

CR07-1728 BRENDAN DUNCKLEY vs. STATE OF NEVADA District Court Washoe County  
DC-590304861-008  
13 Pages  
08/08/2008 02:38 PM  
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2008 SEP -8 PM 2:38

HOWARD W. CONYERS

BY *[Signature]*  
DEPUTY

FILED

SEP 10 2008

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

O'MARA LAW FIRM, P.C.  
WILLIAM M. O'MARA  
NEVADA BAR NO. 00837  
BRIAN O. O'MARA  
NEVADA BAR 08214  
DAVID C. O'MARA  
NEVADA BAR NO. 08599  
311 East Liberty St.  
Reno, Nevada 89501  
775-323-1321  
775-323-4082 (fax)  
Attorneys for Defendant

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

THE STATE OF NEVADA

Plaintiff,

vs.

BRENDAN DUNCKLEY

Defendants.

No. 52383  
Case No. CR07-1728  
Dept No. 4  
NOTICE OF APPEAL

Notice is hereby given that Defendant Brendan Dunckley ("Dunckley") in the above named action, hereby appeals to the Supreme Court of Nevada from the Order filed on August 11, 2008.

DATED: September 8, 2008

THE O'MARA LAW FIRM, P.C.

*[Signature: David C. O'Mara]*  
DAVID C. O'MARA

RECEIVED  
SEP 10 2008  
TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
DEPUTY CLERK

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**CERTIFICATE OF SERVICE**

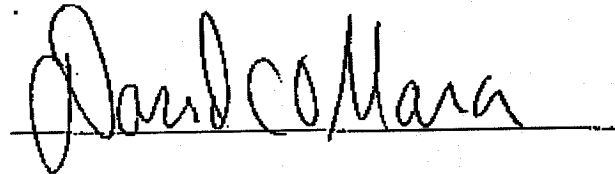
I hereby certify under penalties of perjury that on this date I served a true and correct copy of the foregoing document by:

\_\_\_\_\_ Depositing for mailing, in a sealed envelope, U.S.  
Postage prepaid, at Reno, Nevada  
  X   Personal delivery  
\_\_\_\_\_ Facsimile  
\_\_\_\_\_ Federal Express or other overnight delivery  
\_\_\_\_\_ Messenger Service

addressed as follows:

Kellie Anne Vilorio  
Deputy District Attorney  
One South Sierra Street, 4<sup>th</sup> Floor  
P.O. Box 30083  
Reno, Nevada 89520

DATED: September 8, 2008



**AFFIRMATION**

(Pursuant to NRS 239B.030)

The undersigned does hereby affirm that the preceding document filed in Case No. CR07-1096.

☒ Document does not contain the social security number of any person

-OR-

\_\_\_\_\_ Document contains the social security number of a person as required by:

\_\_\_\_\_ A specific state or federal law, to wit:

-or-

\_\_\_\_\_ For the administration of a public program

-or-

\_\_\_\_\_ For an application for a federal or state grant

-or-

\_\_\_\_\_ Confidential Family Court Information Sheet (NRS 125.130, NRS 125.230 and NRS 125B.055)

DATED: September 8, 2008

THE O'MARA LAW FIRM, P.C.



DAVID C. O'MARA

ORIGINAL

FILED

2008 SEP -9 PM 4:33

HOWARD W. DRYERS

BY *[Signature]*  
DEPUTY

DC-00000401-012  
STATE VS. BRENDAN DUNCKLEY ( 4 Pages  
District Court 39/09/2008 04:33 PM  
1310  
Washoe County  
CNC

1 CODE:  
2 THE O'MARA LAW FIRM, P.C.  
WILLIAM M. O'MARA  
NEVADA BAR NO. 00837  
DAVID C. O'MARA  
NEVADA BAR NO. 08599  
311 East Liberty St.  
Reno, Nevada 89501  
775-323-1321  
775-323-4082 (fax)

Attorneys for Defendant

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

10 THE STATE OF NEVADA

11 Plaintiff,

Case No. CR07-1728

12 vs.

Dept No. 3

13 BRENDAN DUNCKLEY

14 Defendants.

CASE APPEAL STATEMENT

- 15
- 16
- 17
- 18
- 19 1. Mr. Brendan Dunckley is filing this case appeal statement
- 20 2. The Honorable Connie Steinheimer, Second Judicial District Court Judge, issued the
- 21 order appealed from.
- 22 3. Mr. Brendan Dunckley was the Defendant and the State of Nevada was the Plaintiff.
- 23 4. Mr. Brendan Dunckley is the Defendant/Appellant and the State of Nevada is the
- 24 Plaintiff/Respondent.
- 25 5. The name of the law firm, attorneys with their address and phone numbers are as
- 26 follows:
- 27
- 28

1 Defendant/Appellant Mr. Brendan Dunckley  
2 The O'Mara Law Firm, P.C.  
3 David C. O'Mara, Esq.  
4 311 E. Liberty Street  
5 Reno, Nevada 89501  
6 (775) 323-1321

7 Plaintiff/Respondent the State of Nevada  
8 Washoe County District Attorney's Office  
9 P.O. Box 30083  
10 Reno, Nevada 89520-3083

11 6. Mr. Brendan Dunckley was represented by appointed conflict counsel, The O'Mara  
12 Law Firm, P.C., after a represent him after a conflict was found in the Public Defender's Office.

13 7. Mr. Brendan Dunckley is still represented by conflict counsel, The O'Mara Law  
14 Firm, P.C.

15 8. Mr. Brendan Dunckley has not granted leave to proceed in forma pauperis.

16 9. The above referenced case began in the Second Judicial District Court on or about  
17 July 12, 2007, with the filing of the Information.

18 DATED: September 9, 2008

19 THE O'MARA LAW FIRM, P.C.

20   
21 DAVID C. O'MARA  
22  
23  
24  
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1  
2 **CERTIFICATE OF SERVICE**

3 I hereby certify under penalties of perjury that on this date I served a true and correct  
4 copy of the foregoing document by:

5  
6 ☒ Depositing for mailing, in a sealed envelope, U.S.  
7 Postage prepaid, at Reno, Nevada  
8 ☐ Personal delivery  
9 ☐ Facsimile  
10 ☐ Federal Express or other overnight delivery  
11 ☐ Messenger Service

12 addressed as follows:

13  
14 Kellie Anne Vitoria  
15 Deputy District Attorney  
16 One South Sierra Street, 4<sup>th</sup> Floor  
P.O. Box 30083  
Reno, Nevada 89520

17 DATED: September 9, 2008

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**AFFIRMATION**

(Pursuant to NRS 239B.030)

The undersigned does hereby affirm that the preceding document filed in Case No. CR07-1096.

☒ Document does not contain the social security number of any person

-OR-

Document contains the social security number of a person as required by:

☐ A specific state or federal law, to wit:

-or-

☐ For the administration of a public program

-or-

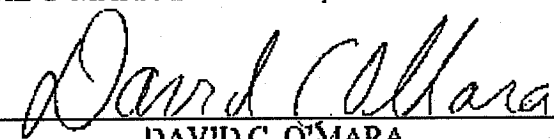
☐ For an application for a federal or state grant

-or-

☐ Confidential Family Court Information Sheet (NRS 125.130, NRS 125.230 and NRS 125B.055)

DATED: September 9, 2008

THE O'MARA LAW FIRM, P.C.

  
DAVID C. O'MARA

NOT FOR DISTRIBUTION  
TO THE PUBLIC

SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE

Case History - CR07-1728

DEPT. D4

HON. CONNIE J. STEINHEIMER

Report Date & Time  
9/10/2008  
11:51:41AM

Case ID:	CR07-1728	Case Description:	STATE VS. BRENDAN DUNCKLEY (D4) CRIMINAL	Initial Filing Date:	7/3/2007
		Type:	Parties		
PATY		William Michael O'Mara, Esq. - 837			
RESP		STATE OF NEVADA - STATE			
APPE		BRENDAN DUNCKLEY - @102844			
PATY		Brian O. O'Mara, Esq. - 8214			
PATY		David C. O'Mara, Esq. - 8599			
PLTF		STATE OF NEVADA - STATE			
DA		Kelli A. Vitoria, Esq. - 5872			
DEFT		BRENDAN DUNCKLEY - @102844			
DATY		Gary Howard Hollestad, Esq. - 1525			
DATY		David C. O'Mara, Esq. - 8599			

Charges

Charge No.	Charge Code	Charge Date	Charge Description
1	F650	2/28/2008	AI LEWDNESS WITH A CHILD UNDER THE AGE OF FOURTEEN YEARS
2	F60	2/28/2008	AI ATTEMPTED SEXUAL ASSAULT

Plea Information

Charge No.	Plea Code	Plea Date	Plea Description
1	F650	3/6/2008	PLED GUILTY
2	F60	3/6/2008	PLED GUILTY
3	NC01		
4	NC01		

Sentences

Date	Charge No.	Charge Desc	Time Served	Sentence Text
8/5/2008	1	Life With Poss of Parole	NSP - LIFE MAX; 10 YEARS MIN; LIFETIME SUPERVISION; FEES; DNA TESTING	
8/5/2008	2	Nevada State Prison	NSP - 120 MOS MAX; 24 MOS MIN; TO BE SERVED CONCURRENTLY WITH CT 1; LIFETIME SUPERVISION	

Release Information

Custody Status

7/17/2007	NOT IN CUSTODY	
7/24/2007	BAIL - BOND	
3/6/2008	BAIL - BOND	WITH COURT SERVICES SUPERVISION S.C. 1. CHECK-INS AT LEAST 1XPER WEEK; 2. NO ALCOHOL OR CONTROLLED SUBSTANCES

-FOR INTERNAL COURT USE ONLY-

-NOT AN OFFICIAL DOCUMENT-

-REPORT MAY CONTAIN SEALED CASE INFORMATION-

Report Date & Time  
9/10/2008  
11:51:41AM

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Case ID:	CR07-1728	Case Description:	STATE VS. BRENDAN DUNCKLEY (D4) CRIMINAL	Initial Filing Date:	7/3/2007
			Type:	Hearings	

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Department	Event Description	Sched. Date & Time
1 D4	ARRAIGNMENT	7/17/2007 09:00:00

Extra Text: Disposition:  
D725 7/17/2007 INFORMATION

---

Department	Event Description	Sched. Date & Time
2 D4	PRE-TRIAL MOTIONS	10/19/2007 09:00:00

Extra Text: Disposition:  
D870 10/19/2007

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Department	Event Description	Sched. Date & Time
3 D4	MOTION TO CONFIRM TRIAL	3/4/2008 09:00:00

Extra Text: Disposition:  
D844 3/3/2008

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Department	Event Description	Sched. Date & Time
4 D4	MOTION TO CONFIRM TRIAL	3/6/2008 09:00:00

Extra Text: Disposition:  
D655 3/6/2008 COUNTS I AND II OF THE  
AMENDED INFORMATION  
TRIAL DATE VACATED  
CT ORDERED CT SERVICES  
SUPERVISION TO DEFENDANT'S  
BAIL RELEASE S.C. 1. CHECK-INS  
AT LEAST 1XPER WEEK; 2. NO  
ALCOHOL OR CONTROLLED  
SUBSTANCES

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Department	Event Description	Sched. Date & Time
5 D4	MOTION TO CONFIRM TRIAL	3/13/2008 09:00:00

Extra Text: Disposition:  
D844 9/26/2007 RESET FOR 3/18/07

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Department	Event Description	Sched. Date & Time
6 D4	MOTION TO CONFIRM TRIAL	3/18/2008 09:00:00

Extra Text: Disposition:  
D844 10/8/2007 RESET TO 3/4/07

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

Report Date & Time  
9/10/2008  
11:51:41AM

Case ID: CR07-1728      Case Description: STATE VS. BRENDAN DUNCKLEY (D4)  
CRIMINAL      Initial Filing Date: 7/3/2007

Department      Event Description      Sched. Date & Time  
7      D4      TRIAL - JURY      3/24/2008      10:00:00

Extra Text: (5 DAYS)      Disposition:  
D845      3/6/2008

Department      Event Description      Sched. Date & Time  
8      D4      SENTENCING      8/5/2008      09:00:00

Extra Text:      Disposition:  
D765      8/5/2008

Agency Cross Reference

Code	Agency Description	Case Reference I.D.
DA	District Attorney's Office	DA373085
PC	PCN number	PCNRPD0726517C
PC	PCN number	PCNRPD0726524C
RJ	Reno Justice's Court	RCR2007033884
RP	Reno Police Department	RP05034027
RP	Reno Police Department	RP07009446

Actions

Action Entry Date	Code	Code Description	Text
7/3/2007	1250	Application for Setting	7/17/07 @ 9:00 a.m.
7/3/2007	1491	Court Services Report	
7/12/2007	1800	Information	
7/17/2007	1280	** 60 Day Rule - Waived	
7/18/2007	MIN	***Minutes	Transaction 7032 - Approved By: NOREVIEW : 07-18-2007:11:54:22 ARRAIGNMENT - 7/17/07
7/19/2007	3700	Proceedings	
7/20/2007	3696	Pre-Trial Order	
7/24/2007	BAIL	**Bailbond Posted	
7/24/2007	BAIL	**Bailbond Posted	
8/16/2007	4185	Transcript ...	07/17/07 - ARRAIGNMENT
9/26/2007	1250	Application for Setting	MOTION TO CONFIRM TRIAL
10/8/2007	1250	Application for Setting	MOTION TO CONFIRM TRIAL
10/19/2007	3980	Stip and Order...	VACATING HEARING
2/4/2008	2490	Motion ...	MOTION TO ALLOW LEAVE TO FILE A BELATED NOTICE OF INTENT TO SEEK ADMISSION OF OTHER BAD ACT EVIDENCE FOR REBUTTAL PURPOSES

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

Report Date & Time  
9/10/2008  
11:51:41AM

Cnse ID:	CR07-1728	Case Description:	STATE VS. BRENDAN DUNCKLEY (D4)	Initial Filing Date: 7/3/2007
		Case Type:	CRIMINAL	
2/4/2008	2610	Notice ...	NOTICE OF INTENT TO SEEK ADMISSION OF OTHER ACTS EVIDENCE FOR PURPOSES OF REBUTTAL	
2/25/2008	3839	Request Agree Ord Recp Discv		
2/28/2008	1095	Amended Information		
3/3/2008	4025	Stip & Ord to Continue	3/4/08 MOTION TO CONFIRM TRIAL CONTINUED TO 3/6/08 AT 9:00 A.M.	
3/6/2008	1785	Guilty Plea Memo/Agreement		
4/2/2008	4185	Transcript ...	MOTION TO CONFIRM TRIAL - MARCH 6, 2008 - Transaction 172843 - Approved By: TPRINCE : 04-02-2008:11:03:47	
6/26/2008	MIN	***Minutes	MOTION TO CONFIRM TRIAL DATE/ARRAIGNMENT ON AMENDED INFORMATION - 3/6/08 - Transaction 260887 - Approved By: NOREVIEW : 06-26-2008:12:51:01	
8/5/2008	1695	** Exhibit(s) ...	A & B ADMITTED	
8/5/2008	2528	Not/Doc/Re'd/Not/Cons/by Crt	NOTICE OF DOCUMENT RECEIVED BUT NOT CONSIDERED BY THE COURT	
8/5/2008	4500	PSI - Confidential Envelope		
8/11/2008	1850	Judgment of Conviction		
9/5/2008	4185	Transcript ...	TRANSCRIPT OF PROCEEDINGS SENTENCING - Transaction 354459 - Approved By: NDEIGADO : 09-08-2008:08:19:27	
9/8/2008	2515	Notice of Appeal Supreme Court		
9/8/2008	3868	Req to Crt Rptr - Rough Draft		
9/9/2008	1310	Case Appeal Statement		
9/10/2008	1350	Certificate of Clerk		
9/10/2008	1365	Certificate of Transmittal		

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

CR07-1728  
STATE VS. BRENDAN DUNCKLEY  
District Court  
Washoe County  
1850  
DOC  
RECOTTER

1 CODE 1850

FILED

AUG 11 2008

HOWARD M. CONYERS, CLERK

By: *[Signature]*  
DEPUTY CLERK

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5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
6 IN AND FOR THE COUNTY OF WASHOE  
7

8 STATE OF NEVADA,

9 Plaintiff,

10 vs.

Case No. CR07-1728

11 BRENDAN DUNCKLEY,

Dept. No. 4

12 Defendant.  
13 \_\_\_\_\_

14 JUDGMENT

15 The Defendant, having entered a plea of Guilty, and no sufficient cause  
16 being shown by Defendant as to why judgment should not be pronounced against  
17 him, the Court rendered judgment as follows:

18 That Brendan Dunckley is guilty of the crime of Lewdness with a Child  
19 Under the Age of Fourteen Years, a violation of NRS 201.230, a felony, as charged  
20 in Count I of the Amended Information, and Attempted Sexual Assault, a violation of  
21 NRS 193.330, being an attempt to violate NRS 200.366, a felony, as charged in  
22 Count II of the Amended Information; and that he be punished by imprisonment in the  
23 Nevada Department of Prisons for the maximum term of life with the minimum parole  
24 eligibility of ten (10) years, for Count I; and that he be punished by imprisonment in  
25 the Nevada Department of Prisons for the maximum term of one hundred twenty  
26 (120) months with the minimum parole eligibility of twenty-four (24) months, for Count

1 It, to be served concurrently with sentence imposed in Count I; with credit for four (4)  
2 days time served, and by submission to a DNA Analysis Test for the purpose of  
3 determining genetic markers. Defendant is further ordered to pay a Twenty-Five  
4 Dollar (\$25.00) administrative assessment fee, a One Hundred Fifty Dollar (\$150.00)  
5 DNA testing fee, and a Nine Hundred Fifty Dollar (\$950.00) Psychosexual Evaluation  
6 Fee to the Clerk of the Second Judicial District Court.

7 It is further ordered that the Defendant serve a special sentence of  
8 lifetime supervision to commence after any term of imprisonment or after any period  
9 of release on parole.

10 Dated this 5th day of August, 2008.

11 Connie J. Steinheim  
12 DISTRICT JUDGE  
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FILED

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06-26-2008:12:50:42 PM

Howard W. Conyers

Clerk of the Court

Transaction # 260887

CASE NO. CR07-1728

TITLE: THE STATE OF NEVADA VS. BRENDAN DUNCAN

DATE, JUDGE

OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

3/6/08

MOTION TO CONFIRM TRIAL DATE/ARRAIGNMENT ON AMENDED

HONORABLE

INFORMATION

8/6/08

CONNIE

Deputy District Attorney Kelli Vitoria, Esq., represented the State.

9:00 a.m.

STEINHEIMER

Defendant present with counsel David O'Mara, Esq. Probation Officer Laura

Sentencing

DEPT. NO.4

Pappas also present.

M. Stone

Defendant handed copy of Amended Information; indicated to the Court that

(Clerk)

name as set forth on same was his true name; waived reading and enter a

B. Van Auker

plea of guilty to Lewdness with a Child Under the Age of Fourteen Years

(Reporter)

and Attempted Sexual Assault as set forth therein.

Negotiations recited to the Court by defense counsel. Court interrogated defendant, fully advised him of his rights; found plea freely and voluntarily entered. Defendant advised the Court that he understood the guilty plea memorandum. Clerk read aloud charge to which the defendant pled. Possible penalty for offense charged related to defendant. Court accepted plea after finding defendant had been fully advised by counsel.

**COURT ORDERED** matter referred to Probation Department for PSI and continued for entry of judgment, consideration of probation report and imposition of sentence.

**COURT FURTHER ORDERED** that the Defendant be supervised by Court Services while released on bail with the following special conditions: That the Defendant check-in with Court Services 1 time per week; and that he abstain from the use of alcoholic beverages and controlled substances.

Trial ordered vacated.

Defendant remained out of custody on bail.

**FILED**

Electronically

07-18-2007:11:53:59 AM

Ronald A. Longtin, Jr.

Clerk of the Court

Transaction # 7032

CASE NO. CR07-1728

TITLE: THE STATE OF NEVADA VS. BRENDAN DUNCKLEY

DATE, JUDGE  
OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

7/17/07

**ARRAIGNMENT**

HONORABLE

CONNIE

STEINHEIMER

DEPT. NO.4

M. Stone

(Clerk)

S. Loder

(Reporter)

Deputy District Attorney Kelli Vioria, Esq., represented the State. Defendant present with counsel David O'Mara, Esq. Probation officer Lupe Garrison also present.

Defendant handed copy of information; indicated to the Court that name as set forth on same was his true name; waived reading and entered a plea of not guilty to the charge set forth therein.

Defendant waived the 60-Day Rule and COURT ORDERED this matter set for jury trial.

COURT FURTHER ENTERED ORDER that all pre-trial motions shall be filed and served no later than September 17, 2007; all responses to those pre-trial motions shall be filed and served no later than September 28, 2007; and all replies to those responses shall be filed and served no later than October 5, 2007.

Defendant remained out of custody.

10/19/07

9:00 a.m.

Pre-Trial

Motions

(3 Hours)

3/13/07

9:00 a.m.

Mtn to

Confirm Tri

3/24/07

10:00 a.m.

Jury Trial

(5 Days)

CR07-1728  
STATE VS. BRENDAN DUNCKLEY ID # Page  
District Court 09/10/2008 11:48 AM  
Washoe County 1350  
C. KEPLER

1350

FILED

SEP 10 2008

HOWARD W. CONYERS, CLERK  
By: *Cathy Kepler*  
DEPUTY CLERK

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

BRENDAN DUNCKLEY,

Appellant(s)

Case No. CR07-1728

vs.

Dept. No. 4

THE STATE OF NEVADA,

Respondent(s)

CERTIFICATE OF CLERK

I hereby certify that the enclosed documents are certified copies of the original pleadings  
on file with the Second Judicial District Court, in accordance with the NRAP 3(e).

Dated: September 10, 2008

Howard W. Conyers, Clerk of the Court,

By: *Cathy Kepler*

Cathy Kepler, Appeals Clerk

CR07-1728  
STATE VS. BRENDAN DUNCKLEY (D. Page  
District Court 08/10/2008 11:40 AM  
Washoe County 1385  
Clerk

1365

FILED

SEP 10 2008

HOWARD W. CONYERS, CLERK  
By: *[Signature]*

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

BRENDAN DUNCKLEY,

Appellant(s)

Case No. CR07-1728

vs.

Dept. No. 4

THE STATE OF NEVADA,

Respondent(s)

CERTIFICATE OF TRANSMITTAL

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

Dated: September 10, 2008

Howard W. Conyers, Clerk of the Court,

By: *[Signature]*  
Cathy Kepler, Appeals Clerk

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

BRENDAN DUNCKLEY,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 52383**  
District Court Case No. CR071728

**RECEIPT FOR DOCUMENTS**

TO: O'Mara Law Firm, P.C. and Brian O. O'Mara and David C. O'Mara  
Attorney General Catherine Cortez Masto/Carson City  
Washoe County District Attorney Richard A. Gammick  
Howard W. Conyers , District Court Clerk

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

09/10/08      Filing Fee Waived: Criminal.

09/10/08      Filed Certified Copy of Notice of Appeal.  
Appeal docketed in the Supreme Court this day. (Docketing statement mailed to counsel  
for appellant.)

DATE: September 10, 2008

Tracie Lindeman, Clerk of Court

By: \_\_\_\_\_

Deputy Clerk

