

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed  
Jun 09 2010 12:56 p.m.  
Tracie K. Lindeman

BRENDAN DUNCKLEY,  
Appellant,  
vs.

Sup. Ct. Case No. 55545  
Case No. CR07-1728  
Dept. 4

THE STATE OF NEVADA,  
Respondent.

\_\_\_\_\_ /

**CERTIFIED COPIES**

**VOLUME 1 OF 7**

**RECORD ON APPEAL**

CR07-1728\_INDEXDOCKET\_VOL1

**Brendan Dunckley, #1023236**  
Lovelock Correctional Center  
1200 Prison Road  
Lovelock, NV 89419

**Gary Hatlestad, Deputy District Attorney**  
Washoe County District Attorney's Office  
P.O. Box 30083  
Reno, NV 89520-3083

APPELLANT

RESPONDENT

# Appeals Report

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CR07-1728	PROOF OF SERVICE OF ELECTRONIC FILING	10/23/09	353	3
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CR07-1728	SUPREME COURT NOTICE TO FILE DOCKETING STATEMENT AND REQUEST TRANSCRIPTS	10/06/08	277	2

Case ID	Text IN	Date	Pages	Volume
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CR07-1728	TRANSCRIPT - ARRAIGNMENT - JULY 17, 2007	08/16/07	168-174	2
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**SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE**

**Case History - CR07-1728**

**DEPT. D4**

**HON. CONNIE J. STEINHEIMER**

Report Date & Time

6/9/2010

11:41:44AM

**Case Description: STATE VS. BRENDAN DUNCKLEY (D4)**

**Case ID: CR07-1728**

**Case Type: CRIMINAL**

**Initial Filing Date:**

**7/3/2007**

**Parties**

APPE	BRENDAN DUNCKLEY - @102844
RESP	STATE OF NEVADA - STATE
PLTF	STATE OF NEVADA - STATE
DA	Kelli A. Vioria, Esq. - 5872
DEFT	BRENDAN DUNCKLEY - @102844
DATY	Gary Howard Hatlestad, Esq. - 1525
CAA	Robert Story, Esq. - 1268

**Charges**

<i>Charge No.</i>	<i>Charge Code</i>	<i>Charge Date</i>	<i>Charge Description</i>
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**

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

**Sentences**

<i>Date</i>	<i>Charge No.</i>	<i>Charge Desc</i>	<i>Time Served</i>	<i>Sentence Text</i>
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*

3/6/2008	BAIL - BOND	WITH COURT SERVICES SUPERVISION S.C. 1. CHECK-INS AT LEAST 1XPER WEEK; 2. NO ALCOHOL OR CONTROLLED SUBSTANCES
3/6/2008	BAIL - BOND	

**Hearings**

<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>	<i>Disposed Date</i>
1 D4	ARRAIGNMENT	7/17/2007 09:00:00	7/17/2007
Event Extra Text:		<b>Disposition:</b> D725 7/17/2007 INFORMATION	

**Case Description: STATE VS. BRENDAN DUNCKLEY (D4)**

**Case ID:** CR07-1728      **Case Type:** CRIMINAL      **Initial Filing Date:** 7/3/2007

	<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
2	D4	PRE-TRIAL MOTIONS	10/19/2007	09:00:00	10/19/2007
	Event Extra Text:		<i>Disposition:</i> D870 10/19/2007		
	<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
3	D4	MOTION TO CONFIRM TRIAL	3/4/2008	09:00:00	3/3/2008
	Event Extra Text:		<i>Disposition:</i> D844 3/3/2008		
	<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
4	D4	MOTION TO CONFIRM TRIAL	3/6/2008	09:00:00	3/6/2008
	Event Extra Text:		<i>Disposition:</i> 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		
	<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
5	D4	MOTION TO CONFIRM TRIAL	3/13/2008	09:00:00	9/26/2007
	Event Extra Text:		<i>Disposition:</i> D844 9/26/2007 RESET FOR 3/18/07		
	<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
6	D4	MOTION TO CONFIRM TRIAL	3/18/2008	09:00:00	10/8/2007
	Event Extra Text:		<i>Disposition:</i> D844 10/8/2007 RESET TO 3/4/07		
	<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
7	D4	TRIAL - JURY	3/24/2008	10:00:00	3/6/2008
	Event Extra Text: (5 DAYS)		<i>Disposition:</i> D845 3/6/2008		
	<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
8	D4	SENTENCING	8/5/2008	09:00:00	8/5/2008
	Event Extra Text:		<i>Disposition:</i> D765 8/5/2008		



**Case Description: STATE VS. BRENDAN DUNCKLEY (D4)**

**Case ID:** CR07-1728      **Case Type:** CRIMINAL      **Initial Filing Date:** 7/3/2007

<i>Department</i>		<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
9	D4	Request for Submission	10/5/2009	16:44:00	10/23/2009
Event Extra Text: MOTION FOR WITHDRAWAL OF ATTORNEY OF RECORD AND TRANSFER OF RECORDS			<b>Disposition:</b> S200 10/23/2009		
<i>Department</i>		<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
10	D4	Request for Submission	11/25/2009	11:25:00	2/10/2010
Event Extra Text: DEFENDANT'S MOTION FOR MODIFICATION OF SENTENCE			<b>Disposition:</b> S200 2/10/2010		
<i>Department</i>		<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
11	D4	Tickle Start Code	11/25/2009	07:00:00	11/25/2009
Event Extra Text: HAS MOTION FOR MODIFICATION OF SENTENCE BEEN SUBMITTED			<b>Disposition:</b> T200 11/25/2009		
<i>Department</i>		<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
12	D4	Request for Submission	2/23/2010	10:50:00	4/12/2010
Event Extra Text: MOTION FOR MODIFICATION OF SENTENCE			<b>Disposition:</b> S200 4/12/2010		
<i>Department</i>		<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
13	D4	Request for Submission	3/24/2010	09:00:00	4/23/2010
Event Extra Text: MOTION			<b>Disposition:</b> S200 4/23/2010		

**Agency Cross Reference**

<i>Code</i>	<i>Agency Description</i>	<i>Case Reference I.D.</i>
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
SC	Supreme Court	SCN 52383
SC	Supreme Court	SCN 55545

**Actions**

<i>Action Entry Date</i>	<i>Code</i>	<i>Code Description</i>	<i>Text</i>
7/3/2007	1491	Court Services Report	
7/3/2007	1250	Application for Setting	7/17/07 @ 9:00 a.m.
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

**Case Description: STATE VS. BRENDAN DUNCKLEY (D4)**

**Case ID:** CR07-1728      **Case Type:** CRIMINAL      **Initial Filing Date:** 7/3/2007

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
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	2528	Not/Doc/Re'd/Not/Cons/by Crt	NOTICE OF DOCUMENT RECEIVED BUT NOT CONSIDERED BY THE COURT
8/5/2008	1695	** Exhibit(s) ...	A & B ADMITTED
8/5/2008	4500	PSI - Confidential	
8/11/2008	1850	Judgment of Conviction	
9/5/2008	4185	Transcript ...	TRANSCRIPT OF PROCEEDINGS SENTENCING - Transaction 354459 - Approved By: NDELGADO : 09-08-2008:08:19:27
9/8/2008	2515	Notice of Appeal Supreme Court	
9/9/2008	1310	Case Appeal Statement	
9/10/2008	1365	Certificate of Transmittal	
9/10/2008	1350	Certificate of Clerk	
9/15/2008	1188	Supreme Court Receipt for Doc	SUPREME COURT CASE NO. 52383
9/15/2008	1187	**Supreme Court Case No. ...	SUPREME COURT CASE NO. 52383
9/16/2008	MIN	***Minutes	SENTENCING - 8/5/08 - Transaction 366951 - Approved By: NOREVIEW : 09-16-2008:11:34:28
9/17/2008	EXON	**Cash Bail/Bond Exonerated	SLIP SENT ON 11/3/2008
9/17/2008	EXON	**Cash Bail/Bond Exonerated	SLIP SENT ON 11/3/2008
10/6/2008	4133	Supreme Court Notice	SUPREME COURT CASE NO. 52383 NOTICE TO (O'MARA LAW FIRM) TO FILE DOCKETING STATEMENT AND REQUEST FOR TRANSCRIPTS REQUEST FOR ROUGH DRAFT TRANSCRIPT BRENDAN DUCKLEY SUPREME COURT CASE NO. 52383
10/13/2008	3868	Req to Crt Rptr - Rough Draft	
5/11/2009	4134	Supreme Court Order Affirming	SUPREME COURT CASE NO. 52383
6/3/2009	4111	Supreme Ct Clk's Cert & Judg	SUPREME COURT CASE NO. 52383
6/3/2009	4145	Supreme Court Remittitur	SUPREME COURT CASE NO. 52383
6/3/2009	4134	Supreme Court Order Affirming	SUPREME COURT CASE NO. 52383

**Case Description: STATE VS. BRENDAN DUNCKLEY (D4)**

**Case ID:** CR07-1728      **Case Type:** CRIMINAL      **Initial Filing Date:** 7/3/2007

7/7/2009	2490	Motion ...	MOTION FOR WITHDRAWAL OF ATTORNEY OF RECORD AND TRANSFER OF RECORDS: BRENDAN DUNCKLEY
7/7/2009	1075	Affidavit ...	AFFIDAVIT IN SUPPORT OF MOTION FOR WITHDRAWAL OF ATTORNEY OF RECORD AND TRANSFER OF RECORDS: BRENDAN DUNCKLEY
7/8/2009	2380	Mtn to Modify ...	MOTION FOR MODIFICATION OF SENTENCE
7/23/2009	2590	Notice Withdrawal of Attorney	DAVID O'MARA, ESQ - BRENDAN DUNCKLEY - Transaction 920655 - Approved By: ASMITH : 07-23-2009:16:38:43
7/23/2009	3880	Response...	RESPONSE TO DEFENDANT'S NOTICE AND MOTION FOR WITHDRAWAL OF ATTORNEY OF RECORD AND TRANSFER OF RECORDS - Transaction 920636 - Approved By: TWHITE : 07-23-2009:16:29:45
9/30/2009	1325	** Case Reopened	
9/30/2009	3860	Request for Submission	DOCUMENT TITLE: MOTION FOR WITHDRAWAL OF ATTORNEY OF RECORD AND TRANSFER OF RECORDS PARTY SUBMITTING: BRENDAN DUNCKLEY DATE SUBMITTED: 10/5/2009 SUBMITTED BY: IFLORES DATE RECEIVED JUDGE OFFICE: 10/7/09
10/23/2009	S200	Request for Submission Complet	
10/23/2009	NEF	Proof of Electronic Service	Transaction 1117929 - Approved By: NOREVIEW : 10-23-2009:12:02:25
10/23/2009	1315	** Case Closed	
10/23/2009	3025	Ord Granting/Denying in Part	GRANTING MOTION FOR WITHDRAWAL OF COUNSEL OF RECORD (DAVID O'MARA, ESQ.) AND DENYING TRANSFER OF RECORDS AS MOOT DUE TO THE RECORDS ALREADY BEING PROVIDED TO DEFT - Transaction 1117888 - Approved By: NOREVIEW : 10-23-2009:11:55:01
10/27/2009	NEF	Proof of Electronic Service	Transaction 1122194 - Approved By: NOREVIEW : 10-27-2009:08:44:11
10/27/2009	1325	** Case Reopened	
10/27/2009	3370	Order ...	STATE HAS 10 DAYS TO RESPOND TO THE MOTION FOR MODIFICATION OF SENTENCE OR THE COURT WILL DEEM THE FAILURE TO RESPOND AN ADMISSION THAT THE MOTION IS MERITORIOUS AND GRANT THE SAME - Transaction 1122189 - Approved By: NOREVIEW : 10-27-2009:08:43:01
11/4/2009	NEF	Proof of Electronic Service	Transaction 1135130 - Approved By: NOREVIEW : 11-04-2009:10:42:48
11/4/2009	2645	Opposition to Mtn ...	OPPOSITION TO MOTION FOR MODIFICATION OF SENTENCE - Transaction 1135098 - Approved By: ASMITH : 11-04-2009:10:38:46
11/13/2009	3880	Response...	RESPONSE TO STATE'S OPPOSITION TO MOTION FOR MODIFICATION OF SENTENCE
11/25/2009	2490	Motion ...	MOTION FOR JUDGMENT IN THE INTEREST OF JUSTICE
11/25/2009	NEF	Proof of Electronic Service	Transaction 1175017 - Approved By: NOREVIEW : 11-25-2009:11:27:13
11/25/2009	T200	Tickle End Code	
11/25/2009	3860	Request for Submission	DEFENDANT'S MOTION FOR MODIFICATION OF SENTENCE - Transaction 1174781 - Approved By: AZION : 11-25-2009:11:10:08 DOCUMENT TITLE: DEFENDANT'S MOTION FOR MODIFICATION OF SENTENCE PARTY SUBMITTING: GARY HOWARD HATLESTAD ESQ DATE SUBMITTED: 11-25-09 SUBMITTED BY: AZION DATE RECEIVED JUDGE OFFICE: 11/30/09
2/10/2010	NEF	Proof of Electronic Service	Transaction 1313386 - Approved By: NOREVIEW : 02-10-2010:11:01:36
2/10/2010	S200	Request for Submission Complet	
2/10/2010	2842	Ord Denying Motion	ORDER DENYING MOTION FOR MODIFICATION OF SENTENCE - Transaction 1313307 - Approved By: NOREVIEW : 02-10-2010:10:59:47
2/17/2010	1360	Certificate of Service	

**Case Description: STATE VS. BRENDAN DUNCKLEY (D4)**

**Case ID:** CR07-1728      **Case Type:** CRIMINAL      **Initial Filing Date:** 7/3/2007

2/17/2010	3860	Request for Submission	DOCUMENT TITLE: MOTION FOR MODIFICATION OF SENTENCE PARTY SUBMITTING: BRENDAN DUNCKLEY DATE SUBMITTED: 2/23/2010 SUBMITTED BY: IFLORES DATE RECEIVED JUDGE OFFICE: 2/24/10
3/1/2010	2515	Notice of Appeal Supreme Court	
3/1/2010	1310E	Case Appeal Statement	Transaction 1351033 - Approved By: NOREVIEW : 03-01-2010:17:02:45
3/1/2010	NEF	Proof of Electronic Service	Transaction 1351254 - Approved By: NOREVIEW : 03-01-2010:17:19:48
3/2/2010	4109	Supreme Ct Accept - eFile Doc	SUPREME COURT CASE NUMBER 55545 - Transaction 1353277 - Approved By: NOREVIEW : 03-02-2010:13:43:15
3/2/2010	NEF	Proof of Electronic Service	Transaction 1353290 - Approved By: NOREVIEW : 03-02-2010:13:46:26
3/2/2010	NEF	Proof of Electronic Service	Transaction 1351300 - Approved By: NOREVIEW : 03-02-2010:07:24:32
3/2/2010	1350	Certificate of Clerk	Transaction 1351299 - Approved By: NOREVIEW : 03-02-2010:07:23:57
3/2/2010	1365	Certificate of Transmittal	Transaction 1351299 - Approved By: NOREVIEW : 03-02-2010:07:23:57
3/3/2010	2490	Motion ...	MOTION FOR WITHDRAWAL OF GUILTY PLEA
3/4/2010	4105	Supplemental ...	SUPPLEMENT TO MOTION TO WITHDRAW GUILTY PLEA
3/4/2010	1188	Supreme Court Receipt for Doc	SUPREME COURT CASE NO. 55545 / RECEIPT FOR DOCUMENTS - Transaction 1356985 - Approved By: NOREVIEW : 03-04-2010:09:36:23
3/4/2010	NEF	Proof of Electronic Service	Transaction 1357002 - Approved By: NOREVIEW : 03-04-2010:09:39:12
3/18/2010	4126	Supreme Ct Order Directing...	SUPREME COURT CASE NO. 55545 / ORDER DIRECTING TRANSMISSION OF RECORD - Transaction 1382922 - Approved By: NOREVIEW : 03-18-2010:13:30:57
3/18/2010	NEF	Proof of Electronic Service	Transaction 1382940 - Approved By: NOREVIEW : 03-18-2010:13:34:54
3/22/2010	1325	** Case Reopened	
3/22/2010	3860	Request for Submission	DOCUMENT TITLE: MOTION PARTY SUBMITTING: BRENDAN DUNCKLEY DATE SUBMITTED: 3-24-10 SUBMITTED BY: S STINCHFIELD DATE RECEIVED JUDGE OFFICE: 3/25/10
4/12/2010	S200	Request for Submission Complet	
4/12/2010	NEF	Proof of Electronic Service	Transaction 1424446 - Approved By: NOREVIEW : 04-12-2010:09:29:27
4/12/2010	3370	Order ...	MOTION FOR MODIFICATION OF SENTENCIN SHALL NOT BE CONSIDERED AGAIN AND THE DECISION RENDERED BY THIS COURT ON 2/10/10 REMAINS IN EFFECT - Transaction 1424420 - Approved By: NOREVIEW : 04-12-2010:09:27:34
4/23/2010	S200	Request for Submission Complet	
4/23/2010	3370	Order ...	DECISION ON MOTION TO WITHDRAW GUILTY PLEA IS STAYED PENDING OUTCOME OF APPEAL TO THE SUPREME COURT OF NEVADA/ONCE DECISION IS RENDERED, THE MOTION TO W/DRAW GUILTY PLEA MAY BE RESUBMITTED - Transaction 1449086 - Approved By: NOREVIEW : 04-23-2010:16:17:10
4/23/2010	NEF	Proof of Electronic Service	Transaction 1449089 - Approved By: NOREVIEW : 04-23-2010:16:18:12