCE EXCEPTION TO THE HEARSAY RULE | 0001 | | | Y |
| 0141 | 06/27/00 | LIST/SECOND SUPPLEMENTAL NOTICE OF WITNESSES | 0001 | | | |
| 0142 | 06/28/00 | RPLY/STATES REPLY TO DEFENDANTS RESPONSE TO MEMORANDUM OF LAW ON ADMISSIBILITY OF 911 TAPES UNDER THE PRESENT SENSE IMPRESSION AND EXCITED UTTERANCE EXCEPTIONS TO THE HEARSAY RULE | 0001 | | | Y |
| 0143 | 06/28/00 | RPLY/REPLY TO STATES ANSWER TO DEFENDANTS MOTION TO PARTIALLY STRIKE AGGRAVATING CIRCUMSTANCES | 0001 | | | Y |
| 0145 | 06/29/00 | MOT /DEFT'S MOTION RE: 911 TAPES MOTION | | GR | 07/06/00 | |
| 0146 | 06/29/00 | OCAL/STATUS CHECK: RESOLUTION OF EXHIBITS | 0001 | OC | 07/06/00 | |
| 0147 | 06/29/00 | MOT /DEFT'S MOTION TO PARTIALLY STRIKE AGGRAVATING CIRCUMSTANCES | 0001 | GR | 07/06/00 | |
| 0148 | 06/29/00 | ORDR/ORDER (RE EVIDENTIARY HEARING) | 0001 | SC | 06/29/00 | |
| 0149 | 06/30/00 | INFO/2ND AMENDED INFORMATION | 0001 | | 06/30/00 | |
| 0150 | 06/30/00 | ROC /RECEIPT OF COPY | 0001 | | 06/30/00 | |
| 0151 | 07/05/00 | OPPS/OPPOSITION TO STATES REPLY TO DEFENDANTS RESPONSE TO MEMORANDUM OF LAW ON ADMISSIBILITY OF 911 TAPES UNDER THE PRESENT SENSE IMPRESSION AND EXCITED UTTERANCE EXCEPTIONS TO THE HEARSAY RULE | 0001 | | | Y |
| 0152 | 07/06/00 | MOT /ALL PENDING MOTIONS 7/6/00 | 0001 | | 07/06/00 | |
| 0153 | 07/06/00 | OCAL/STATUS CHECK: MEDIA COVERAGE | 0001 | | 07/10/00 | |
| 0154 | 07/05/00 | REQT/STATES SURREPLY TO DEFENDANTS MOTION TO PARTIALLY STRIKE AGGRAVATING CIRCUMSTANCES | 0001 | | | Y |
| 0155 | 07/05/00 | ORDR/ORDER SEALING STATES SURREPLY TO DEFENDANTS MOTION TO PARTIALLY STRIKE AGGRAVATING CIRCUMSTANCES | 0001 | | | Y |
| 0156 | 07/05/00 | ROC /RECEIPT OF COPY | 0001 | | 07/05/00 | |
| 0157 | 07/06/00 | ORDR/ORDER FOR TRANSCRIPT | 0001 | | | |
| 0158 | 07/07/00 | MEMO/MEMORANDUM OF LAW REGARDING THE PROPER SCOPE OF VICTIM IMPACT TESTIMONY | 0001 | | | |
| 0159 | 07/07/00 | MEMO/MEMORANDUM OF LAW REAGRDIING STATES RIGHTS TO HAVE ITS PSYCHIATRIST EXAMINE DEFENDANT PRIOR TO TRIAL | 0001 | | | Y |
| 0160 | 07/07/00 | MEMO/MEMORANDUM OF LAW REGARDING COURTS ABILITY TO LIMIT PHOTOGRAPHING AND TELEVISIONING OF THE FACES OF CERTAIN VICTIMS AND OR WITNESSES WHO SPECIFICALLY | 0001 | | | Y |

(Continued to page 7)

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

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

(Continued to page 9)

| NO. | FILED/REC | CODE | REASON/DESCRIPTION | FOR | OC | SCH/PER | C |
|------|-----------|---------------------|--------------------------------------|------|----|----------|---|
| 0229 | 08/31/00 | ORDR/ORDER | FOR STAY OF EXECUTION | 0001 | | 08/31/00 | |
| 0230 | 08/31/00 | ROC /RECEIPT | OF COPY | 0001 | | 08/31/00 | |
| 0231 | 09/01/00 | EXPR/EX PARTE | ORDER FOR RETURN OF PROPERTY | 0001 | | 08/31/00 | |
| 0232 | 09/01/00 | ORDR/ORDER | | 0001 | HG | 08/21/00 | |
| 0233 | 09/01/00 | TRAN/REPORTER'S | TRANSCRIPT RE SENTENCING | 0001 | | | |
| 0234 | 09/05/00 | JUDG/JUDGMENT | OF CONVICTION | 0001 | | 09/05/00 | |
| 0235 | 09/05/00 | NTFE/NOTICE | TO TRANSPORT FOR EXECUTION | 0001 | | | |
| 0236 | 09/05/00 | WARR/WARRANT | OF EXECUTION | 0001 | | | |
| 0237 | 09/05/00 | ORDR/ORDER | OF EXECUTION | 0001 | | 09/05/00 | |
| 0238 | 09/05/00 | JMNT/ADMINISTRATION | ASSESSMENT FEE | 0001 | | 09/06/00 | |
| 0239 | 09/05/00 | JMNT/JUDGMENT | OF RESTITUTION (COUNT II) | 0001 | | 09/06/00 | |
| 0240 | 09/05/00 | JMNT/JUDGMENT | OF RESTITUTION (COUNT III) | 0001 | | 09/06/00 | |
| 0241 | 09/05/00 | JMNT/JUDGMENT | OF RESTITUTION (COUNT IV) | 0001 | | 09/06/00 | |
| 0242 | 09/05/00 | JMNT/JUDGMENT | OF RESTITUTION (COUNT V) | 0001 | | 09/06/00 | |
| 0243 | 09/05/00 | JMNT/JUDGMENT | OF RESTITUTION (COUNT VI) | 0001 | | 09/06/00 | |
| 0244 | 09/05/00 | JMNT/JUDGMENT | OF RESTITUTION (VII) | 0001 | | 09/06/00 | |
| 0245 | 09/06/00 | ORDR/ORDER | FOR TRANSCRIPT | 0001 | | | |
| 0246 | 09/08/00 | ROP /RECEIPT | OF EXHIBITS | 0001 | | | |
| 0247 | 08/31/00 | CSCL/CASE | CLOSED | | | 08/31/00 | |
| 0248 | 09/11/00 | NOAS/NOTICE | OF APPEAL | 0001 | AP | | |
| 0249 | 09/11/00 | STAT/CASE | APPEAL STATEMENT | 0001 | | | |
| 0250 | 09/08/00 | ROC /RECEIPT | OF COPY | 0001 | | 09/08/00 | |
| 0251 | 09/12/00 | CASO/CASE (RE) | ACTIVATED ON | | | | |
| 0252 | 09/12/00 | NOEV/NOTICE | OF TRANSCRIPTS ON THE SHELVES | | | 07/11/00 | |
| 0253 | 09/22/00 | ROP /RECEIPT | OF EXHIBITS | 0001 | | | |
| 0254 | 07/21/00 | TRAN/REPORTER'S | TRANSCRIPT OF JULY 19, 2000 | | | 07/21/00 | |
| | | | OF JURY TRIAL | | | | |
| 0255 | 10/02/00 | MOT /STATE'S | MOTION FOR CLARIFICATION OF | 0001 | VC | 10/12/00 | |
| | | | EX-PARTE ORDER FOR RETURN | 0001 | | | |
| 0256 | 10/04/00 | EXPR/AMENDED | EX PARTE ORDER FOR RETURN | 0001 | | | |
| | | | OF PROPERTY | 0001 | | | |
| 0257 | 10/18/00 | EXPR/AMENDED | EX PARTE ORDER FOR RETURN OF | 0001 | | | |
| | | | PROPERTY | 0001 | | | |
| 0258 | 03/19/02 | APCL/APPEAL | TO SUPREME COURT: CLOSED 36752 | | | 03/13/02 | |
| 0259 | 08/20/02 | JMNT/CLERK'S | CERTIFICATE JUDGMENT AFFIRMED | 0001 | | 08/21/02 | |
| 0260 | 08/20/02 | JMNT/CLERK'S | CERTIFICATE REHEARING DENIED | 0001 | | 08/21/02 | |
| 0261 | 08/20/02 | CCJA/NEVADA | SUPREME COURT CLERKS CERTIFICATE/ | 0001 | | 08/20/02 | |
| | | | JUDGMENT - AFFIRMED | 0001 | | | |
| 0262 | 03/12/03 | JMNT/CLERK'S | CERTIFICATE JUDGMENT AFFIRMED | 0001 | | 03/13/03 | |
| 0263 | 03/12/03 | JMNT/CLERK'S | CERTIFICATE REHEARING DENIED | 0001 | | 03/13/03 | |
| 0264 | 03/12/03 | CCJA/NEVADA | SUPREME COURT CLERKS CERTIFICATE/ | 0001 | | 03/12/03 | |
| | | | JUDGMENT - AFFIRMED/REHEARING DENIED | 0001 | | | |
| 0265 | 03/27/03 | MOT /PD'S | MTN TO WITHDRAW AS ATTY OF RECORD & | 0001 | GR | 04/08/03 | |
| | | | MTN FOR APPOINTMENT OF COUNSEL/53 | 0001 | | | |
| 0266 | 03/27/03 | CASO/CASE (RE) | ACTIVATED ON | | | | |
| 0267 | 04/08/03 | OCAL/STATUS | CHECK: SET BRIEFING SCHEDULE | 0001 | | 06/03/03 | |
| 0268 | 04/16/03 | ORDR/ORDER | APPOINTING COUNSEL | 0001 | | 04/16/03 | |
| 0269 | 06/03/03 | OCAL/STATUS | CHECK: SUPPLEMENTAL PETITION | 0001 | VC | 08/19/03 | |
| | | | VJ 08/07/03 | 0001 | | | |
| 0270 | 06/19/03 | PET /DEFT'S | PTN FOR WRIT OF HABEAS CORPUS /56 | 0001 | DN | 01/18/05 | |
| 0271 | 06/19/03 | ASSG/REASSIGNMENT | OF JUDGE Sobel TO JUDGE | | | | |
| | | | Glass | | | | |

(Continued to page 10)

| NO. | FILED/REC CODE | REASON/DESCRIPTION | FOR | OC | SCH/PER | C |
|--------------------------------|----------------|---|------|----|----------|---|
| 0272 | 06/20/03 | CERT/CERTIFICATE OF SERVICE BY MAIL | 0001 | | 06/20/03 | |
| 0273 | 07/01/03 | TRAN/REPORTER'S TRANSCRIPT STATUS CHECK: SET BRIEFING SCHEDULE | 0001 | | 05/06/03 | |
| 0274 | 07/01/03 | TRAN/REPORTER'S TRANSCRIPT STATUS CHECK: SET BRIEFING SCHEDULE | 0001 | | 06/03/03 | |
| 0275 | 07/01/03 | TRAN/REPORTER'S TRANSCRIPT STATUS CHECK: SET BRIEFING SCHEDULE | 0001 | | 05/20/03 | |
| 0276 | 07/24/03 | RSPN/STATES RESPONSE TO DEFENDANTS PETITION FOR WRIT OF HABEAS CORPUS | 0001 | | | Y |
| (POST-CONVICTION) | | | | | | |
| 0277 | 09/03/03 | ORDR/ORDER RELEASING EVIDENCE FOR PURPOSES OF COPYING | 0001 | | 09/03/03 | |
| 0278 | 10/15/03 | ORDR/ORDER RELEASING EVIDENCE FOR PURPOSES OF COPYING | 0001 | | 10/15/03 | |
| 0279 | 01/27/04 | REQT/EX PARTE MOTION FOR INTERIM PAYMENT OF EXCESS ATTORNEYS FEES IN POST | 0001 | | | Y |
| CONVICTION PROCEEDINGS | | | | | | |
| 0280 | 01/29/04 | ORDR/ORDER GRANTING INTERIM PAYMENT OF EXCESS ATTORNEYS FEES AND COSTS | 0001 | | 01/29/04 | |
| 0281 | 03/03/04 | TRAN/REPORTER'S TRANSCRIPT DEFENDANTS PETITION FOR WRIT OF HABEAS CORPUS | 0001 | | 01/29/04 | Y |
| POST CONVICTION | | | | | | |
| 0282 | 05/13/04 | REQT/EX PARTE MOTION FOR INTERIM PAYMENT OF EXCESS ATTORNEYS FEES IN POST | 0001 | | | Y |
| CONVICTION PROCEEDINGS | | | | | | |
| 0283 | 05/17/04 | ORDR/ORDER GRANTING INTERIM PAYMENT OF EXCESS ATTORNEYS FEES AND COSTS | 0001 | | 05/17/04 | |
| 0284 | 06/04/04 | MOT /DEFT'S MTN TO PLACE ON CALENDAR/57 | 0001 | OC | 06/10/04 | |
| 0285 | 06/07/04 | ROC /RECEIPT OF COPY | 0001 | | 06/07/04 | |
| 0286 | 07/19/04 | NOTC/NOTICE OF CHANGE IN STATUS OF COUNSEL FOR PETITIONER | 0001 | | | |
| 0287 | 07/21/04 | REQT/EX PARTE MOTION FOR FINAL INTERIM PAYMENT OF EXCESS ATTORNEYS FEES IN | 0001 | | | Y |
| PROCEEDINGS | | | | | | |
| 0288 | 07/26/04 | ORDR/ORDER GRANTING FINAL INTERIM PAYMENT OF EXCESS ATTORNEYS FEES AND COSTS | 0001 | | 07/26/04 | |
| 0289 | 10/06/04 | PET /SUPPLEMENTAL PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION AND POINTS AND | 0001 | | | Y |
| AUTHORITIES IN SUPPORT THEREOF | | | | | | |
| 0290 | 10/14/04 | NCA /VERIFICATION | 0001 | | | |
| 0291 | 12/07/04 | OPPS/STATES OPPOSITION TO DEFENDANTS SUPPLEMENTAL PETITION FOR WRIT OF | 0001 | | | Y |
| HABEAS CORPUS POST CONVICTION | | | | | | |
| 0292 | 02/04/05 | JUDG/FINDINGS OF FACTS, CONCLUSIONS OF LAW AND ORDER | 0001 | HG | 01/18/05 | |
| 0293 | 02/25/05 | NOED/NOTICE OF ENTRY OF DECISION AND ORDER | 0001 | | 02/04/05 | |
| 0294 | 03/09/05 | STAT/CASE APPEAL STATEMENT | 0001 | | | |
| 0295 | 03/09/05 | NOAS/NOTICE OF APPEAL | 0001 | AP | 03/09/05 | |
| 0296 | 04/13/05 | TRAN/REPORTER'S TRANSCRIPT DEFENDANTS PETITION FOR WRIT OF HABEAS CORPUS | 0001 | | 01/18/05 | |
| 0297 | 04/13/05 | CERT/CERTIFICATE OF MAILING | 0001 | | 04/13/05 | |
| 0298 | 02/23/06 | APCL/APPEAL TO SUPREME COURT: CLOSED 44868 | | AP | 02/16/06 | |

(Continued to page 11)

| NO. | FILED/REC CODE | REASON/DESCRIPTION | FOR | OC | SCH/PER | C |
|------|----------------|---|------|----|----------|---|
| 0299 | 03/17/06 | JMNT/CLERK'S CERTIFICATE JUDGMENT AFFIRMED | 0001 | | 03/20/06 | |
| 0300 | 04/18/06 | ROP /RECEIPT | 0001 | | 04/13/06 | |
| 0301 | 04/18/06 | WOA /NOTICE OF WITHDRAWAL AS ATTORNEY OF RECORD | 0001 | | 04/18/06 | |
| 0302 | 05/02/06 | ROP /RECEIPT | 0001 | | 05/01/06 | |
| 0303 | 05/17/06 | CCPD/CASE CLOSED PER DEPARTMENT | | | 05/17/06 | |
| 0304 | 06/08/07 | CASO/CASE (RE)OPENED | | | 06/07/07 | |
| 0305 | 06/08/07 | PET /PTN FOR WRIT OF HABEAS CORPUS | 0001 | MC | 12/13/07 | |
| 0306 | 06/08/07 | MOT /DEFT'S TO PROCEED IN FORMA PAUPERIS /59 | AL | GR | 07/24/07 | |
| 0307 | 06/08/07 | MOT /DEFT'S MTN FOR APPT OF COUNSEL/60 | 0001 | GR | 07/24/07 | |
| 0308 | 06/08/07 | AFFD/AFFIDAVIT IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS | 0001 | | | |
| 0309 | 06/08/07 | EXH /PETITIONERS EXHIBITS IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS POST | 0001 | | | Y |
| | | CONVICTION VOLUME TWO OF NINE | | | | |
| 0310 | 06/08/07 | EXH /PETITIONERS EXHIBITS IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS POST | 0001 | | | Y |
| | | CONVICTION VOLUME EIGHT OF NINE | | | | |
| 0311 | 06/08/07 | EXH /PETITIONERS EXHIBITS IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS POST | 0001 | | | Y |
| | | CONVICTION VOLUME THREE OF NINE | | | | |
| 0312 | 06/08/07 | EXH /PETITIONERS EXHIBITS IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS POST | 0001 | | | Y |
| | | CONVICTION VOLUME SIX OF NINE | | | | |
| 0313 | 06/08/07 | AFFD/AFFIDAVIT IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS | 0001 | | | |
| 0314 | 06/08/07 | EXH /PETITIONERS EXHIBITS IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS POST | 0001 | | | Y |
| | | CONVICTION VOLUME ONE OF NINE | | | | |
| 0315 | 06/08/07 | EXH /PETITIONERS EXHIBITS IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS POST | 0001 | | | Y |
| | | CONVICTION VOLUME FOUR OF NINE | | | | |
| 0316 | 06/08/07 | EXH /PETITIONERS EXHIBITS IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS POST | 0001 | | | Y |
| | | CONVICTION VOLUME FIVE OF NINE | | | | |
| 0317 | 06/08/07 | EXH /PETITIONERS EXHIBITS IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS POST | 0001 | | | Y |
| | | CONVICTION VOLUME SEVEN OF NINE | | | | |
| 0318 | 06/08/07 | EXH /PETITIONERS EXHIBITS IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS POST | 0001 | | | Y |
| | | CONVICTION | | | | |
| 0319 | 06/11/07 | NOEV/NOTICE OF EXHIBIT(S) IN THE VAULT | 0001 | | | |
| 0320 | 07/24/07 | MOT /ALL PENDING MOTIONS 7/24/07 | 0001 | | 07/24/07 | |
| 0321 | 09/13/07 | MOT /PTNR'S MTN FOR LEAVE TO CONDUCT DISCOVERY/62 | 0001 | DN | 10/04/07 | |
| 0322 | 09/13/07 | EXH /PETITIONERS EXHIBITS IN SUPPORT OF MOTION FOR LEAVE TO CONDUCT DISCOVERY | 0001 | | | Y |
| | | VOLUME FOUR OF FOUR | | | | |
| 0323 | 09/13/07 | EXH /PETITIONERS EXHIBITS IN SUPPORT OF MOTION FOR LEAVE TO CONDUCT DISCOVERY | 0001 | | | Y |
| | | VOLUME TWO OF FOUR | | | | |
| 0324 | 09/13/07 | EXH /PETITIONERS EXHIBITS IN SUPPORT OF MOTION FOR LEAVE TO CONDUCT DISCOVERY | 0001 | | | Y |

(Continued to page 12)

| NO. | FILED/REC CODE | REASON/DESCRIPTION | FOR | OC | SCH/PER | C |
|----------------------------------|----------------|---|------|----|----------|---|
| VOLUME ONE OF FOUR | | | | | | |
| 0325 | 09/13/07 | EXH /PETITIONERS EXHIBITS IN SUPPORT OF | 0001 | | | Y |
| | | MOTION FOR LEAVE TO CONDUCT DISCOVERY | 0001 | | | |
| VOLUME THREE OF FOUR | | | | | | |
| 0326 | 09/18/07 | OPPS/STATES OPPOSITION TO DEFENDANTS PETITION | 0001 | | | Y |
| | | FOR WRIT OF HABEAS CORPUS POST | 0001 | | | |
| CONVICTION AND MOTION TO DISMISS | | | | | | |
| 0327 | 09/28/07 | RPLY/REPLY TO OPPOSITION TO MOTION FOR | 0001 | | | |
| | | LEAVE TO CONDUCT DISCOVERY | 0001 | | | |
| 0328 | 10/01/07 | OPPS/OPPOSITION TO MOTION FOR LEAVE TO | 0001 | | | |
| | | CONDUCT DISCOVERY | 0001 | | | |
| 0329 | 10/03/07 | OPPS/OPPOSITION TO MOTION FOR LEAVE TO | 0001 | | | |
| | | CONDUCT DISCOVERY | 0001 | | | |
| 0330 | 10/08/07 | ORDR/ORDER | 0001 | | 10/08/07 | |
| 0331 | 10/12/07 | ORDR/STIPULATION AND ORDER | 0001 | | 10/12/07 | |
| 0332 | 11/15/07 | OPPS/OPPOSITION TO MTN TO DISMISS AND REPLY | 0001 | | 11/15/07 | |
| | | TO STATES OPPOSITION TO DEFTS PTN | 0001 | | | |
| 0333 | 11/15/07 | NOTC/NOTICE OF ENTRY OF ORDER | 0001 | | 11/15/07 | |
| 0334 | 11/15/07 | EXH /EXHIBIT IN SUPPORT OF OPPOSITION TO | 0001 | | 12/13/07 | Y |
| | | MOTION TO DISMISS AND REPLY TO STATES | 0001 | | | |
| OPPOSITION TO PETITION | | | | | | |
| 0335 | 11/29/07 | RPLY/STATES REPLY TO DEFTS OPPOSITION TO | 0001 | | 12/13/07 | |
| | | MOTION TO DISMISS | 0001 | | | |
| 0336 | 12/13/07 | HEAR/HEARING: DEFT.'S PETITION FOR WRIT OF | 0001 | DN | 02/22/08 | |
| | | HABEAS CORPUS | 0001 | | | |
| 0337 | 12/13/07 | ORDR/ORDER FOR TRANSCCRIPT | 0001 | | 12/13/07 | |
| 0338 | 12/28/07 | TRAN/REPORTER'S TRANSCRIPT OF HEARING RE: | 0001 | | 12/13/07 | Y |
| | | DEFENDANTS PETITION FOR WRIT OF | 0001 | | | |
| HABEAS CORPUS | | | | | | |
| 0339 | 01/31/08 | ORDR/ORDER FOR PRODUCTION OF INMATE | 0001 | SH | 02/22/08 | |
| 0340 | 02/06/08 | REQT/PETITIONERS EX PARTE MOTION FOR | 0001 | | | Y |
| | | CERTIFICATE OF JUDGE FOR ATTENDANCE OF | 0001 | | | |
| OUT OF STATE WITNESS | | | | | | |
| 0341 | 02/06/08 | CRTF/DECLARATION IN SUPPORT OF CERTIFICATE | 0001 | | | |
| 0342 | 02/07/08 | ORDR/ORDER | 0001 | | 02/07/08 | |
| 0343 | 02/07/08 | CRTF/CERTIFICATE OF JUDGE FOR ATTENDANCE OF | 0001 | | | |
| | | OUT OF STATE WITNESS | 0001 | | | |
| 0344 | 02/19/08 | SUBP/SUBPOENA | 0001 | SH | 02/22/08 | |
| | | | 0001 | SV | 02/19/08 | |
| 0345 | 02/22/08 | ORDR/ORDER FOR TRANSCRIPT | 0001 | | 02/22/08 | |
| 0346 | 03/07/08 | NOEV/NOTICE OF EXHIBITS IN THE VAULT | | | 02/22/08 | |
| 0347 | 03/14/08 | TRAN/REPORTER'S TRANSCRIPT DEFENDANTS | 0001 | | 02/22/08 | |
| | | PETITION FOR WRIT OF HABEAS CORPUS | 0001 | | | |
| 0348 | 03/28/08 | OPPS/OPPOSITION TO THE STATES PROPOSED | 0001 | | | Y |
| | | FINDINGS OF FACT CONCLUSIONS OF LAW | 0001 | | | |
| AND ORDER | | | | | | |
| 0349 | 04/02/08 | JUDG/FINDINGS OF FACTS, CONCLUSIONS OF LAW | 0001 | | 04/02/08 | |
| | | AND ORDER | 0001 | | | |
| 0350 | 04/03/08 | NOED/NOTICE OF ENTRY OF DECISION AND ORDER | 0001 | | 04/02/08 | |

ORDR

DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
STEVEN S. OWENS
Chief Deputy District Attorney
Nevada Bar #004352
200 Lewis Avenue, PO Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

FILED

Apr 2 2 20 PM '08

Clayton
CLERK OF THE COURT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

ZANE MICHAEL FLOYD,
#1619135

Defendant.

CASE NO: C159897

DEPT NO: V

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

DATE OF HEARING: 2/22/08
TIME OF HEARING: 9:00 A.M.

THIS CAUSE having come on for hearing before the Honorable JACKIE GLASS, District Judge, on the 22nd day of February 22, 2008, the Petitioner not being present, Represented By TIFFANI D. HURST, Assistant Federal Public Defender, the Respondent being represented by DAVID ROGER, District Attorney, by and through STEVEN S. OWENS, Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

On June 8, 1999, Defendant was charged by way of Criminal Complaint with four counts of Murder With Use of a Deadly Weapon, three counts of Attempt Murder With Use of a Deadly Weapon, five counts of Sexual Assault With Use of a Deadly Weapon, and one

CLERK OF THE COURT

RECEIVED
APR 02 2008

1 count of each of the following: Burglary While in Possession of a Firearm and First Degree
2 Kidnapping With Use of A Deadly Weapon. The State also attached a Notice of Reservation
3 to Seek the Death Penalty.

4 On June 25, 1999, an Amended Criminal Complaint was filed adding one charge of
5 Attempt Murder with Use of Deadly Weapon. Defendant was then charged by Information
6 and two amendments thereafter with the following crimes: One count of Burglary While in
7 Possession of a Firearm, Four counts of Murder With Use of a Deadly Weapon, Four Counts
8 of Sexual Assault With Use of a Deadly Weapon, one count of Attempt Murder With Use of
9 a Deadly Weapon, and one count of First Degree Kidnapping With Use of a Deadly
10 Weapon. On July 6, 1999, the State filed a Notice of Intent to Seek the Death Penalty;
11 alleging all the aggravating circumstances it intended to prove to the jury. Defendant's trial
12 began July 11, 2000.

13 After a jury trial, Defendant was found guilty on all counts. At the penalty hearing,
14 the State introduced three aggravating circumstances in support of a death sentence. The
15 jury found beyond a reasonable doubt that all aggravating factors existed and that the death
16 penalty was warranted. The Supreme Court of Nevada affirmed Defendant's convictions on
17 March 13, 2002. Floyd v. State, 118 Nev. 156, 42 P.3d 249 (2002). Defendant's subsequent
18 motion for rehearing was denied on May 7, 2002. Appellate counsel then filed a Petition for
19 Writ of Certiorari to the United States Supreme Court which was denied in February of
20 2003, and Remittitur issued on March 10, 2003.

21 Defendant then filed his first Petition for Writ of Habeas Corpus on June 19, 2003,
22 through attorney David Schieck and filed a supplemental petition on October 6, 2004. The
23 District Court denied Defendant's petition and issued Findings of Fact and Conclusions of
24 Law on February 4, 2005. Upon denial of his petition, Defendant appealed to the Nevada
25 Supreme Court. The Supreme Court affirmed the denial of Defendant's petition for writ of
26 habeas corpus on February 16, 2006, in an unpublished order. Thereafter, Defendant
27 initiated federal habeas corpus proceedings in Case No. 2:06-CV-0471-PMP-LRL on April
28 14, 2006, and requested stay and abeyance which was granted on April 25, 2007, for

1 exhaustion of state court remedies. Defendant then filed the instant successive petition for
2 writ of habeas corpus on June 8, 2007.

3 This Court finds that David Schieck's performance in the first post-conviction
4 proceedings in regards to Defendant's current claim of organic brain damage did not fall
5 below an objective standard of reasonableness. At the time of the first post-conviction
6 proceeding, David Schieck had information and reports from numerous experts who had
7 examined Defendant at trial and rendered varied opinions on his mental health and history.
8 Therefore, based on the perspective and circumstances existing at that time it was reasonable
9 for counsel to have not consulted yet another expert or to have not raised a specific claim
10 regarding organic brain damage. Defendant's possible organic brain damage was known and
11 testified to at the time of trial.

12 Because the current petition is Defendant's second attempt at state habeas relief and is
13 filed more than four years following issuance of remittitur on direct appeal it is barred
14 pursuant to the one-year time bar of NRS 34.726 as well as the successive petition bar in
15 34.810 absent a showing of good cause and prejudice.

16 Many of Defendant's claims were previously raised in the first post-conviction
17 proceedings including objections to prosecutorial misconduct, scope of victim impact
18 testimony, and a fair cross-section in the jury venire and there is no good cause for raising
19 them again. The remaining claims were capable of being raised previously in the case either
20 on direct appeal or in post-conviction and there is no good cause for having failed to do so.

21 Additionally, claims of ineffective assistance of counsel in objecting to prosecutorial
22 misconduct, the State's use of the defense's psychological evidence, particular instances of
23 prosecutorial misconduct, the scope of victim impact testimony, the propriety of certain
24 evidentiary rulings by the court, a challenge to venue, jury instructions on the aggravating
25 circumstances and anti-sympathy, probable cause for the aggravating circumstances,
26 severance of charges, a fair and adequate appellate review, Nevada's capital punishment
27 scheme being arbitrary and capricious, and judicial tenure being dependent on popular
28 election were all denied previously on the merits and now constitute law of the case. This

1 court finds no manifest injustice or other reason for revisiting these rulings.

2 Ineffective assistance of counsel on post-conviction does not constitute good cause
3 for overcoming the time and procedural bars in this case because Defendant delayed in
4 bringing such claims back to state court. This Court finds that time spent pursuing federal
5 relief does not constitute good cause for failing to file such claims in a reasonable timely
6 manner.

7 Nor does Defendant's claim of actual innocence constitute good cause. Just because
8 an expert may look at a case many years after conviction and opine that the killing was not
9 premeditated, does not mean the Defendant is "actually innocent." Floyd can point to no
10 constitutional error or newly discovered evidence that demonstrates his innocence. The
11 subjective opinion of a belated psychologist who would testify about organic brain damage
12 resulting from fetal alcohol syndrome is not evidence of actual innocence.

13 Because Defendant's claims are time and procedurally barred or are otherwise
14 without merit, there is no good cause for discovery and the request is denied. There is also
15 no need for additional evidentiary hearing on any of Defendant's other claims because even
16 accepting his remaining allegations as being true, he would not be entitled to relief.

17 CONCLUSIONS OF LAW

18 Application of the statutory procedural default rules to post-conviction habeas
19 petitions is mandatory. Pellegrini v. State, 117 Nev. 860, 34 P.3d 519 (2001); State v. Dist.
20 Ct. (Riker), 121 Nev. 225, 112 P.3d 1070 (2005). Post-conviction habeas petitions that are
21 filed several years after conviction unreasonably burden the criminal justice system. Id.
22 "The necessity for a workable system dictates that there must exist a time when a criminal
23 conviction is final." Id.

24 Absent good cause for delay, a defendant must file a petition that challenges the
25 validity of a judgment or sentence within one year after entry of the judgment. NRS. 34.726.
26 Those claims not raised within one year from the entry of the judgment are time barred.
27 Furthermore, pursuant to NRS 34.810, a petition which raises claims that could have been
28 raised on direct appeal or in a prior post-conviction petition for writ of habeas corpus must

1 be dismissed absent a showing of good cause and prejudice.

2 Good cause exists when: (1) the petitioner establishes that the delay is not his fault;
3 and (2) dismissal of the petition will unduly prejudice the petitioner. Id. A defendant must
4 show that his delay was due to an external impediment to the defense which prevented him
5 from complying with the procedural default rules. Crump v. Warden, Nevada State Prison,
6 113 Nev. 293, 302, 934 P.2d 247, 252 (1997)(citing Passanisi v. Director Dep't Prisons, 105
7 Nev. 63, 66, 769 P.2d 72, 74 (1989)).

8 Importantly, any delay in filing of the petition must not be the fault of the petitioner.
9 NRS 34.726(1)(a). "Generally, 'good cause' means a 'substantial reason; one that affords a
10 legal excuse.'" Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). A
11 defendant's alleged organic brain damage, limited intelligence, and poor assistance in
12 framing and presenting issues do not rise to the level of good cause needed to overcome the
13 procedural bar to successive petitions. Phelps v. Director, Dept. of Prisons, 104 Nev. 656,
14 660, 764 P.2d 1303, 1306 (1988). Actual prejudice requires a defendant to show "not
15 merely that the errors at his trial created a *possibility* of prejudice, but that they worked to his
16 *actual* and substantial disadvantage, infecting his entire trial with error of constitutional
17 dimensions." See State v. Dist. Ct. (Riker), 121 Nev. 225, 112 P.3d 1070 (2005).

18 Defendant had a right to effective assistance of counsel in his first post-conviction
19 proceeding, so he may raise claims of ineffective assistance of post-conviction counsel in a
20 successive petition. See McNelton v. State, 115 Nev. 296, 416 n.5, 990 P.2d 1263, 1276 n.5
21 (1999); Crump v. Warden, 113 Nev. 293, 303, 934 P.2d 247, 253 (1997). However, he must
22 raise these matters in a reasonable time to avoid application of procedural default rules. See
23 Pellegrini v. State, 117 Nev. 860, 869-70, 34 P.3d 519, 525-26 (2001) (holding that the time
24 bar in NRS 34.726 applies to successive petitions); see generally Hathaway v. State, 119
25 Nev. 248, 252-53, 71 P.3d 503, 506-07 (2003) (stating that a claim reasonably available to
26 the petitioner during the statutory time period did not constitute good cause to excuse a delay
27 in filing). A claim of ineffective assistance of his post-conviction counsel must itself be
28 timely raised. State v. District Court (Riker), 121 Nev. 225, 112 P.3d 1070 (2005).

1 Pursuit of federal remedies does not constitute good cause to overcome state
2 procedural bars. Colley v. State, 105 Nev. 235, 773 P.2d 1229 (1989).

3 In order to establish that counsel was ineffective, a defendant must show that: (1)
4 counsel's performance was deficient because it fell below an objective standard of
5 reasonableness measured by prevailing professional norms; and, (2) counsel's deficient
6 performance prejudiced the defendant. Strickland v. Washington, 466 U.S. 668, 687-88
7 (1984); Riley v. State, 110 Nev. 638, 646, 878 P.2d 272, 277-78 (1995). The Court may
8 consider both prongs in any order and need not consider them both when a defendant's
9 showing on either prong is insufficient. Kirksey v. State, 112 Nev. 980, 987, 923 P.2d 1102,
10 1107 (1996).

11 "A fair assessment of attorney performance requires that every effort be made to
12 eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's
13 challenged conduct, and to evaluate the conduct from counsel's perspective at the time."
14 Kirksey v. State, *supra*, 112 Nev. at 987-988 (citing Strickland v. Washington, *supra*, 466
15 U.S. at 689).

16 The fundamental miscarriage of justice standard requires a colorable showing that
17 constitutional error has resulted in the conviction of one who is actually innocent. Clem v.
18 State, 119 Nev. 615, 81 P.3d 521 (2003); citing Pellegrini v. State, 117 Nev. 860, 34 P.3d
19 519 (2001) (recognizing that a fundamental miscarriage of justice will defeat the statutory
20 procedural bars at NRS 34.726 and NRS 34.810). "[A]ctual innocence' means factual
21 innocence, not mere legal insufficiency." Bousely v. U.S., 523 U.S. 614, 623 (1988) (citing
22 Sawyer v. Whitley, 505 U.S. 333, 339 (1992)).

23 To be credible, a claim of actual innocence must be based on reliable evidence not
24 presented at trial. Calderon v. Thompson, 523 U.S. 538, 559 (1998) (quoting Schulp v.
25 Delo, 513 U.S. 298, 324 (1995)). To demonstrate that he is actually innocent of the
26 underlying crime, a petitioner must show that "it is more likely than not that no reasonable
27 juror would have convicted him in light of the new evidence." *Id.* (quoting Schulp, 513 U.S.
28 at 327). Where the petitioner has argued that the procedural default should be ignored

1 because he is actually ineligible for the death penalty, he must show by clear and convincing
2 evidence that, but for a constitutional error, no reasonable juror would have found him death
3 eligible. Hogan, supra citing Sawyer v. Whitely, 505 U.S. 333, 112 S.Ct. 2514 (1992).

4 The law of the case doctrine holds that the law of a first appeal is the law of the case
5 on all subsequent appeals in which the facts are substantially the same. Hall v. State, 91
6 Nev. 314, 535 P.2d 797 (1975). While the Nevada Supreme Court has departed on rare
7 occasion from law of the case, it has done so only when the prior holdings are so "clearly
8 erroneous that continued adherence to them would work a manifest injustice." Clem v.
9 State, 119 Nev. 615, 81 P.3d 521 (2003), citing Arizona v. California, 460 U.S. 605, 618 n.
10 8, 103 S.Ct. 1382 (1983); cf. Leslie v. Warden, 118 Nev. 773, 59 P.3d 440 (2002)
11 (recognizing that the law of the case may be revisited where the failure to do so would work
12 a fundamental miscarriage of justice.)

13 **ORDER**

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

16 DATED this 2 day of April, 2008.

17
18 
19 _____
20 DISTRICT JUDGE

21 DAVID ROGER
22 DISTRICT ATTORNEY
23 Nevada Bar #002781

24 BY 

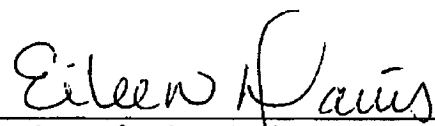
25 STEVEN S. OWENS
26 Chief Deputy District Attorney
27 Nevada Bar #004352
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that service of FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER, was made this 28th day of March, 2008, by facsimile transmission to:

TIFFANI D. HURST
FAX #(702) 388-5819



Employee for the District Attorney's
Office

SSO/ed

*** TX REPORT ***

TRANSMISSION OK

| | | |
|----------------|-------------|---------|
| TX/RX NO | 0317 | |
| CONNECTION TEL | | 3885819 |
| CONNECTION ID | | |
| ST. TIME | 03/28 16:15 | |
| USAGE T | 01'34 | |
| PGS. SENT | 10 | |
| RESULT | OK | |



OFFICE OF THE DISTRICT ATTORNEY
CRIMINAL APPEALS UNIT

DAVID ROGER
District Attorney

CHRISTOPHER J. LALLI
Assistant District Attorney

ROBERT W. TEUTON
Assistant District Attorney

MARY-ANNE MILLER
County Counsel

STEVEN S. OWENS
Chief Deputy

NANCY BECKER
Chief Deputy

FACSIMILE TRANSMISSION

Fax No. (702) 382-5815

Telephone No. (702) 671-2750

TO: Tiffani D. Hurst **FAX#:** (702) 388-5819

FROM: Steven S. Owens

SUBJECT: Zane Floyd, C159897, Findings

DATE: March 28, 2008

NO. OF PAGES, EXCLUDING COVER PAGE: 9

Please call (702) 671-2750 if there are any problems with transmission.

*** TX REPORT ***

TRANSMISSION OK

| | | |
|----------------|-------------|---------|
| TX/RX NO | 0297 | |
| CONNECTION TEL | | 3885819 |
| CONNECTION ID | | |
| ST. TIME | 03/21 12:40 | |
| USAGE T | 01'21 | |
| PGS. SENT | 8 | |
| RESULT | OK | |



OFFICE OF THE DISTRICT ATTORNEY
CRIMINAL APPEALS UNIT

DAVID ROGER
District Attorney

CHRISTOPHER J. LALLI
Assistant District Attorney

ROBERT W. TEUTON
Assistant District Attorney

MARY-ANNE MILLER
County Counsel

STEVEN S. OWENS
Chief Deputy District Attorney

NANCY BECKER
Deputy District Attorney

FACSIMILE TRANSMISSION

Fax No. (702) 382-5815

Telephone No. (702) 671-2750

TO: Tiffani D. Hurst **FAX#:** (702) 388-5819
FROM: Steven S. Owens
SUBJECT: Zane Floyd Findings, C159897
DATE: March 21, 2008

Tiffani:
The following Findings will be submitted to the Judge on Friday, March 28, 2008.
Sincerely,
Steven S. Owens

ORIGINAL

NOED

FILED

DISTRICT COURT
CLARK COUNTY, NEVADA 2008 APR -31 A 11:09

ZANE MICHAEL FLOYD,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent,


CLERK OF THE COURT

Case No: C159897

Dept No: V

NOTICE OF ENTRY OF
DECISION AND ORDER

PLEASE TAKE NOTICE that on April 2, 2008, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on April 3, 2008.

CHARLES J. SHORT, CLERK OF THE COURT

By: 

Heather Lofquist, Deputy Clerk

CERTIFICATE OF MAILING

I hereby certify that on this 3 day of April 2008, I placed a copy of this Notice of Entry of Decision and

Order in:

The bin(s) located in the Office of the District Court Clerk of:
Clark County District Attorney's Office
Attorney General's Office - Appellate Division

☒ The United States mail addressed as follows:

Zane Michael Floyd # 66514
P.O. Box 1989
Ely, NV 89301

Tiffani D. Hurst
411 E. Bonneville Ave., Ste. 250
Las Vegas, NV 89101


Heather Lofquist, Deputy Clerk

ORIGINAL

30

ORDR

DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
STEVEN S. OWENS
Chief Deputy District Attorney
Nevada Bar #004352
200 Lewis Avenue, PO Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

FILED

Apr 22 20 PM '08

Cliff Smith
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

ZANE MICHAEL FLOYD,
#1619135

Defendant.

CASE NO: C159897

DEPT NO: V

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER

DATE OF HEARING: 2/22/08.
TIME OF HEARING: 9:00 A.M.

THIS CAUSE having come on for hearing before the Honorable JACKIE GLASS, District Judge, on the 22nd day of February 22, 2008, the Petitioner not being present, Represented By TIFFANI D. HURST, Assistant Federal Public Defender, the Respondent being represented by DAVID ROGER, District Attorney, by and through STEVEN S. OWENS, Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

On June 8, 1999, Defendant was charged by way of Criminal Complaint with four counts of Murder With Use of a Deadly Weapon, three counts of Attempt Murder With Use of a Deadly Weapon, five counts of Sexual Assault With Use of a Deadly Weapon, and one

CLERK OF THE COURT

RECEIVED
APR 02 2008

1 count of each of the following: Burglary While in Possession of a Firearm and First Degree
2 Kidnapping With Use of A Deadly Weapon. The State also attached a Notice of Reservation
3 to Seek the Death Penalty.

4 On June 25, 1999, an Amended Criminal Complaint was filed adding one charge of
5 Attempt Murder with Use of Deadly Weapon. Defendant was then charged by Information
6 and two amendments thereafter with the following crimes: One count of Burglary While in
7 Possession of a Firearm, Four counts of Murder With Use of a Deadly Weapon, Four Counts
8 of Sexual Assault With Use of a Deadly Weapon, one count of Attempt Murder With Use of
9 a Deadly Weapon, and one count of First Degree Kidnapping With Use of a Deadly
10 Weapon. On July 6, 1999, the State filed a Notice of Intent to Seek the Death Penalty;
11 alleging all the aggravating circumstances it intended to prove to the jury. Defendant's trial
12 began July 11, 2000.

13 After a jury trial, Defendant was found guilty on all counts. At the penalty hearing,
14 the State introduced three aggravating circumstances in support of a death sentence. The
15 jury found beyond a reasonable doubt that all aggravating factors existed and that the death
16 penalty was warranted. The Supreme Court of Nevada affirmed Defendant's convictions on
17 March 13, 2002. Floyd v. State, 118 Nev. 156, 42 P.3d 249 (2002). Defendant's subsequent
18 motion for rehearing was denied on May 7, 2002. Appellate counsel then filed a Petition for
19 Writ of Certiorari to the United States Supreme Court which was denied in February of
20 2003, and Remittitur issued on March 10, 2003.

21 Defendant then filed his first Petition for Writ of Habeas Corpus on June 19, 2003,
22 through attorney David Schieck and filed a supplemental petition on October 6, 2004. The
23 District Court denied Defendant's petition and issued Findings of Fact and Conclusions of
24 Law on February 4, 2005. Upon denial of his petition, Defendant appealed to the Nevada
25 Supreme Court. The Supreme Court affirmed the denial of Defendant's petition for writ of
26 habeas corpus on February 16, 2006, in an unpublished order. Thereafter, Defendant
27 initiated federal habeas corpus proceedings in Case No. 2:06-CV-0471-PMP-LRL on April
28 14, 2006, and requested stay and abeyance which was granted on April 25, 2007, for

1 exhaustion of state court remedies. Defendant then filed the instant successive petition for
2 writ of habeas corpus on June 8, 2007.

3 This Court finds that David Schieck's performance in the first post-conviction
4 proceedings in regards to Defendant's current claim of organic brain damage did not fall
5 below an objective standard of reasonableness. At the time of the first post-conviction
6 proceeding, David Schieck had information and reports from numerous experts who had
7 examined Defendant at trial and rendered varied opinions on his mental health and history.
8 Therefore, based on the perspective and circumstances existing at that time it was reasonable
9 for counsel to have not consulted yet another expert or to have not raised a specific claim
10 regarding organic brain damage. Defendant's possible organic brain damage was known and
11 testified to at the time of trial.

12 Because the current petition is Defendant's second attempt at state habeas relief and is
13 filed more than four years following issuance of remittitur on direct appeal it is barred
14 pursuant to the one-year time bar of NRS 34.726 as well as the successive petition bar in
15 34.810 absent a showing of good cause and prejudice.

16 Many of Defendant's claims were previously raised in the first post-conviction
17 proceedings including objections to prosecutorial misconduct, scope of victim impact
18 testimony, and a fair cross-section in the jury venire and there is no good cause for raising
19 them again. The remaining claims were capable of being raised previously in the case either
20 on direct appeal or in post-conviction and there is no good cause for having failed to do so.

21 Additionally, claims of ineffective assistance of counsel in objecting to prosecutorial
22 misconduct, the State's use of the defense's psychological evidence, particular instances of
23 prosecutorial misconduct, the scope of victim impact testimony, the propriety of certain
24 evidentiary rulings by the court, a challenge to venue, jury instructions on the aggravating
25 circumstances and anti-sympathy, probable cause for the aggravating circumstances,
26 severance of charges, a fair and adequate appellate review, Nevada's capital punishment
27 scheme being arbitrary and capricious, and judicial tenure being dependent on popular
28 election were all denied previously on the merits and now constitute law of the case. This

1 court finds no manifest injustice or other reason for revisiting these rulings.

2 Ineffective assistance of counsel on post-conviction does not constitute good cause
3 for overcoming the time and procedural bars in this case because Defendant delayed in
4 bringing such claims back to state court. This Court finds that time spent pursuing federal
5 relief does not constitute good cause for failing to file such claims in a reasonable timely
6 manner.

7 Nor does Defendant's claim of actual innocence constitute good cause. Just because
8 an expert may look at a case many years after conviction and opine that the killing was not
9 premeditated, does not mean the Defendant is "actually innocent." Floyd can point to no
10 constitutional error or newly discovered evidence that demonstrates his innocence. The
11 subjective opinion of a belated psychologist who would testify about organic brain damage
12 resulting from fetal alcohol syndrome is not evidence of actual innocence.

13 Because Defendant's claims are time and procedurally barred or are otherwise
14 without merit, there is no good cause for discovery and the request is denied. There is also
15 no need for additional evidentiary hearing on any of Defendant's other claims because even
16 accepting his remaining allegations as being true, he would not be entitled to relief.

17 CONCLUSIONS OF LAW

18 Application of the statutory procedural default rules to post-conviction habeas
19 petitions is mandatory. Pellegrini v. State, 117 Nev. 860, 34 P.3d 519 (2001); State v. Dist.
20 Ct. (Riker), 121 Nev. 225, 112 P.3d 1070 (2005). Post-conviction habeas petitions that are
21 filed several years after conviction unreasonably burden the criminal justice system. Id.
22 "The necessity for a workable system dictates that there must exist a time when a criminal
23 conviction is final." Id.

24 Absent good cause for delay, a defendant must file a petition that challenges the
25 validity of a judgment or sentence within one year after entry of the judgment. NRS. 34.726.
26 Those claims not raised within one year from the entry of the judgment are time barred.
27 Furthermore, pursuant to NRS 34.810, a petition which raises claims that could have been
28 raised on direct appeal or in a prior post-conviction petition for writ of habeas corpus must

1 be dismissed absent a showing of good cause and prejudice.

2 Good cause exists when: (1) the petitioner establishes that the delay is not his fault;
3 and (2) dismissal of the petition will unduly prejudice the petitioner. Id. A defendant must
4 show that his delay was due to an external impediment to the defense which prevented him
5 from complying with the procedural default rules. Crump v. Warden, Nevada State Prison,
6 113 Nev. 293, 302, 934 P.2d 247, 252 (1997)(citing Passanisi v. Director Dep't Prisons, 105
7 Nev. 63, 66, 769 P.2d 72, 74 (1989)).

8 Importantly, any delay in filing of the petition must not be the fault of the petitioner.
9 NRS 34.726(1)(a). "Generally, 'good cause' means a 'substantial reason; one that affords a
10 legal excuse.'" Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003). A
11 defendant's alleged organic brain damage, limited intelligence, and poor assistance in
12 framing and presenting issues do not rise to the level of good cause needed to overcome the
13 procedural bar to successive petitions. Phelps v. Director, Dept. of Prisons, 104 Nev. 656,
14 660, 764 P.2d 1303, 1306 (1988). Actual prejudice requires a defendant to show "not
15 merely that the errors at his trial created a *possibility* of prejudice, but that they worked to his
16 *actual* and substantial disadvantage, infecting his entire trial with error of constitutional
17 dimensions." See State v. Dist. Ct. (Riker), 121 Nev. 225, 112 P.3d 1070 (2005).

18 Defendant had a right to effective assistance of counsel in his first post-conviction
19 proceeding, so he may raise claims of ineffective assistance of post-conviction counsel in a
20 successive petition. See McNelton v. State, 115 Nev. 296, 416 n.5, 990 P.2d 1263, 1276 n.5
21 (1999); Crump v. Warden, 113 Nev. 293, 303, 934 P.2d 247, 253 (1997). However, he must
22 raise these matters in a reasonable time to avoid application of procedural default rules. See
23 Pellegrini v. State, 117 Nev. 860, 869-70, 34 P.3d 519, 525-26 (2001) (holding that the time
24 bar in NRS 34.726 applies to successive petitions); see generally Hathaway v. State, 119
25 Nev. 248, 252-53, 71 P.3d 503, 506-07 (2003) (stating that a claim reasonably available to
26 the petitioner during the statutory time period did not constitute good cause to excuse a delay
27 in filing). A claim of ineffective assistance of his post-conviction counsel must itself be
28 timely raised. State v. District Court (Riker), 121 Nev. 225, 112 P.3d 1070 (2005).

1 Pursuit of federal remedies does not constitute good cause to overcome state
2 procedural bars. Colley v. State, 105 Nev. 235, 773 P.2d 1229 (1989).

3 In order to establish that counsel was ineffective, a defendant must show that: (1)
4 counsel's performance was deficient because it fell below an objective standard of
5 reasonableness measured by prevailing professional norms; and, (2) counsel's deficient
6 performance prejudiced the defendant. Strickland v. Washington, 466 U.S. 668, 687-88
7 (1984); Riley v. State, 110 Nev. 638, 646, 878 P.2d 272, 277-78 (1995). The Court may
8 consider both prongs in any order and need not consider them both when a defendant's
9 showing on either prong is insufficient. Kirksey v. State, 112 Nev. 980, 987, 923 P.2d 1102,
10 1107 (1996).

11 "A fair assessment of attorney performance requires that every effort be made to
12 eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's
13 challenged conduct, and to evaluate the conduct from counsel's perspective at the time."
14 Kirksey v. State, *supra*, 112 Nev. at 987-988 (citing Strickland v. Washington, *supra*, 466
15 U.S. at 689).

16 The fundamental miscarriage of justice standard requires a colorable showing that
17 constitutional error has resulted in the conviction of one who is actually innocent. Clem v.
18 State, 119 Nev. 615, 81 P.3d 521 (2003); citing Pellegrini v. State, 117 Nev. 860, 34 P.3d
19 519 (2001) (recognizing that a fundamental miscarriage of justice will defeat the statutory
20 procedural bars at NRS 34.726 and NRS 34.810). "[A]ctual innocence' means factual
21 innocence, not mere legal insufficiency." Bousely v. U.S., 523 U.S. 614, 623 (1988) (citing
22 Sawyer v. Whitley, 505 U.S. 333, 339 (1992)).

23 To be credible, a claim of actual innocence must be based on reliable evidence not
24 presented at trial. Calderon v. Thompson, 523 U.S. 538, 559 (1998) (quoting Schulp v.
25 Delo, 513 U.S. 298, 324 (1995)). To demonstrate that he is actually innocent of the
26 underlying crime, a petitioner must show that "it is more likely than not that no reasonable
27 juror would have convicted him in light of the new evidence." *Id.* (quoting Schulp, 513 U.S.
28 at 327). Where the petitioner has argued that the procedural default should be ignored

1 because he is actually ineligible for the death penalty, he must show by clear and convincing
2 evidence that, but for a constitutional error, no reasonable juror would have found him death
3 eligible. Hogan, supra citing Sawyer v. Whitely, 505 U.S. 333, 112 S.Ct. 2514 (1992).

4 The law of the case doctrine holds that the law of a first appeal is the law of the case
5 on all subsequent appeals in which the facts are substantially the same. Hall v. State, 91
6 Nev. 314, 535 P.2d 797 (1975). While the Nevada Supreme Court has departed on rare
7 occasion from law of the case, it has done so only when the prior holdings are so "clearly
8 erroneous that continued adherence to them would work a manifest injustice." Clem v.
9 State, 119 Nev. 615, 81 P.3d 521 (2003), citing Arizona v. California, 460 U.S. 605, 618 n.
10 8, 103 S.Ct. 1382 (1983); cf. Leslie v. Warden, 118 Nev. 773, 59 P.3d 440 (2002)
11 (recognizing that the law of the case may be revisited where the failure to do so would work
12 a fundamental miscarriage of justice.)

13 **ORDER**

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

16 DATED this 2 day of March, 2008.

17 
18 DISTRICT JUDGE

19
20 DAVID ROGER
21 DISTRICT ATTORNEY
22 Nevada Bar #002781

23 BY 

24 STEVEN S. OWENS
25 Chief Deputy District Attorney
26 Nevada Bar #004352
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that service of FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER, was made this 28th day of March, 2008, by facsimile transmission to:

TIFFANI D. HURST
FAX #(702) 388-5819

Eileen H. Davis
Employee for the District Attorney's
Office

SSO/ed

*** TX REPORT ***

TRANSMISSION OK

| | | |
|----------------|-------------|---------|
| TX/RX NO | 0317 | |
| CONNECTION TEL | | 3885819 |
| CONNECTION ID | | |
| ST. TIME | 03/28 18:15 | |
| USAGE T | 01'34 | |
| PGS. SENT | 10 | |
| RESULT | OK | |



OFFICE OF THE DISTRICT ATTORNEY
CRIMINAL APPEALS UNIT

DAVID ROGER
District Attorney

CHRISTOPHER J. LALLI
Assistant District Attorney

ROBERT W. TEUTON
Assistant District Attorney

MARY-ANNE MILLER
County Counsel

STEVEN S. OWENS
Chief Deputy

NANCY BECKER
Chief Deputy

FACSIMILE TRANSMISSION

Fax No. (702) 382-5815

Telephone No. (702) 671-2750

TO: Tiffani D. Hurst **FAX#:** (702) 388-5819
FROM: Steven S. Owens
SUBJECT: Zane Floyd, C159897, Findings
DATE: March 28, 2008

NO. OF PAGES, EXCLUDING COVER PAGE: 9

Please call (702) 671-2750 if there are any problems with this transmission.

*** TX REPORT ***

TRANSMISSION OK

| | | |
|----------------|-------------|---------|
| TX/RX NO | 0297 | |
| CONNECTION TEL | | 3885819 |
| CONNECTION ID | | |
| ST. TIME | 03/21 12:40 | |
| USAGE T | 01'21 | |
| PGS. SENT | 8 | |
| RESULT | OK | |



OFFICE OF THE DISTRICT ATTORNEY
CRIMINAL APPEALS UNIT

DAVID ROGER
District Attorney

CHRISTOPHER J. LALLI
Assistant District Attorney

ROBERT W. TEUTON
Assistant District Attorney

MARY-ANNE MILLER
County Counsel

STEVEN S. OWENS
Chief Deputy District Attorney

NANCY BECKER
Deputy District Attorney

FACSIMILE TRANSMISSION

Fax No. (702) 382-5815

Telephone No. (702) 671-2750

TO: Tiffani D. Hurst **FAX#:** (702) 388-5819

FROM: Steven S. Owens

SUBJECT: Zane Floyd Findings, C159897

DATE: March 21, 2008

Tiffani:

The following Findings will be submitted to the Judge on Friday, March 28, 2008.

Sincerely,
Steven S. Owens

CRIMINAL COURT MINUTES

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

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

HEARD BY: Jeffrey Sobel, Judge

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

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

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

CUSTODY

8/5/99 9:00 AM DECISION

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

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

02/29/00 9:00 AM CALENDAR CALL

03/06/00 10:00 AM JURY TRIAL

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

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 001

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

08/12/99 09:00 AM 01 DECISION

HEARD BY: Jeffrey Sobel, Judge

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

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

Y
Y
Y
Y
Y
Y

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

CUSTODY

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 002

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

HEARD BY: Jeffrey Sobel, Judge

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

| | | |
|----------|---------------------------|---|
| PARTIES: | STATE OF NEVADA | Y |
| | 000477 Bell, Stewart L. | Y |
| | 000281 Koot, William T. | Y |
| | 0001 D1 Floyd, Zane M | Y |
| | PUBDEF Public Defender | Y |
| | 004931 Brown, David F. | Y |
| | 003964 Hedger, Douglas W. | Y |

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

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

CUSTODY

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

CRIMINAL COURT MINUTES

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

CONTINUED FROM PAGE: 003

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

HEARD BY: Jeffrey Sobel, Judge

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

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

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

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

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

CONTINUED ON PAGE: 005

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 004

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

CONTINUED ON PAGE: 006

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 005

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

CUSTODY

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

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

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

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

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

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

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

CRIMINAL COURT MINUTES

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

CONTINUED FROM PAGE: 006

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

HEARD BY: Jeffrey Sobel, Judge

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

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

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

CUSTODY

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

CRIMINAL COURT MINUTES

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

CONTINUED FROM PAGE: 007

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

HEARD BY: Jeffrey Sobel, Judge

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

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

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

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

CUSTODY

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

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

HEARD BY: Jeffrey Sobel, Judge

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

PARTIES: STATE OF NEVADA Y
000281 Koot, William T. Y

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

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

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

CONTINUED ON PAGE: 009

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 008

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

FURTHER, MATTER CONTINUED FOR A STATUS CHECK.

CUSTODY

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

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

HEARD BY: Jeffrey Sobel, Judge

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

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

Y
Y
Y
Y
Y

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

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

COURT ORDERED, MATTER CONTINUED FOR A STATUS CHECK.

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

CRIMINAL COURT MINUTES

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

CONTINUED FROM PAGE: 009

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

HEARD BY: Jeffrey Sobel, Judge

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

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

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

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

CUSTODY

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

CRIMINAL COURT MINUTES

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

CONTINUED FROM PAGE: 010

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

HEARD BY: Jeffrey Sobel, Judge

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

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

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

CUSTODY

06/29/00 10:15 AM EVIDENTIARY HEARING

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

HEARD BY: Jeffrey Sobel, Judge

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

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

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

CONTINUED ON PAGE: 012

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 011

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

CUSTODY

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

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

HEARD BY: Jeffrey Sobel, Judge

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

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

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

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

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

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

CONTINUED ON PAGE: 013

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 012

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

CUSTODY

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

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

HEARD BY: Jeffrey Sobel, Judge

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

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

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

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

CUSTODY

CRIMINAL COURT MINUTES

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

CONTINUED FROM PAGE: 013

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

HEARD BY: Jeffrey Sobel, Judge

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

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

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

CUSTODY

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

CRIMINAL COURT MINUTES

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

CONTINUED FROM PAGE: 014

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

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: CAROLE D'ALOIA, Court Clerk
J MURRAY-DAVID AM/L M JUDD PM, Reporter/Recorder

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

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

CUSTODY

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

CRIMINAL COURT MINUTES

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

CONTINUED FROM PAGE: 015

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

HEARD BY: Jeffrey Sobel, Judge

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

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

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

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

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

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 016

CUSTODY

7/17/00 9:30 AM PENALTY HEARING

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

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: CAROLE D'ALOIA, Court Clerk

. N J SILVERMAN (AM)/L M JUDD (PM_, Reporter/Recorder

PARTIES:

STATE OF NEVADA

000477 Bell, Stewart L.

000281 Koot, William T.

0001 D1 Floyd, Zane M

PUBDEF Public Defender

004546 Brown, Curtis

003964 Hedger, Douglas W.

Y

Y

Y

Y

Y

Y

Y

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

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

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 017

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

HEARD BY: Jeffrey Sobel, Judge

OFFICERS: CAROLE D'ALOIA, Court Clerk

G PICHIERRI (AM)/J MURRAY-DAVID (PM_, Reporter/Recorder

PARTIES:

STATE OF NEVADA

000477 Bell, Stewart L.

000281 Koot, William T.

0001 D1 Floyd, Zane M

PUBDEF Public Defender

004546 Brown, Curtis

003964 Hedger, Douglas W.

Y

Y

Y

Y

Y

Y

Y

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

CUSTODY

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

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 018

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

HEARD BY: Jeffrey Sobel, Judge

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

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

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

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

CUSTODY

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

CRIMINAL COURT MINUTES

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

CONTINUED FROM PAGE: 019

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

HEARD BY: Jeffrey Sobel, Judge

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

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

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

CUSTODY

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

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

HEARD BY: Jeffrey Sobel, Judge

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

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

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

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

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

CUSTODY

8/31/00 9:00 AM SENTENCING

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 020

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

HEARD BY: Jeffrey Sobel, Judge

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

| | | |
|----------|------------------|---|
| PARTIES: | STATE OF NEVADA | Y |
| 000281 | Koot, William T. | Y |
| 0001 D1 | Floyd, Zane M | Y |
| PUBDEF | Public Defender | Y |
| 004546 | Brown, Curtis | Y |

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

CUSTODY

08/31/00 09:00 AM 00 SENTENCING

HEARD BY: Jeffrey Sobel, Judge

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

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

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

COUNT I - BURGLARY WHILE IN POSSESSION OF A FIREARM (F)

COUNTS II, III, IV AND V - FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (F)

COUNT VI - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (F)

COUNT VII - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON (F)

COUNTS VIII - XI - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON (F)

Statements by Mr. Bell and Mr. Brown. COURT ORDERED, in addition to the \$25. Assessment and \$250. D.N.A. Fees, DEFT FLOYD SENTENCED TO A TERM OF

COUNT I - SEVENTY-TWO (72) MONTHS (MINIMUM) / ONE HUNDRED EIGHTY (180) MONTHS (MAXIMUM) in the NDP and ORDERED to pay \$1,638.48 Restitution;

CONTINUED ON PAGE: 022

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 021

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

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

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

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

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

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

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

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

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

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

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

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

455 days credit for time served.

NDP

CRIMINAL COURT MINUTES

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

CONTINUED FROM PAGE: 022

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

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

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

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

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

NDC

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

HEARD BY: Jackie Glass, Judge; Dept. 5

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

| | | |
|----------|----------------------------|---|
| PARTIES: | STATE OF NEVADA | Y |
| | 004352 Owens, Steven S. | Y |

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

NDC

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

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

CRIMINAL COURT MINUTES

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

CONTINUED FROM PAGE: 023

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

HEARD BY: Jackie Glass, Judge; Dept. 5

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

| | | |
|----------|-----------------------------|---|
| PARTIES: | STATE OF NEVADA | Y |
| | 007849 O'Brien, Glen | Y |
| | 0001 D1 Floyd, Zane M | N |
| | 000824 Schieck, David M. | Y |

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

NDC

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

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

HEARD BY: Jackie Glass, Judge; Dept. 5

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

| | | |
|----------|-----------------------------|---|
| PARTIES: | STATE OF NEVADA | Y |
| | 007595 Bawa, Ravindar N. | Y |
| | 0001 D1 Floyd, Zane M | N |
| | 000824 Schieck, David M. | Y |

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

NDC

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

CRIMINAL COURT MINUTES

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

CONTINUED FROM PAGE: 024

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

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Georgette Byrd, Court Clerk
Shirlee Prawalsky, Reporter/RecorderPARTIES: STATE OF NEVADA
006088 Peterson, Clark A.

Y

Y

0001 D1 Floyd, Zane M
000824 Schieck, David M.

N

Y

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

NDC

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

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

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Georgette Byrd, Court Clerk
Dick Kangas, Reporter/RecorderPARTIES: STATE OF NEVADA
000411 Simon, H. L.

Y

Y

0001 D1 Floyd, Zane M
000824 Schieck, David M.

N

Y

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

NDC

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

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

CONTINUED ON PAGE: 026

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 025

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

HEARD BY: Jackie Glass, Judge; Dept. 5

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

| | | |
|----------|---------------------------|---|
| PARTIES: | STATE OF NEVADA | Y |
| | 006088 Peterson, Clark A. | Y |
| | 0001 D1 Floyd, Zane M | N |
| | 000824 Schieck, David M. | Y |

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

NDC

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

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

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Georgette Byrd, Court Clerk
Dick Kangas, Reporter/Recorder

| | | |
|----------|--------------------------|---|
| PARTIES: | STATE OF NEVADA | Y |
| | 004352 Owens, Steven S. | Y |
| | 0001 D1 Floyd, Zane M | N |
| | 000824 Schieck, David M. | Y |

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

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

STATE'S RESPONSE DUE BY 8/6/04

DEFT'S REPLY DUE BY 8/20/04

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

CRIMINAL COURT MINUTES

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

CONTINUED FROM PAGE: 026

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

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Georgette Byrd, Court Clerk
Dick Kangas, Reporter/Recorder

| | | |
|----------|--------------------------|---|
| PARTIES: | STATE OF NEVADA | Y |
| | 004352 Owens, Steven S. | Y |
| | 0001 D1 Floyd, Zane M | N |
| | 000824 Schieck, David M. | Y |

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

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

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Georgette Byrd, Court Clerk
Dick Kangas, Reporter/Recorder

| | | |
|----------|--------------------------|---|
| PARTIES: | STATE OF NEVADA | Y |
| | 004352 Owens, Steven S. | Y |
| | 0001 D1 Floyd, Zane M | N |
| | 000824 Schieck, David M. | Y |

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

NDC

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

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 027

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

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Dick Kangas, Reporter/Recorder

| | | |
|----------|--------------------------|---|
| PARTIES: | STATE OF NEVADA | Y |
| | 004352 Owens, Steven S. | Y |
| | 0001 D1 Floyd, Zane M | N |
| | 000824 Schieck, David M. | Y |

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

NDC

07/24/07 08:30 AM 00 ALL PENDING MOTIONS 7/24/07

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Roshonda Mayfield/rm/sj, Relief Clerk
Rachelle Hamilton, Reporter/Recorder

| | | |
|----------|--------------------------|---|
| PARTIES: | STATE OF NEVADA | Y |
| | 004352 Owens, Steven S. | Y |
| | 0001 D1 Floyd, Zane M | N |
| | 007978 Anthony, David S. | Y |

DEFT.'S MOTION FOR APPOINTMENT OF COUNSEL...DEFT.'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) (DEATH PENALTY HABEAS CORPUS CASE)...DEFT.'S REQUEST TO PROCEED IN FORMA PAUPERIS

Deft. not present and in custody at the Nevada Department of Corrections.

Mr. Anthony advised he has not yet been appointed as counsel but is appearing today to go forward with appointment. Mr. Owens requested 60 days to respond stating he will be filing a motion to dismiss raising procedural bar. COURT ORDERED, Deft.'s Motion for Appointment of Counsel, GRANTED and the Federal Public Defender is APPOINTED. FURTHER ORDERED, Deft.'s Request

CONTINUED ON PAGE: 029

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 028

to Proceed in Forma Pauperis, GRANTED and Deft.'s Petition for Writ of Habeas Corpus, SET for hearing. Briefing schedule set as follows: Mr. Owens to file his Response/Motion by September 18, 2007; Mr. Anthony to file his Opposition by October 18, 2007, and State's reply to be filed by November 2, 2007.

NDC

11/15/07 8:30 AM HEARING: DEFT.'S PETITION FOR WRIT OF HABEAS CORPUS
(POST-CONVICTION) (DEATH PENALTY HABEAS CORPUS CASE)

10/04/07 08:30 AM 00 PTNR'S MTN FOR LEAVE TO CONDUCT
DISCOVERY/62

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Rachelle Hamilton, Reporter/Recorder

PARTIES: STATE OF NEVADA
004352 Owens, Steven S.

Y
Y

APPEARANCES CONTINUED: Tiffani D. Hurst, Assistant Federal Public Defender, present representing deft. Deft. not present and in custody at the Nevada Department of Corrections.

COURT ORDERED, motion DENIED WITHOUT PREJUDICE; however, the Court will review the issues contained in the Writ and if anything is meritorious, the defense may renew its motion. State to prepare the Order. Writ date STANDS.

NDC

CRIMINAL COURT MINUTES

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

CONTINUED FROM PAGE: 029

12/13/07 08:30 AM 02 PTN FOR WRIT OF HABEAS CORPUS

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Rachelle Hamilton, Reporter/Recorder

PARTIES: STATE OF NEVADA Y
004352 Owens, Steven S. Y
0001 D1 Floyd, Zane M N
900171 Hurst, Tiffani D. Y

Deft. not present and in custody at the Nevada Department of Corrections.

Following arguments by counsel, COURT ORDERED, matter SET for HEARING on the limited/narrow issue regarding whether Mr. Schieck failed to raise the organic brain issue. Court NOTED the Petition will be DENIED on all other issues.

2/22/08 9:00 AM HEARING: DEFT.'S PETITION FOR WRIT OF HABEAS

02/22/08 09:00 AM 00 HEARING: DEFT.'S PETITION FOR WRIT OF
HABEAS CORPUS

HEARD BY: Jackie Glass, Judge; Dept. 5

OFFICERS: Sandra Jeter, Court Clerk
Rachelle Hamilton, Reporter/Recorder

PARTIES: STATE OF NEVADA Y
004352 Owens, Steven S. Y
0001 D1 Floyd, Zane M Y
900171 Hurst, Tiffani D. Y

APPEARANCES CONTINUED: Brian Abbington, Assistant Federal Public Defender, also present representing deft.

Court instructed counsel regarding the parameters of the instant hearing. Mr. Abbington objected to the limitations. Objection NOTED. Testimony and exhibits. (See attached worksheets.) Following the testimony of Mr. Schieck, Court NOTED the defense wants to call additional witnesses and vehemently objects to any limitations; however, the Court FINDS any additional witnesses are not relevant because the issue is limited to what Mr. Schieck did or didn't do. Arguments by Ms. Hurst and Mr. Owens. Court FINDS Mr. Schieck's conduct did not fall below the standard and he was not ineffective; therefore, ORDERED, Deft.'s Petition For Writ of Habeas Corpus, DENIED.

CONTINUED ON PAGE: 031

CRIMINAL COURT MINUTES

99-C-159897-C STATE OF NEVADA

vs Floyd, Zane M

CONTINUED FROM PAGE: 030

NDC

04/08/08

E X H I B I T S

8:31 AM

CASE NO. 99-C-159897-C

CASE STATUS: REOPENED

STATE OF NEVADA

[] vs Floyd, Zane M

[]

| <u>NO.</u> | <u>CODE</u> | <u>EXHIBIT DESCRIPTION</u> | <u>SUB</u> | <u>OF/OB</u> | <u>DATE</u> | <u>S</u> |
|------------|-------------|---------------------------------------|------------|--------------|-------------|----------|
| 0001 | P-1 | /1-29 / PHOTOS | S | / | 99/99/99 | V |
| 0002 | P-30 | /DOCUMENT | S | / | 99/99/99 | |
| 0003 | P-31 | /INMATE REQUEST / LETTER | S | /OB | 02/29/00 | V |
| 0004 | P-32 | /AREAL MAP | S | / | 99/99/99 | V |
| 0005 | P/ | /TRIAL EXHIBITS 1 THRU 208 (SEE LIST) | S | / | 07/12/00 | V |
| 0006 | D/ | /TRIAL EXHIBITS 1 THRU 6 (SEE LIST) | 0001 | / | 07/12/00 | V |
| 0007 | P//CT | /TRIAL EXHIBITS I THRU VII (SEE LIST) | S | / | 07/12/00 | V |
| 0008 | P// | /EV HEARING EXHIBITS | S | / | 06/29/00 | V |
| 0009 | DA | /DECLARATION OF DAVID SCHIECK | | AD/NO | 02/22/08 | V |
| 0010 | DB | /TRANSCRIPT | | AD/OB | 02/22/08 | V |
| 0011 | DC | /DR CARDLLES REPORT | | AD/NO | 02/22/08 | V |
| 0012 | DD | /DR KINSORA REPORT | | AD/NO | 02/22/08 | V |
| 0013 | DE | /INVESTIGATION MEMO FROM BUBEL | | AD/NO | 02/22/08 | V |

Certification of Copy

State of Nevada }
County of Clark } SS:

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

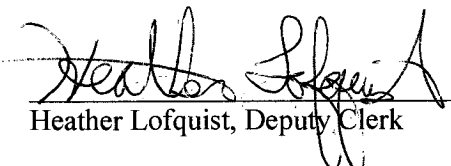
NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT
DOCKET ENTRIES; FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; NOTICE OF
ENTRY OF DECISION AND ORDER; DISTRICT COURT MINUTES; EXHIBITS LIST;

| | | |
|---------------------|---|------------------|
| STATE OF NEVADA, |) | |
| |) | |
| Plaintiff(s), |) | Case No: C159897 |
| |) | Dept No: V |
| vs. |) | |
| |) | |
| ZANE MICHAEL FLOYD, |) | |
| |) | |
| Defendant(s), |) | |
| |) | |

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 8 day of April 2008.

Charles J. Short, Clark County Clerk



Heather Lofquist, Deputy Clerk

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

ZANE MICHAEL FLOYD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 51409

District Court Case No. C159897

RECEIPT FOR DOCUMENTS

TO: Federal Public Defender/Las Vegas and Franny A. Forsman, Public
Defender and Tiffani D. Hurst, Asst. Federal Public Defender
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Charles J. Short, District Court Clerk

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

04/11/08 Filing Fee Waived: Criminal.

04/11/08 Filed Certified Copy of Notice of Appeal.
Appeal docketed in the Supreme Court this day. (Docketing statement mailed to counsel
for appellant.)

DATE: April 11, 2008

Tracie Lindeman, Clerk of Court

By: _____


Deputy Clerk