

GARY LYNN Lewis
PO Box 607 * 47615
CARSON CITY NEVADA 89702

FILED

MAY 11 2009

EMAF
CLERK OF THE COURT

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY NEVADA

GARY LYNN Lewis
Petitioner

Electronically Filed
May 12 2009 4:12 p.m.
Tracie K. Lindeman

VS -

Green W Smith WARDEN MSP
State of Nevada : et al
Respondant

"Notice of APPEAL" to
the NEVADA Supreme Court,
Denial of MAY 1, 2009

Now Comes GARY LYNN Lewis, IN Pro se to file
this Notice of Appeal, of Denial of Habeas Corpus
Petition by JUDGE Michelle Lewitt in Department 12
on MAY 1, 2009. CLARK COUNTY NEVADA.

The Defendant was Never charged with Crime that
is on Judgment of Conviction. JULY 9th 1996. AND
Now APPEALS to the NEVADA Supreme Court of this
Case. (See Attached minute order).

Dated MAY 4, 2009

GARY L Lewis
GARY LYNN Lewis

RECEIVED

MAY 08 2009

CLERK OF THE COURT

Certificate of Service

I GARY L Lewis. Pursuant to NRCIVP 5(b) Placed A True and Correct Copy of Notice of APPEAL. Postage PAID First Class Addressed to.

8TH JUDICIAL DISTRICT COURT

ATT: Court Clerk

200 E Lewis Ave Las Vegas NV 89155

Clark Co Dist ATT DAVID ROGER.

200 E Lewis Ave LV NV 89155

Dated MAY 14th 2009

GARY L Lewis

Pursuant to NRS 239 B. D30. This document
Contains No Social Security Numbers.

GARY L Lewis

CRIMINAL COURT MINUTES

95-C-129824-C STATE OF NEVADA

vs Lewis, Gary L.

CONTINUED FROM PAGE: 005

02/26/09 09:00 AM 00 MINUTE ORDER RE: DENYING DEFT'S PETITION
FOR WRIT OF HABEAS CORPUS

HEARD BY: Michelle Leavitt, Judge; Dept. 12

OFFICERS: April Watkins, Court Clerk

PARTIES: NO PARTIES PRESENT

The Court is without jurisdiction to hear this petition because it is time barred. NRS 34.726 provides that: "Unless there is good cause shown for delay, a petition that challenges the validity of a judgment or sentence must be filed within one year after entry of the judgment or conviction, or if an appeal has been taken from the judgment, within 1 year after entry the Supreme Court issues its remittitur." Judgment was entered and petitioner was sentenced on August 2, 1996. Thus, he has failed to meet the one year period of limitation for filing a habeas petition challenging his confinement.

A time barred petition may be permitted where good cause is shown. Good cause exists where (1) delay is not the fault of the petitioner, and (2) dismissal of the petition as untimely would be unduly prejudicial to the petitioner. NRS 34.726(1)(a)-(b). Petitioner has made no attempt to demonstrate good cause as required by NRS 34.726(1)(a)-(b).

CLERK'S NOTE: The above minute order has been distributed to: David Roger, District Attorney and Deft. Gary Lynn Lewis #47615, P.O. Box 607, Carson City, NV 89702. aw

05/01/09 09:00 AM 00 MINUTE ORDER RE: DENYING FIRST AMENDMENT
PETITION

HEARD BY: Michelle Leavitt, Judge; Dept. 12

OFFICERS: April Watkins, Court Clerk

PARTIES: NO PARTIES PRESENT

The Court is without jurisdiction to consider the pleading styled Petitioner's "First Amendment Petition Writ of Habeas Corpus" filed on March 23, 2009. This pleading appears intended to amend and supplement a petition that was denied by minute order on February 26, 2009. There is no basis under the statute for this Court to consider an amendment or supplement to a previously denied petition for habeas corpus. Petitioner is referred to the February 26, 2009, minute order denying his petition for habeas corpus.

CLERK'S NOTE: The above minute order has been distributed to: Gary Lynn Lewis #47615; P.O. Box 607, Carson City, NV 89702. aw

1 ASTA

FILED

2009 MAY 12 P 1:25

2
3
4 **DISTRICT COURT**
5 **CLARK COUNTY, NEVADA**

Ed. Smith
CLERK OF THE COURT

6
7 STATE OF NEVADA,

8 Plaintiff(s),

9 vs.

10 GARY L. LEWIS,

11 Defendant(s),

)
) Case No: C129824

)
) Dept No: XII

12
13
14 **CASE APPEAL STATEMENT**

15 1. Appellant(s): GARY L. LEWIS

16 2. Judge: MICHELLE LEAVITT

17 3. All Parties, District Court:

18 Plaintiff, THE STATE OF NEVADA

19 Defendant(s), GARY L. LEWIS

20 4. All Parties, Appeal:

21 Appellant(s), GARY L. LEWIS

22 Respondent, THE STATE OF NEVADA

23 5. Appellate Counsel:

24 *Appellant/Proper Person*

25 Gary Lewis # 47615

26 P.O. Box 607

27 Carson City, NV 89702

Respondent

David Roger, District Attorney

200 Lewis Ave.

Las Vegas, NV 89101

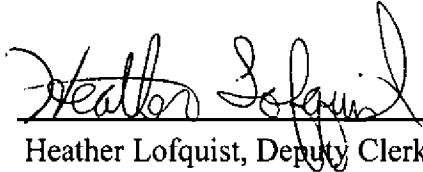
(702) 671-2700

- 1 6. District Court Attorney, Appointed
2 7. Attorney On Appeal, N/A
3 8. Forma Pauperis, N/A
4 9. Date Commenced in District Court: August 3, 1995

5 Dated This 12 day of May 2009.

6 Edward A. Friedland, Clerk of the Court

7
8 By:



9 Heather Lofquist, Deputy Clerk
10 200 Lewis Ave
11 PO Box 551601
12 Las Vegas, Nevada 89155-1601
13 (702) 671-0512
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DATE: 05/12/09
CASE NO. 95-C-129824-C

I N D E X

TIME 1:15 PM
JUDGE:Leavitt, Michelle

STATE OF NEVADA

[] vs Lewis, Gary L

[]

0001 D1 Gary L Lewis
PO BOX 607
CARSON CITY, NV 89702

?????? ## UNKNOWN ##

NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0001	08/03/95	CBO /CRIMINAL BINDOVER Fee \$0.00				
0002	08/04/95	ARRN/INITIAL ARRAIGNMENT	0001		08/16/95	
0003	08/15/95	INFO/INFORMATION	0001		08/15/95	
0004	08/16/95	CALC/CALENDAR CALL	0001		01/31/96	
0005	08/16/95	JURY/TRIAL BY JURY (VJ 1-31-96)	0001	VC	02/05/96	
0006	09/01/95	TRAN/REPORTER'S TRANSCRIPT OF PRELIMINARY HEARING	0001		08/01/95	
0007	10/27/95	ORDR/ORDER FOR PRODUCTION OF INMATE	0001			
0008	12/14/95	ORDR/ORDER FOR PRODUCTION OF INMATE	0001			
0009	01/17/96	SUBP/SUBPOENA	0001	SC	02/05/96	
			0001	SV	01/16/96	
0010	01/31/96	CALC/CALENDAR CALL	0001		03/20/96	
0011	01/31/96	JURY/TRIAL BY JURY (VJ 3-20-96)	0001	VC	03/25/96	
0012	02/08/96	SUBP/SUBPOENA	0001	SC	03/25/96	
			0001	SV	02/07/96	
0013	02/23/96	ORDR/ORDER FOR PRODUCTION OF INMATE	0001			
0014	03/20/96	CALC/CALENDAR CALL	0001		06/12/96	
0015	03/20/96	JURY/TRIAL BY JURY (VJ 6-12-96)	0001	VC	06/17/96	
0016	06/12/96	SENT/SENTENCING	0001	GR	08/02/96	
0017	06/12/96	INFO/AMENDED INFORMATION	0001		06/12/96	
0018	06/12/96	MEMO/GUILTY PLEA AGREEMENT PURSUANT TO ALFORD DECISION	0001			
0019	06/12/96	INFO/AMENDED INFORMATION	0001		06/12/96	
0020	06/14/96	SUBP/SUBPOENA	0001	SC	06/17/96	
			0001	SV	06/10/96	
0021	08/14/96	JUDG/JUDGMENT OF CONVICTION - PLEA	0001			
0022	08/14/96	JMNT/ADMINISTRATION/ASSESSMENT FEE	0001		08/15/96	
0023	07/13/07	CASO/CASE (RE)OPENED			07/13/07	
0024	07/13/07	ASSG/REASSIGNMENT OF JUDGE Maupin TO JUDGE Leavitt				
0025	07/13/07	HEAR/DEFT'S REQUEST TO WDRAW PD AS ATTORNEY	0001	GR	07/19/07	
0026	07/19/07	CSCL/CASE CLOSED	0001		07/19/07	
0027	02/04/09	CASO/CASE (RE)OPENED			02/04/09	
0028	02/03/09	MOT /DEFT'S PRO PER MTN FOR ORDER OF WITHDRAWL/10	0001		02/17/09	
0029	02/04/09	CERT/CERTIFICATE OF MAILING	0001			
0030	02/19/09	PET /FIRST AMENDMENT PETITION WRIT OF HABEAS CORPUS AND JUDICIAL NOTICE	0001			
0031	02/26/09	OCAL/MINUTE ORDER RE: DENYING DEFT'S PETITION FOR WRIT OF HABEAS CORPUS			02/26/09	
0032	03/09/09	ORDR/ORDER GRANTING DEFTS PRO PER MTN TO WITHDRAW ATTORNEY OF RECORD	0001			
0033	03/23/09	PET /FIRST AMENDED PETITION WRIT OF HABEAS CORPUS NRS CHAPTER 34 AND JUDICIAL	0001			Y
NOTICE OF COURT - EVIDENTIARY HEARING REQUESTED						
0034	05/01/09	OCAL/MINUTE ORDER RE: DENYING FIRST AMENDMENT PETITION	0001		05/01/09	
			0001			

(Continued to page 2)

NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0035	05/11/09	NOAS/NOTICE OF APPEAL TO THE NEVADA SUPREME COURT DENIAL OF MAY 1 2009	0001		AP	
			0001			

CRIMINAL COURT MINUTES

95-C-129824-C STATE OF NEVADA vs Lewis, Gary L

08/16/95 09:00 AM 00 INITIAL ARRAIGNMENT

HEARD BY: A. William Maupin, Judge; Dept. 7

OFFICERS: LORI BROWN, Court Clerk
PATSY SMITH; Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	004515 Tobiasson, Melanie A.	Y
	0001 D1 Lewis, Gary L	Y
	PUBDEF Public Defender	Y
	001631 Caruso, Robert D.	Y

DEFT. LEWIS ARRAIGNED, PLED NOT GUILTY to SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (F), AND WAIVED THE 60 DAY RULE. COURT ORDERED, this matter SET for trial.

CUSTODY

1-3-96 9:00 A.M. CALENDAR CALL

2-5-96 10:00 A.M. JURY TRIAL

01/31/96 09:00 AM 00 CALENDAR CALL

HEARD BY: A. William Maupin, Judge; Dept. 7

OFFICERS: TINA HURD, Court Clerk
PATSY SMITH, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	005152 Togliatti, Jennifer	Y
	0001 D1 Lewis, Gary L	N
	PUBDEF Public Defender	Y
	001631 Caruso, Robert D.	Y

Mr. Caruso requested a continuance and stated he does not believe Ms. Lowry will have any opposition. COURT ORDERED, matter TRAILED for Ms. Lowry to appear.

LATER: Matter recalled with all present as before. Ms. Lowry not present. COURT ORDERED, trial date VACATED AND RESET; State to prepare an order to transport for March 20.

CUSTODY (COC-NDP)

3-20-96 9:00 AM CALENDAR CALL

CRIMINAL COURT MINUTES

95-C-129824-C STATE OF NEVADA

vs Lewis, Gary L

CONTINUED FROM PAGE: 001

3-25-96 10:00 AM JURY TRIAL

03/20/96 09:00 AM 00 CALENDAR CALL

HEARD BY: A. William Maupin, Judge; Dept. 7

OFFICERS: LORI BROWN, Court Clerk
PATSY SMITH, Reporter/RecorderPARTIES: STATE OF NEVADA
003901 Lowry, Teresa
0001 D1 Lewis, Gary L
PUBDEF Public Defender
001631 Caruso, Robert D.Y
Y
Y
Y
Y

Per stipulation of counsel, COURT ORDERED, trial date of 3-25-96 VACATED and RESET in the ordinary course, as deft. has previously waived his 60 day rights. Mr. Caruso requested that deft. be REMANDED to the custody of the Clark County Detention Center, as there is difficulty contacting the deft. while in the Nevada Department of Prisons. COURT SO ORDERED.

CUSTODY

6-12-96 9:00 A.M. CALENDAR CALL

6-17-96 10:00 A.M. JURY TRIAL

06/12/96 09:00 AM 00 CALENDAR CALL

HEARD BY: A. William Maupin, Judge; Dept. 7

OFFICERS: LORI BROWN, Court Clerk
PATSY SMITH, Reporter/RecorderPARTIES: STATE OF NEVADA
003901 Lowry, Teresa
0001 D1 Lewis, Gary L
PUBDEF Public Defender
001631 Caruso, Robert D.Y
Y
Y
Y
Y

AMENDED INFORMATION, charging Deft. Lewis with COUNT I - SEXUAL ASSAULT (F), and GUILTY PLEA AGREEMENT FILED IN OPEN COURT. NEGOTIATIONS: The State retains the right to argue at the time of sentencing, but will recommend that time is concurrent with the probation violation deft. is presently serving. DEFT. LEWIS ARRAIGNED and PLED GUILTY PURSUANT TO THE ALFORD DECISION to SEXUAL ASSAULT (F). Penalty stated. Ms. Lowry recited the

CONTINUED ON PAGE: 003

CRIMINAL COURT MINUTES

95-C-129824-C STATE OF NEVADA

vs Lewis, Gary L

CONTINUED FROM PAGE: 002

facts which the State would rely upon for conviction. Court accepted plea, referred matter to P & P and ORDERED set for sentencing. At the request of Mr. Caruso, COURT ORDERED, Deft. to be transported back to Jean, where he is in custody on other charges. FURTHER, trial date VACATED.

CUSTODY

7-24-96 9:00 A.M. SENTENCING

CLERK'S NOTE: Guilty Plea Agreement Amended by Interlineation on page 1, line 24, changing "not oppose concurrent" to "recommend."

07/24/96 09:00 AM 00 SENTENCING

HEARD BY: A. William Maupin, Judge; Dept. 7

OFFICERS: LORI BROWN, Court Clerk
PATSY SMITH, Reporter/Recorder

PARTIES: STATE OF NEVADA
003901 Lowry, Teresa
0001 D1 Lewis, Gary L
PUBDEF Public Defender
001631 Caruso, Robert D.

Y
Y
Y
Y
Y

Tom Tatten of the Division of Parole & Probation present. Upon inquiry of the Court, Mr. Caruso advised he is not ready to proceed this date, as deft. is illiterate and was just transported from Jean this morning. Therefore, additional time is needed in order for the PSI Report to be read to him. COURT ORDERED, matter CONTINUED. FURTHER, Deft. Lewis REMANDED TO the CLARK COUNTY DETENTION CENTER pending sentencing to enable Mr. Caruso to review the PSI Report with him.

CUSTODY

CONTINUED TO: 07/31/96 09:00 AM 01

CRIMINAL COURT MINUTES

95-C-129824-C STATE OF NEVADA vs Lewis, Gary L

CONTINUED FROM PAGE: 003

07/31/96 09:00 AM 01 SENTENCING

HEARD BY: Stephen Huffaker, Senior Judge; Dept. VJ35

OFFICERS: TINA HURD, Court Clerk
TOM MERCER, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
003649	Kephart, William D.	Y
0001 D1	Lewis, Gary L	Y
PUBDEF	Public Defender	Y
003447	Immerman, Stephen M.	Y

Roy Evans of the Division of Parole & Probation present. Mr. Immerman agreed to a continuance to Friday. COURT ORDERED, CONTINUED.

CUSTODY

CONTINUED TO: 08/02/96 09:00 AM 02

08/02/96 09:00 AM 02 SENTENCING

HEARD BY: A. William Maupin, Judge; Dept. 7

OFFICERS: LORI BROWN, Court Clerk
PATSY SMITH, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
003649	Kephart, William D.	Y
0001 D1	Lewis, Gary L	Y
PUBDEF	Public Defender	Y
001631	Caruso, Robert D.	Y

Michael R.P. Leoni of the Division of Parole & Probation present. Conference at the bench between Court and counsel. DEFT. LEWIS ADJUDGED GUILTY of SEXUAL ASSAULT (F). Matter submitted. COURT ORDERED, in addition to the \$25.00 Administrative Assessment Fee,, Deft. SENTENCED to Nevada Department of Prisons for a term of LIFE WITH THE POSSIBILITY OF PAROLE, to be served CONCURRENTLY with C122079; and is to receive ZERO Days Credit for Time Served. At the request of Mr. Caruso, Deft. REMANDED to the prison in Jean.

CRIMINAL COURT MINUTES

95-C-129824-C STATE OF NEVADA vs Lewis, Gary L

CONTINUED FROM PAGE: 004

07/19/07 09:30 AM 00 DEFT'S REQUEST TO WDRAW PD AS ATTORNEY

HEARD BY: Michelle Leavitt, Judge; Dept. 12

OFFICERS: April Watkins, Court Clerk
Thelma Stapley, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
007521	Smith, Sarah A.	Y
0001 D1	Lewis, Gary L	N
PUBDEF	Public Defender	Y
005674	Imlay, Darin F.	Y

COURT ORDERED, matter GRANTED.

NDC

02/17/09 08:30 AM 00 DEFT'S PRO PER MTN FOR ORDER OF
WITHDRAWAL/10

HEARD BY: Michelle Leavitt, Judge; Dept. 12

OFFICERS: April Watkins, Court Clerk
Kerry Esparza, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
010112	Kramer, Kristen B.	Y

COURT ORDERED, motion GRANTED; Public Defender to send Deft's file to him.

NDC

CLERK'S NOTE: The above minute order has been distributed to: Gary Lynn
Lewis #47615, P.O. Box 607, Carson City, NV 89702. aw

CRIMINAL COURT MINUTES

95-C-129824-C STATE OF NEVADA

vs Lewis, Gary L

CONTINUED FROM PAGE: 005

02/26/09 09:00 AM 00 MINUTE ORDER RE: DENYING DEFT'S PETITION
FOR WRIT OF HABEAS CORPUS

HEARD BY: Michelle Leavitt, Judge; Dept. 12

OFFICERS: April Watkins, Court Clerk

PARTIES: NO PARTIES PRESENT

The Court is without jurisdiction to hear this petition because it is time barred. NRS 34.726 provides that: "Unless there is good cause shown for delay, a petition that challenges the validity of a judgment or sentence must be filed within one year after entry of the judgment or conviction, or if an appeal has been taken from the judgment, within 1 year after entry the Supreme Court issues its remittitur." Judgment was entered and petitioner was sentenced on August 2, 1996. Thus, he has failed to meet the one year period of limitation for filing a habeas petition challenging his confinement.

A time barred petition may be permitted where good cause is shown. Good cause exists where (1) delay is not the fault of the petitioner, and (2) dismissal of the petition as untimely would be unduly prejudicial to the petitioner. NRS 34.726(1)(a)-(b). Petitioner has made no attempt to demonstrate good cause as required by NRS 34.726(1)(a)-(b).

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05/01/09 09:00 AM 00 MINUTE ORDER RE: DENYING FIRST AMENDMENT
PETITION

HEARD BY: Michelle Leavitt, Judge; Dept. 12

OFFICERS: April Watkins, Court Clerk

PARTIES: NO PARTIES PRESENT

The Court is without jurisdiction to consider the pleading styled Petitioner's "First Amendment Petition Writ of Habeas Corpus" filed on March 23, 2009. This pleading appears intended to amend and supplement a petition that was denied by minute order on February 26, 2009. There is no basis under the statute for this Court to consider an amendment or supplement to a previously denied petition for habeas corpus. Petitioner is referred to the February 26, 2009, minute order denying his petition for habeas corpus.

CLERK'S NOTE: The above minute order has been distributed to: Gary Lynn Lewis #47615; P.O. Box 607, Carson City, NV 89702. aw



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT



GARY LYNN LEWIS # 47615
P.O. BOX 607
CARSON CITY, NV 89702

DATE: May 12, 2009
CASE: C129824

RE CASE: STATE OF NEVADA vs. GARY L. LEWIS

NOTICE OF APPEAL FILED: May 11, 2009

RULE 3(e) DOCUMENTS NOT TRANSMITTED/MISSING:

- Order
- Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (2) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

Certification of Copy

State of Nevada } **SS:**
County of Clark }

I, Edward A. Friedland, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL TO NEVADA SUPREME COURT, DENIAL OF MAY 1, 2009; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

STATE OF NEVADA.

Plaintiff(s),

vs.

GARY L. LEWIS,

Defendant(s),

Case No: C129824
Dept No: XII

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 12 day of May 2009.

Edward A. Friedland, Clerk of the Court

Heather Eofquist, Deputy Clerk