

**FILED**

Electronically  
12-30-2011:09:49:07 AM  
Craig Franden  
Clerk of the Court  
Transaction # 2674644

Code: 2515  
ROBERT W. STORY, ESQ., Bar No. 1268  
STORY LAW GROUP  
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Attorneys for Petitioner Plaintiff Brendan Dunckley

Electronically Filed  
Jan 03 2012 11:49 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

BRENDAN DUNCKLEY

Petitioner,

Case No. CR07P1728

vs.

Dept. No. 4

STATE OF NEVADA, et al.,

Respondents.

**NOTICE OF APPEAL**

Petitioner Brendan Dunckley hereby appeals to the Nevada Supreme Court the Findings of Fact, Conclusions of Law, and Judgment entered on December 29, 2011, and attached as Exhibit 1.

**AFFIRMATION**

**Pursuant to NRS 239B.030**

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

December 30, 2011.

STORY LAW GROUP

By: /s/ Robert W. Story  
ROBERT W. STORY

Attorneys for Petitioner Brendan Dunckley

**EXHIBIT INDEX**

Exhibit 1	Declaration of Robert W. Story, Esq.	1 page
Exhibit 2	Findings of Fact	7 pages

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**EXHIBIT 1**

**EXHIBIT 1**

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I am a member of Story Law Group with business offices located at 245 E. Liberty Street, Suite 530, Reno, Nevada 89501. I am over the age of 21 and not a party to this action.

I certify that all participants in the case are registered e-Flex users and that service will be accomplished by e-Flex.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on December 30, 2011.

By: /s/ Robert W. Story.  
ROBERT W. STORY

---

**EXHIBIT 2**

**EXHIBIT 2**

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

\* \* \*

BRENDAN DUNCKLEY,

Petitioner,

v.

Case No. CR07P1728

JACK PALMER,

Dept. No. 4

Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND JUDGMENT

This matter came before the Court on Dunckley's Petition for Writ of Habeas Corpus (Post-Conviction) and the Supplemental Petition filed by counsel. There has been an evidentiary hearing. The Court, being fully advised of the premises, hereby denies the relief requested.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Dunckley argued that he did not receive effective assistance of counsel from his trial lawyer, David O'Mara, and that his pleas are invalid. The Court is not persuaded.

A. Ineffective Assistance of Counsel

Before considering the merits, the Court will start by setting forth the applicable standard of review.

1                   1. The Applicable Standard of Review

2           To prove ineffective assistance of counsel sufficient to invalidate a judgment of  
3 conviction based on a guilty plea, a petitioner must demonstrate (a) that his counsel's  
4 performance was deficient in that it fell below an objective standard of reasonableness and (b)  
5 resulting prejudice in that there is a reasonable probability that, but for counsel's errors,  
6 petitioner would not have pleaded guilty and would have insisted on going to trial. *Hill v.*  
7 *Lockhart*, 474 U.S. 52, 58–59 (1985); *Kirksey v. State*, 112 Nev. 980, 988, 923 P.2d 1102, 1107  
8 (1996). Both components of the inquiry must be shown, *Strickland v. Washington*, 466 U.S.  
9 668, 697 (1984), and the petitioner must demonstrate the underlying facts by a preponderance  
10 of the evidence, *Means v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004).

11                   2. Application of the Standard to the Alleged Instances of  
12                   Ineffective Assistance

13           In his original petition and in the Supplemental Petition filed by counsel, Dunckley sets  
14 forth a large number of instances of ineffective assistance of counsel. As noted above, there  
15 was an evidentiary hearing, but, despite having a full and fair opportunity to do so, Dunckley  
16 did not present any evidence in support of the vast majority of the pleaded claims. Accordingly,  
17 those claims were not proved, and the relief requested by them is denied. The Court will now  
18 consider the claims for which Dunckley did present evidence.

19                   a. Failure to Investigate and Present an Alibi Defense

20           At various places in his moving papers, Dunckley alleged that he did not commit the  
21 crime charged in Count I because he was not in the State of Nevada or Washoe County at the  
22 relevant time. Dunckley testified at the evidentiary hearing that, despite informing Mr. O'Mara  
23 of his alibi and providing documentary evidence to substantiate it, O'Mara was ineffective  
24 because he failed to take the defense seriously or otherwise investigate it. Dunckley went on to  
25 allege that, had Mr. O'Mara investigated the alibi, he would not have pleaded guilty to the  
26 charges.

1 From the standpoint of the performance prong of *Strickland* and *Hill*, the Court will  
2 note that Mr. O'Mara confirmed that he and Dunckley discussed the alibi defense to Count I,  
3 and that, prior to Dunckley accepting the State's plea offer, he had received the documents  
4 Dunckley claimed substantiated the alibi. Furthermore, O'Mara testified credibly that, upon  
5 investigating the case and reviewing discovery, he planned on taking the case to trial, asserting  
6 the alibi defense to Count I, not negotiating it. Mr. O'Mara added that, as the trial date  
7 approached, the State tendered a plea offer that put probation "on the table," an offer Mr.  
8 O'Mara was duty bound to convey to his client. Mr. O'Mara went on to say that Dunckley  
9 decided in favor of a change of plea to reduced charges because he was sure he would get  
10 probation. Mr. O'Mara, however, warned Dunckley that he was not so sure about probation in  
11 this case, believing prison a more likely outcome. Dunckley rejected Mr. O'Mara's assessment  
12 and advice.

13 Given the testimony presented at the evidentiary hearing, the Court finds Mr. O'Mara's  
14 testimony to be credible. In fact, contrary to Dunckley's testimony, Mr. O'Mara was well aware  
15 of Dunckley's alibi defense, took it quite seriously, and believed it could be successful. Likewise,  
16 Mr. O'Mara cautioned Dunckley about the potential consequences of taking the plea bargain: it  
17 may have placed probation "on the table," but the parties remained "free to argue" and he  
18 believed prison time to be a definite possibility. Dunckley rejected Mr. O'Mara's advice.

19 In short, Dunckley failed to establish, with credible evidence, that Mr. O'Mara's  
20 performance in this case was objectively unreasonable. Quite the contrary, Mr. O'Mara  
21 conducted a reasonably complete investigation, approached the case as if it were going to trial,  
22 but upon conveying the State's plea offer, as he is required to do, Dunckley accepted it.  
23 Thereafter, Mr. O'Mara counseled Dunckley on the possible ramification of his decision and  
24 prepared for sentencing. In the end, it was Dunckley's decision to make after consulting with  
25 counsel, and he made his decision.

26 / / /



1                   b. Failure to Investigate DNA Evidence

2           According to Jessica, one of the two victims in the case, she engaged in oral sex with  
3   Dunckley in Washoe County. When the police investigated the accusation, they acquired a DNA  
4   swab from Dunckley's penis. Subsequent forensic analysis revealed no DNA.

5           Dunckley alleged and then testified that he was unaware of the results of the forensic  
6   examination before he entered his plea, and, had he known of it, he would have insisted on  
7   going to trial. The Court is not persuaded.

8           First, it is undisputed Mr. O'Mara knew the results of the forensic examination prior to  
9   the time Dunckley entered his plea. Moreover, while Mr. O'Mara said he never showed the  
10   forensic report to Dunckley, he testified credibly that he and Dunckley went over its results.  
11   Consequently, the Court finds that Dunckley was aware of the results of the forensic  
12   examination before he accepted the plea bargain. Dunckley's testimony to the contrary is not  
13   credible. The fact that Mr. O'Mara may not have shown Dunckley the actual written report  
14   does not change the fact he was aware of its content. By the same token, Dunckley presented  
15   no evidence proving or tending to prove that an objective standard of reasonableness required  
16   Mr. O'Mara to present the forensic report to his client if, as was the case here, he explained its  
17   content. As a result, Dunckley failed to establish the performance prong of *Strickland-Hill*.

18          Furthermore, Dunckley failed to establish prejudice. In *Hill v. Lockhart*, the Court said  
19   the following on the subject of prejudice in a plea context: "where the alleged error of counsel is  
20   a failure to investigate or discover potentially exculpatory evidence, the determination whether  
21   the error 'prejudiced' the defendant will depend on . . . whether the evidence likely would have  
22   changed the outcome of a trial." *Id.*, p. 59. If not, then the petitioner has failed to show a  
23   reasonable probability that he would not have pleaded guilty and insisted on going to trial. *Id.*  
24   Such is the case here.

25          For example, it is undisputed that Dunckley and Jessica were together at the time and  
26   place Jessica claimed the crime was committed. It is also undisputed that, when Detective

1 Broome interviewed Dunckley, Dunckley admitted Jessica placed her mouth on his penis. He  
2 repeated the same admissions to Steven Ing, the expert who prepared a psychosexual  
3 evaluation. Thus, in light of Dunckley's admissions, the Court finds the fact that no DNA was  
4 found on the penial swab is of no material consequence under *Hill's* prejudice prong. The  
5 Court is, of course, aware that Dunckley testified that he lied to Detective Broome and Mr. Ing,  
6 presumably in an effort to enhance the significance of the negative test results, but the Court  
7 finds Dunckley's subsequent recantation to be unworthy of belief.

8 c. Motion to Suppress: *Miranda*

9 Dunckley also alleged and testified that Mr. O'Mara was ineffective because he failed to  
10 file and litigate a motion to suppress statements he made to Detective Broome. As noted  
11 above, Dunckley's statements to Detective Broome were important pieces of incriminating  
12 evidence. Consequently, it would be objectively reasonable for Mr. O'Mara to at least consider  
13 filing a motion to suppress the statements, and, if the motion enjoyed a reasonable probability  
14 of being granted, then it would have been objectively unreasonable and prejudicial to omit it.

15 Here, Mr. O'Mara testified credibly that he was aware that his client had made  
16 statements to Detective Broome, and he considered filing a motion to suppress them. Mr.  
17 O'Mara went on to say, however, that, upon researching the motion, he concluded that the  
18 motion would not be successful because they were voluntarily made and not the product of  
19 custodial interrogation. Dunckley presented no credible evidence drawing Mr. O'Mara's  
20 assessment into question.

21 Accordingly, the Court finds and concludes that, even though Mr. O'Mara did not make  
22 a motion to suppress Dunckley's statements, Dunckley failed to prove that this omission was  
23 objectively unreasonable or prejudicial.

24 d. Failure to Investigate or Interview the Victims

25 Dunckley also alleged and testified that Mr. O'Mara provided ineffective assistance  
26 because he did not investigate and interview the two victims. While it might be the case that a

1 reasonably competent lawyer would try to interview the victims, Dunckley failed to establish  
2 that victims were under an obligation to talk to his lawyer, outside the preliminary hearing, nor  
3 did he establish what the victims would have said if they elected to talk. Consequently, even  
4 assuming Mr. O'Mara should have put forth the effort and did not do so, Dunckley failed to  
5 show prejudice.

6 e. Failure to Object to the Prosecutor's Breach of the  
7 Plea Bargain

8 Finally, Dunckley alleged and then testified that he should be awarded a new sentencing  
9 hearing because the prosecutor breached the plea bargain, and Mr. O'Mara was ineffective in  
10 failing to object and demand specific performance. The Court has carefully reviewed the terms  
11 and conditions of the plea bargain, and compared and contrasted those terms and conditions  
12 with the comments made by the prosecutor during the sentencing hearing, and can find no  
13 grounds upon which to maintain that the prosecutor breached the plea bargain. Accordingly,  
14 the Court finds that, because there was no breach, Mr. O'Mara failure to object was neither  
15 deficient nor prejudicial.

16 B. Validity of the Pleas

17 Under Ground Three, Dunckley alleged that his pleas were invalid because he was not  
18 properly advised of the consequences of his pleas: namely, the unavailability of probation.  
19 While it is true that a plea may be invalidated when a district judge fails to personally address a  
20 defendant and inform him when probation is not available, probation was available as a  
21 possible sentence for each of the two crimes at issue here at the time the crimes were  
22 committed. As a result, the Court properly advised Dunckley that probation was available, and  
23 his argument to the contrary is a nonstarter.<sup>1</sup>

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24  
25 <sup>1</sup>Insofar as Dunckley alleged that the Court applied the newly enacted version of NRS  
26 176A.110, which disallows probation, and thus violated the Ex Post Facto Clause of the  
Constitution, that claim lacks merit because the Court applied the law in effect at the time the

1 JUDGMENT

2 It is therefor the judgment and order of the Court that Dunckley's request for post-  
3 conviction habeas relief is denied.

4 DATED this 23 day of December, 2011.

5  
6 Connie S. Steinheimer  
7 DISTRICT JUDGE  
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25 crimes were committed and those provisions allowed for probation. The overarching problem  
26 therefore was not the availability of probation, but whether probation was appropriate in this case.

Code: 1310  
ROBERT W. STORY, ESQ., Bar No. 1268  
STORY LAW GROUP  
245 East Liberty Street, Suite 530  
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Facsimile: (775) 284-0800

Attorneys for Petitioner Plaintiff Brendan Dunckley

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

BRENDAN DUNCKLEY

Petitioner,

vs.

STATE OF NEVADA, et al.,

Respondents.

Case No. CR07P1728

Dept. No. 4

**CASE APPEAL STATEMENT**

Pursuant to NRAP 3(f)(3), Appellant Brendan Dunckley hereby files this Case Appeal Statement.

1. Appellant Brendan Dunckley.
2. Honorable Connie J. Steinheimer, District Judge.
3. Counsel for Appellant Brendan Dunckley:  
Robert W. Story  
Story Law Group  
245 E. Liberty Street, Suite 530  
Reno, Nevada 89501
4. Counsel for Respondent State of Nevada:  
Gary H. Hatlestad  
Chief Appellate Deputy  
Post Office Box 30083  
Reno, Nevada 89502-3083



**EXHIBIT INDEX**

Exhibit 1	Declaration of Robert W. Story, Esq.	1 page
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**EXHIBIT 1**

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I am a member of Story Law Group with business offices located at 245 E. Liberty Street, Suite 530, Reno, Nevada 89501. I am over the age of 21 and not a party to this action.

On December 30, 2011, I electronically filed the foregoing **Case Appeal Statement** with the Clerk of the Second Judicial District Court via the Court's e-Flex system.

I certify that all participants in the case are registered e-Flex users and that service will be accomplished by e-Flex.

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on December 30, 2011.

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Code: 3868  
ROBERT W. STORY, ESQ., Bar No. 1268  
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245 East Liberty Street, Suite 530  
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Attorneys for Petitioner Plaintiff Brendan Dunckley

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

BRENDAN DUNCKLEY

Petitioner,

Case No. CR07P1728

vs.

Dept. No. 4

STATE OF NEVADA, et al.,

Respondents.

**REQUEST FOR ROUGH DRAFT TRANSCRIPT**

TO: Stephani Loder, Court Reporter, Captions Unlimited.

Petitioner Brendan Dunckley hereby requests preparation of a rough draft transcript of certain portions of the proceeding before the district court, as follows:

Evidentiary hearing on Petition for Writ of Habeas Corpus (Post Conviction) on June 3, 2011, before the Honorable Connie J. Steinheimer.

This notice requests a transcript of only those portions of the district court proceedings that counsel reasonably and in good faith believes are necessary to determine whether appellate issues are present. Voir dire examination of jurors, opening statements and closing arguments of trial counsel, and the reading of jury instructions shall not be transcribed unless specifically requested above.

I recognize that I must serve a copy of this form on the above named court reporter and opposing counsel and that the above named court reporter shall have ten (10) days from the receipt

1 of this notice to prepare and submit to the district court the rough draft transcript requested herein.

2 **AFFIRMATION**

3 **Pursuant to NRS 239B.030**

4 The undersigned do hereby affirm that the preceding document does not contain the social  
5 security number of any person.

6 December 30, 2011.

7 STORY LAW GROUP

8  
9 By: /s/ Robert W. Story.  
10 ROBERT W. STORY

11 Attorneys for Petitioner Brendan Dunckley  
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## EXHIBIT INDEX

Exhibit 1

Declaration of Robert W. Story, Esq.

1 page

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**EXHIBIT 1**

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I am a member of Story Law Group with business offices located at 245 E. Liberty Street, Suite 530, Reno, Nevada 89501. I am over the age of 21 and not a party to this action.

I certify that all participants in the case are registered e-Flex users and that service will be accomplished by e-Flex.

I further certify that some of the participants in the case are not registered e-Flex users. I have mailed the foregoing document First-Class Mail, postage prepaid to the following non-e-Flex participants:

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on December 30, 2011.

By: /s/ Robert W. Story  
ROBERT W. STORY

**SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE**

**Case History - CR07-1728**

**DEPT. D4**

**HON. CONNIE J. STEINHEIMER**

Report Date & Time

12/30/2011

2:29:43PM

**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
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:			<b>Disposition:</b> 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:			<b>Disposition:</b> 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:			<b>Disposition:</b> 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:			<b>Disposition:</b> 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:			<b>Disposition:</b> 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)			<b>Disposition:</b> 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:			<b>Disposition:</b> 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		
<i>Department</i>		<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
14	D4	Request for Submission	6/17/2010	13:46:00	7/8/2010
Event Extra Text: MOTION FOR WITHDRAWAL OF GUILTY PLEA & SUPPLEMENTAL OF MOTION FOR WITHDRAWAL OF GUILTY PLEA			<b>Disposition:</b> S200 7/8/2010		
<i>Department</i>		<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
15	D4	Request for Submission	9/21/2010	16:29:00	10/15/2010
Event Extra Text: MOTION TO SUBMIT MOTION TO WITHDRAW GUILTY PLEA AND ALSO DEFENDANT'S SUPPLEMENTAL MOTION TO WITHDRAW GUILTY PLEA			<b>Disposition:</b> S200 10/15/2010		
<i>Department</i>		<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
16	D4	Tickle Start Code	11/10/2010	07:00:00	11/10/2010
Event Extra Text: HAS STATE FILED A RESPONSE TO THE MOTION TO WITHDRAW PLEA AND SUPPLEMENTAL MOTION			<b>Disposition:</b> T200 11/10/2010		

**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>
17	D4	Request for Submission	11/12/2010	14:48:00	12/6/2010
		Event Extra Text: MOTION TO WITHDRAW PLEA AND SUPPLEMENTAL MOTION	<b>Disposition:</b> S200 12/6/2010		
	<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
18	D4	Request for Submission	11/17/2010	15:00:00	1/7/2011
		Event Extra Text: MOTION TO WITHDRAW DEFENDANT'S GUILTY PLEA MEMORANDUM, SUPPLEMENTAL TO MOTION TO WITHDRAW GUILTY PLEA, AND SUPPLEMENT IN CONSIDERATION OF MOTION TO WITHDRAW GUILTY GUILTY PLEA	<b>Disposition:</b> S200 1/7/2011 PARTIES TO SET FOR ORAL ARGUMENTS W/IN 15 DAYS		
	<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
19	D4	Tickle Start Code	1/27/2011	07:00:00	1/24/2011
		Event Extra Text: HAVE ORAL ARGUMENTS ON THE MOTION TO WITHDRAW GUILTY PLEA BEEN SET?	<b>Disposition:</b> T200 1/24/2011		
	<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
20	D4	ORAL ARGUMENTS	4/22/2011	09:01:00	3/11/2011
		Event Extra Text: ON MOTION FOR WITHDRAWAL OF GUILTY PLEA	<b>Disposition:</b> D875 3/11/2011		
	<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
21	D4	Request for Submission	5/9/2011	15:00:00	5/31/2011
		Event Extra Text: MOTION TO WITHDRAW GUILTY PLEA MEMO AND ALL SUUPLEMENTAL MOVING PAPERS ASSOCIATED WITH THE ORIGINAL MOTION FILED 3-3-10	<b>Disposition:</b> S200 5/31/2011		
	<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
22	D4	Request for Submission	6/3/2011	09:00:00	8/10/2011
		Event Extra Text: - MOTION FOR WITHDRAWAL OF GUILTY PLEA TAKEN UNDER ADVISEMENT AFTER ORAL ARGUMENTS	<b>Disposition:</b> S200 8/10/2011		
	<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
23	D4	ORAL ARGUMENTS	6/3/2011	09:00:00	6/3/2011
		Event Extra Text: ON MOTION FOR WITHDRAWAL OF GUILTY PLEA	<b>Disposition:</b> D840 6/3/2011		
	<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
24	D4	CONFERENCE CALL	8/12/2011	09:30:00	8/12/2011

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

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

Event Extra Text: RENDER DECISION ON MOTION TO  
WITHDRAW PLEA AND PETITION FOR WRIT OF HABEAS  
CORPUS

**Disposition:**  
D355 8/12/2011  
COURT DENIED DEFT'S MTN TO W/DRAW PLEA; FOUND  
THAT THE PLEA WAS KNOWINGLY MADE. COURT  
FURTHER DENIED THE PETITION FOR WRIT OF  
HABEAUS; FOUND THAT COUNSEL WAS NOT  
INEFFECTIVE, AND THERE WAS NO PROSECUTORIAL  
MISCONDUCT.

**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

			<b>Actions</b>
<i>Action Entry Date</i>	<i>Code</i>	<i>Code Description</i>	<i>Text</i>
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
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	4500	PSI - Confidential	

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

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

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
8/11/2008	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	1350	Certificate of Clerk	
9/10/2008	1365	Certificate of Transmittal	
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	REQUEST FOR ROUGH DRAFT TRANSCRIPT BRENDAN DUCKLEY SUPREME COURT CASE NO. 52383
5/11/2009	4134	Supreme Court Order Affirming	SUPREME COURT CASE NO. 52383
6/3/2009	4145	Supreme Court Remittitur	SUPREME COURT CASE NO. 52383
6/3/2009	4111	Supreme Ct Clk's Cert & Judg	SUPREME COURT CASE NO. 52383
6/3/2009	4134	Supreme Court Order Affirming	SUPREME COURT CASE NO. 52383
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	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
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
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
9/30/2009	1325	** Case Reopened	
10/23/2009	S200	Request for Submission Complet	
10/23/2009	1315	** Case Closed	
10/23/2009	NEF	Proof of Electronic Service	Transaction 1117929 - Approved By: NOREVIEW : 10-23-2009:12:02:25
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

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

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

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
10/27/2009	1325	** Case Reopened	
10/27/2009	NEF	Proof of Electronic Service	Transaction 1122194 - Approved By: NOREVIEW : 10-27-2009:08:44:11
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 Transaction 1135130 - Approved By: NOREVIEW : 11-04-2009:10:42:48
11/4/2009	NEF	Proof of Electronic Service	
11/13/2009	3880	Response...	RESPONSE TO STATE'S OPPOSITION TO MOTION FOR MODIFICATION OF SENTENCE
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 MOTION FOR JUDGMENT IN THE INTEREST OF JUSTICE
11/25/2009	2490	Motion ...	
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	
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
2/10/2010	S200	Request for Submission Complet	
2/10/2010	NEF	Proof of Electronic Service	Transaction 1313386 - Approved By: NOREVIEW : 02-10-2010:11:01:36
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
2/17/2010	1360	Certificate of Service	
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	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
3/2/2010	NEF	Proof of Electronic Service	Transaction 1351300 - Approved By: NOREVIEW : 03-02-2010:07:24:32
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 Transaction 1353290 - Approved By: NOREVIEW : 03-02-2010:13:46:26
3/2/2010	NEF	Proof of Electronic Service	
3/3/2010	2490	Motion ...	MOTION FOR WITHDRAWAL OF 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 Transaction 1357002 - Approved By: NOREVIEW : 03-04-2010:09:39:12
3/4/2010	NEF	Proof of Electronic Service	
3/4/2010	4105	Supplemental ...	SUPPLEMENT TO MOTION TO WITHDRAW GUILTY PLEA
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 Transaction 1382940 - Approved By: NOREVIEW : 03-18-2010:13:34:54
3/18/2010	NEF	Proof of Electronic Service	
3/22/2010	1325	** Case Reopened	

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

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

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	NEF	Proof of Electronic Service	Transaction 1449089 - Approved By: NOREVIEW : 04-23-2010:16:18:12
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	S200	Request for Submission Complet	
6/9/2010	1350	Certificate of Clerk	RECORD ON APPEAL - Transaction 1532288 - Approved By: NOREVIEW : 06-09-2010:11:42:23
6/9/2010	NEF	Proof of Electronic Service	Transaction 1533268 - Approved By: NOREVIEW : 06-09-2010:14:22:08
6/9/2010	1365	Certificate of Transmittal	RECORD ON APPEAL - Transaction 1532288 - Approved By: NOREVIEW : 06-09-2010:11:42:23 VOLUME 4 SEALED PSI SENT CERTIFIED MAIL - CMR 7010 0290 0002 6392 5840
6/9/2010	NEF	Proof of Electronic Service	Transaction 1532293 - Approved By: NOREVIEW : 06-09-2010:11:43:46
6/9/2010	4109	Supreme Ct Accept - eFile Doc	SUPREME COURT CASE NUMBER 55545 - RECORD ON APPEAL - VOLUME 1 - Transaction 1533249 - Approved By: NOREVIEW : 06-09-2010:14:18:55
6/9/2010	4109	Supreme Ct Accept - eFile Doc	SUPREME COURT CASE NUMBER 55545 - RECORD ON APPEAL - VOLUME 2 - Transaction 1533249 - Approved By: NOREVIEW : 06-09-2010:14:18:55
6/9/2010	4109	Supreme Ct Accept - eFile Doc	SUPREME COURT CASE NUMBER 55545 - RECORD ON APPEAL - VOLUME 3 - Transaction 1533249 - Approved By: NOREVIEW : 06-09-2010:14:18:55
6/9/2010	4109	Supreme Ct Accept - eFile Doc	SUPREME COURT CASE NUMBER 55545 - RECORD ON APPEAL - VOLUME 5 - Transaction 1533249 - Approved By: NOREVIEW : 06-09-2010:14:18:55
6/9/2010	4109	Supreme Ct Accept - eFile Doc	SUPREME COURT CASE NUMBER 55545 - RECORD ON APPEAL - VOLUME 6 - Transaction 1533249 - Approved By: NOREVIEW : 06-09-2010:14:18:55
6/9/2010	4109	Supreme Ct Accept - eFile Doc	SUPREME COURT CASE NUMBER 55545 - RECORD ON APPEAL - VOLUME 7 - Transaction 1533249 - Approved By: NOREVIEW : 06-09-2010:14:18:55
6/16/2010	1188	Supreme Court Receipt for Doc	SUPREME COURT CASE NO. 55545 / RECEIPT FOR DOCUMENTS - Transaction 1546203 - Approved By: NOREVIEW : 06-16-2010:13:03:02
6/16/2010	NEF	Proof of Electronic Service	Transaction 1546208 - Approved By: NOREVIEW : 06-16-2010:13:04:24
6/17/2010	3860	Request for Submission	DOCUMENT TITLE: MOTION FOR WITHDRAWAL OF GUILTY PLEA & SUPPLEMENTAL OF MOTION FOR WITHDRAWAL OF GUILTY PLEA PARTY SUBMITTING: BRENDAN DUNCKLEY DATE SUBMITTED: 6/17/2010 SUBMITTED BY: IFLORESE DATE RECEIVED JUDGE OFFICE: 6/23/10
7/8/2010	S200	Request for Submission Complet	
7/8/2010	NEF	Proof of Electronic Service	Transaction 1587706 - Approved By: NOREVIEW : 07-08-2010:13:57:48
7/8/2010	3370	Order ...	ORDER (RE: MOTION TO WITHDRAW GUILTY PLEA STAYED PENDING OUTCOME OF APPEAL TO THE SUPREME COURT) - Transaction 1587642 - Approved By: NOREVIEW : 07-08-2010:13:51:28
7/14/2010	4105	Supplemental ...	
9/16/2010	4134	Supreme Court Order Affirming	SUPREME COURT CASE NO. 55545/ORDER OF AFFIRMANCE - Transaction 1721484 - Approved By: NOREVIEW : 09-16-2010:08:54:30
9/16/2010	NEF	Proof of Electronic Service	Transaction 1721654 - Approved By: NOREVIEW : 09-16-2010:09:05:29

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

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

9/21/2010	3860	Request for Submission	MOTION TO SUBMIT MOTION TO WITHDRAW GUILTY PLEA AND ALSO DEFENDANT'S SUPPLEMENTAL MOTION TO WITHDRAW GUILTY PLEA - Transaction 1732980 - Approved By: LMATHEUS : 09-21-2010:16:01:27 - Transaction 1732980 - Approved By: LMATHEUS : 09-21-2010:16:01:27 DOCUMENT TITLE: MOTION TO SUBMIT MOTION TO WITHDRAW GUILTY PLEA AND ALSO DEFENDANT'S SUPPLEMENTAL MOTION TO WITHDRAW GUILTY PLEA - Transaction 1732980 - Approved By: LMATHEUS : 09-21-2010:16:01:27 PARTY SUBMITTING: BRENDAN DUNCKLEY, PRO PER DATE SUBMITTED: 9/21/10 SUBMITTED BY: LMATHEUS DATE RECEIVED JUDGE OFFICE: 9/22/10 Transaction 1733200 - Approved By: NOREVIEW : 09-21-2010:16:07:47
9/21/2010	NEF	Proof of Electronic Service	
10/15/2010	NEF	Proof of Electronic Service	Transaction 1785971 - Approved By: NOREVIEW : 10-15-2010:16:07:11
10/15/2010	3370	Order ...	STATE SHALL FILE A RESPON TO THE MOTION TO WITHDRAW PLEA AND SUPPLEMENTAL MOTION W/IN 20 DAYS OF THE DATE OF THIS ORDER - Transaction 1785948 - Approved By: NOREVIEW : 10-15-2010:16:04:53
10/15/2010	S200	Request for Submission Complet	
10/15/2010	4145	Supreme Court Remittitur	SUPREME COURT CASE NO. 55545/REMITTITUR - Transaction 1786258 - Approved By: NOREVIEW : 10-15-2010:16:44:05 Transaction 1786266 - Approved By: NOREVIEW : 10-15-2010:16:45:50
10/15/2010	NEF	Proof of Electronic Service	
10/15/2010	4134	Supreme Court Order Affirming	SUPREME COURT CASE NO. 55545/ORDER OF AFFIRMANCE - Transaction 1786258 - Approved By: NOREVIEW : 10-15-2010:16:44:05
10/15/2010	4111	Supreme Ct Clk's Cert & Judg	SUPREME COURT CASE NO. 55545/CLERK'S CERTIFICATE - Transaction 1786258 - Approved By: NOREVIEW : 10-15-2010:16:44:05
10/21/2010	2645	Opposition to Mtn ...	OPPOSITION TO MOTION TO WITHDRAW GUILTY PLEA, SUPPLEMENT TO MOTION TO WITHDRAW GUILTY PLEA AND SUPPLEMENT IN CONSIDERATION OF MOTION TO WITHDRAW GUILTY PLEA - Transaction 1795929 - Approved By: AZION : 10-21-2010:09:11:25 Transaction 1795969 - Approved By: NOREVIEW : 10-21-2010:09:12:56
10/21/2010	NEF	Proof of Electronic Service	
11/3/2010	3880	Response...	DEFENDANT'S RESPONSE TO STATE'S OPPOSITION TO MOTION TO WITHDRAW GUILTY PLEA, SUPPLEMENTAL TO MOTION TO WITHDRAW GUILTY PLEA AND SUPPLEMENTAL IN CONSIDERATION OF MOTION TO WITHDRAW GUILTY PLEA
11/5/2010	2610	Notice ...	NOTICE OF CHANGE OF ADDRESS
11/10/2010	T200	Tickle End Code	
11/17/2010	3860	Request for Submission	DOCUMENT TITLE: MOTION TO WITHDRAW DEFENDANT'S GUILTY PLEA MEMORANDUM, SUPPLEMENTAL TO MOTION TO WITHDRAW GUILTY PLEA, AND SUPPLEMENT IN CONSIDERATION OF MOTION TO WITHDRAW GUILTY PLEA PARTY SUBMITTING: BRENDAN DUNCKLEY DATE SUBMITTED: 11/17/10 SUBMITTED BY: JYOST DATE RECEIVED JUDGE OFFICE:
12/6/2010	S200	Request for Submission Complet	
12/30/2010	2475	Mtn to Strike...	MOTION TO STRIKE STATE'S OPPOSITION TO DEFENDANT'S MOTION TO WITHDRAW GUILTY PLEA MEMORANDUM & MOTION FOR SUBMISSION OF DECISION Transaction 1939440 - Approved By: NOREVIEW : 01-03-2011:11:12:20
1/3/2011	NEF	Proof of Electronic Service	
1/3/2011	2645	Opposition to Mtn ...	OPPOSITION TO MOTION TO STRIKE STATE'S OPPOSITION TO MOTION TO WITHDRAW GUILTY PLEA AND SUPPLEMENT IN CONSIDERATION OF MOTION TO WITHDRAW GUILTY PLEA - Transaction 1939390 - Approved By: AZION : 01-03-2011:11:06:30
1/7/2011	S200	Request for Submission Complet	PARTIES TO SET FOR ORAL ARGUMENTS W/IN 15 DAYS

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

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

1/7/2011	3347	Order to Set	PARTIES SHALL APPEAR W/IN 15 DAYS TO SET ORAL ARGUMENTS ON THE MOTION TO WITHDRAW GUILTY PLEA, SUPPLEMENT TO MOTION TO WITHDRAW GUILTY PLEA AND SUPPLEMENT IN CONSIDERATION OF MTN TO W/DRAW GUILTY PLEA - Transaction 1952861 - Approved By: NOREVIEW : 01-07-2011:14:15:37 Transaction 1952871 - Approved By: NOREVIEW : 01-07-2011:14:17:24
1/7/2011	NEF	Proof of Electronic Service	
1/21/2011	2490	Motion ...	MOTION FOR SETTING OF ORAL ARGUMENT ON MOTION(S) TO WITHDRAW PLEA
1/24/2011	1250E	Application for Setting eFile	ORAL ARGUMENTS on MOTION FOR WITHDRAWAL OF GUILTY PLEA: APRIL 22, 2011 @ 9:00 A.M. - Transaction 1984323 - Approved By: NOREVIEW : 01-24-2011:14:46:07
1/24/2011	T200	Tickle End Code	
1/24/2011	NEF	Proof of Electronic Service	Transaction 1984328 - Approved By: NOREVIEW : 01-24-2011:14:47:51
3/11/2011	1250E	Application for Setting eFile	ORAL ARGUMENTS ON MOTION FOR WITHDRAWAL OF GUILTY PLEA - JUNE 3, 2011 AT 9:00 A.M. (VACATES APRIL 22, 2011 HEARING) - Transaction 2087471 - Approved By: NOREVIEW : 03-11-2011:13:13:57 Transaction 2087490 - Approved By: NOREVIEW : 03-11-2011:13:17:04
3/11/2011	NEF	Proof of Electronic Service	
3/18/2011	2490	Motion ...	MOTION FOR DEFAULT BENCH DECISION FOR THE MOTION(S) TO WITHDRAW GUILTY PLEA, AND SUPPLEMENTALS IN CONSIDERATION OF MOTION TO WITHDRAW PLEA
3/28/2011	2175	Mtn for Reconsideration	MOTION FOR RECONSIDERATION OF SETTING
5/9/2011	3860	Request for Submission	DOCUMENT TITLE: MOTION TO WITHDRAW GUILTY PLEA MEMO AND ALL SUUPLEMENTAL MOVING PAPERS ASSOCIATED WITH THE ORIGINAL MOTION FILED 3-3-10 PARTY SUBMITTING: BRENDAN DUNCKLEY DATE SUBMITTED: 5-9-11 SUBMITTED BY: S STINCHFIELD DATE RECEIVED JUDGE OFFICE: 5/11/11 Transaction 2255978 - Approved By: NOREVIEW : 05-31-2011:11:58:57
5/31/2011	NEF	Proof of Electronic Service	
5/31/2011	3370	Order ...	MOTION TO WITHDRAW GUILTY PLEA MEMO AND ALL SUPPLEMENTAL MOVING PAPERS ARE SET FOR ORAL ARGUMENTS ON JUNE 2, 2011, AT 9:00 A.M. - Transaction 2255971 - Approved By: NOREVIEW : 05-31-2011:11:57:13
5/31/2011	3370	Order ...	CORRECTED ORDER - MOTION FOR WITHDRAWAL OF GUILTY PLEA MEMO SET FOR HEARING ON 6/3/11 AT 9:00 A.M. - Transaction 2256017 - Approved By: NOREVIEW : 05-31-2011:12:09:25 Transaction 2256023 - Approved By: NOREVIEW : 05-31-2011:12:10:48
5/31/2011	NEF	Proof of Electronic Service	
5/31/2011	S200	Request for Submission Complet	
7/13/2011	4185	Transcript ...	MOTION TO WITHDRAW PLEA - JUNE 3, 2011 - Transaction 2342908 - Approved By: NOREVIEW : 07-13-2011:13:22:48
7/13/2011	NEF	Proof of Electronic Service	Transaction 2342927 - Approved By: NOREVIEW : 07-13-2011:13:26:47
7/26/2011	MIN	***Minutes	MOTION FOR WITHDRAW OF PLEA - 6/3/11 - Transaction 2368996 - Approved By: NOREVIEW : 07-26-2011:14:16:42
7/26/2011	NEF	Proof of Electronic Service	Transaction 2369011 - Approved By: NOREVIEW : 07-26-2011:14:18:43
8/10/2011	S200	Request for Submission Complet	
8/18/2011	MIN	***Minutes	CONFERENCE CALL - TELEPHONIC DECISION - 8-12-11 - Transaction 2415266 - Approved By: NOREVIEW : 08-18-2011:08:23:31
8/18/2011	NEF	Proof of Electronic Service	Transaction 2415272 - Approved By: NOREVIEW : 08-18-2011:08:25:07
12/29/2011	2842	Ord Denying Motion	ORDER DENYING MOTION TO WITHDRAW GUILTY PLEAS - Transaction 2672273 - Approved By: NOREVIEW : 12-29-2011:10:57:11
12/29/2011	NEF	Proof of Electronic Service	Transaction 2672315 - Approved By: NOREVIEW : 12-29-2011:10:59:58
12/30/2011	2515	Notice of Appeal Supreme Court	APPELLANT, BRENDAN DUNCKLEY - Transaction 2674617 - Approved By: LMATHEUS : 12-30-2011:10:33:02
12/30/2011	NEF	Proof of Electronic Service	Transaction 2674863 - Approved By: NOREVIEW : 12-30-2011:10:35:29
12/30/2011	1310	Case Appeal Statement	Transaction 2675034 - Approved By: LMATHEUS : 12-30-2011:11:27:54



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

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

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<u>12/30/2011</u>	1350	Certificate of Clerk	CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 2675781 - Approved By: NOREVIEW : 12-30-2011:14:23:47
<u>12/30/2011</u>	NEF	Proof of Electronic Service	Transaction 2675186 - Approved By: NOREVIEW : 12-30-2011:11:30:25
<u>12/30/2011</u>	NEF	Proof of Electronic Service	Transaction 2675791 - Approved By: NOREVIEW : 12-30-2011:14:26:19

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**SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE**

**Case History - CR07P1728**

**DEPT. D4**

**HON. CONNIE J. STEINHEIMER**

Report Date & Time

12/30/2011

2:54:09PM

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<b>Case ID:</b>	<b>CR07P1728</b>	<b>Case Description: POST: BRENDAN DUNCKLEY (D4)</b>	<b>Initial Filing Date:</b>	<b>7/21/2009</b>
<b>Case Type:</b>	<b>POST CONVICTION</b>			

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**Parties**

PETR	BRENDAN DUNCKLEY - @102844
RESP	STATE OF NEVADA - STATE
DA	Gary Howard Hatlestad, Esq. - 1525
CAA	Robert Story, Esq. - 1268

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**Charges**

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

<i>Charge No.</i>	<i>Plea Code</i>	<i>Plea Date</i>	<i>Plea Description</i>
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**Release Information**

*Custody Status*

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**Hearings**

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<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
<b>1</b>	D4 Tickle Start Code	3/11/2010	07:00:00	3/11/2010

Event Extra Text: SUPPLEMENTAL PETITION

**Disposition:**  
T200 3/11/2010

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<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
<b>2</b>	D4 Tickle Start Code	6/11/2010	07:00:00	6/11/2010

Event Extra Text: HAS EVIDENTIARY HEARING SET?

**Disposition:**  
T200 6/11/2010

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<i>Department</i>	<i>Event Description</i>	<i>Sched. Date &amp; Time</i>		<i>Disposed Date</i>
<b>3</b>	D4 Tickle Start Code	7/13/2010	07:00:00	7/1/2010

Event Extra Text: HAS EVIDENTIARY HEARING BEEN SET ON THE  
PETITION FOR POST CONVICTION

**Disposition:**  
T200 7/1/2010

Case Description: POST: BRENDAN DUNCKLEY (D4)

Case ID: CR07P1728 Case Type: POST CONVICTION Initial Filing Date: 7/21/2009

Department		Event Description	Sched. Date & Time		Disposed Date
4	D4	EVIDENTIARY HEARING	11/9/2010	10:00:00	11/2/2010
Event Extra Text: WRIT OF HABEAS CORPUS (POST CONVICTION)			Disposition: D844 11/2/2010 vacated due to trial schedule-reset for 4/1/11		
Department		Event Description	Sched. Date & Time		Disposed Date
5	D4	EVIDENTIARY HEARING	4/1/2011	09:00:00	2/14/2011
Event Extra Text: WRIT OF HABEAS CORPUS (POST CONVICTION)			Disposition: D870 2/14/2011		
Department		Event Description	Sched. Date & Time		Disposed Date
6	D4	EVIDENTIARY HEARING	4/22/2011	09:00:00	3/11/2011
Event Extra Text: ON PETITION FOR WRIT OF HABEAS CORPUS (POST - CONVICTION)			Disposition: D875 3/11/2011		
Department		Event Description	Sched. Date & Time		Disposed Date
7	D4	Request for Submission	6/3/2011	14:30:00	8/10/2011
Event Extra Text: - PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) TAKEN UNDER ADVISEMENT AFTER EVIDENTIARY HEARING			Disposition: S200 8/10/2011		
Department		Event Description	Sched. Date & Time		Disposed Date
8	D4	EVIDENTIARY HEARING	6/3/2011	09:00:00	6/3/2011
Event Extra Text: ON PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)			Disposition: D840 6/3/2011		
Department		Event Description	Sched. Date & Time		Disposed Date
9	D4	CONFERENCE CALL	8/12/2011	09:30:00	12/29/2011
Event Extra Text: RENDER DECISION ON MOTION TO WITHDRAW PLEA AND PETITION FOR WRIT OF HABEAS CORPUS			Disposition: D435 12/29/2011		

Agency Cross Reference

Code Agency Description Case Reference I.D.

Actions			
Action Entry Date	Code	Code Description	Text
7/21/2009	2385	Mtn Proceed Forma Pauperis	
7/21/2009	1030	Affidavit in Support...	AFFIDAVIT IN SUPPORT OF APPLICATION TO PROCEED IN FORMA PAUPERIS

**Case Description: POST: BRENDAN DUNCKLEY (D4)**

**Case ID:** CR07P1728 **Case Type:** POST CONVICTION **Initial Filing Date:** 7/21/2009

7/21/2009	3862	**Criminal Submit	DOCUMENT TITLE: IFP/AFFIDAVIT IN SUPPORT OF APPLICATION TO PROCEED IN FORMA PAUPERIS/EX PARTE MOTION FOR APPOINTMENT OF COUNSEL/PETITION FOR WRIT OF HABEAS CORPUS/SUPPORTING DOCUMENTATION FOR PETITION FOR WRIT OF HABEAS CORPUS PARTY SUBMITTING: BRENDAN DUNCKLEY DATE SUBMITTED: 7/21/2009 SUBMITTED BY: IFLORES DATE RECEIVED JUDGE OFFICE:
7/21/2009	4105	Supplemental ...	SUPPORTING DOCUMENTATION FOR PETITIONER'S POST-CONVICTION WRIT OF HABEAS CORPUS PETITION PART NO. V
7/21/2009	4105	Supplemental ...	SUPPORTING DOCUMENTATION FOR PETITIONER'S POST-CONVICTION WRIT OF HABEAS CORPUS PETITION PART NO. IV
7/21/2009	4105	Supplemental ...	SUPPORTING DOCUMENTATION FOR PETITIONER'S POST-CONVICTION WRIT OF HABEAS CORPUS PETITION PART III
7/21/2009	4105	Supplemental ...	SUPPORTING DOCUMENTATION FOR PETITIONER'S POST-CONVICTION WRIT OF HABEAS CORPUS PETITION PART NO. II
7/21/2009	3585	Pet Writ Habeas Corpus	
7/21/2009	1670	Ex-Parte Mtn...	EX PARTE MOTION FOR APPOINTMENT OF COUNSEL AND REQUEST FOR EVIDENTARY HEARING
10/28/2009	NEF	Proof of Electronic Service	Transaction 1124849 - Approved By: NOREVIEW : 10-28-2009:10:51:48
10/28/2009	3370	Order ...	ALLOWING FOR THE APPOINTMENT OF COUNSEL AND REFERRING THE MATTER TO THE ADMINISTRATOR OF THE COURT APPOINTED COUNSEL FOR SELECTION OF COUNSEL - Transaction 1124817 - Approved By: NOREVIEW : 10-28-2009:10:48:30
10/28/2009	3035	Ord Grant in Forma Pauperis	AND REFERRING MATTER TO DEPARTMENT 4 FOR DECISION ON THE MTN FOR APPOINTMENT OF COUNSEL - Transaction 1124817 - Approved By: NOREVIEW : 10-28-2009:10:48:30
12/14/2009	NEF	Proof of Electronic Service	Transaction 1205489 - Approved By: NOREVIEW : 12-14-2009:10:52:00
12/14/2009	2715	Ord Appointing Counsel	RECOMMENDATION AND ORDER APPOINTING COUNSEL (ROBERT STORY, ESQ.) AND SETTING FORTH BRIEFING SCHEDULE - Transaction 1205412 - Approved By: NOREVIEW : 12-14-2009:10:37:54
1/20/2010	2502	** Notes ...	DEFENDANT HAS BEEN PROVIDED A COPY OF ENTIRE FILE ON THIS DATE
3/11/2010	T200	Tickle End Code	
3/17/2010	3980	Stip and Order...	FOR EXTENSION OF TIME IN WHICH TO FILE SUPPLEMENTAL PETITION (FIRST REQUEST) - Transaction 1378784 - Approved By: NOREVIEW : 03-17-2010:10:14:27
3/17/2010	NEF	Proof of Electronic Service	Transaction 1378830 - Approved By: NOREVIEW : 03-17-2010:10:22:27
3/23/2010	4100	Supplemental Petition	SUPPLEMENTAL PETITION FOR WRIT OF HABEAS CORPUS
3/23/2010	3862	**Criminal Submit	DOCUMENT TITLE: SUPPLEMENTAL PETITION FOR WRIT OF HABEAS CORPUS PARTY SUBMITTING: ROBERT STORY DATE SUBMITTED: 3-23-10 SUBMITTED BY: S STINCHFIELD DATE RECEIVED JUDGE OFFICE: 3/25/10
4/1/2010	1665	Ex-Parte Application...	EX PARTE APPLICATION FOR INTERIM CLAIM FOR FEES
4/22/2010	2777	Order Approving ...	RECOMMENDATION AND ORDER FOR PAYMENT OF ATTORNEY'S FEES - SEALED
5/5/2010	1130	Answer ...	ANSWER TO PETITION AND SUPPLEMENTAL PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) - Transaction 1468124 - Approved By: IXFLORES : 05-05-2010:11:35:55
5/5/2010	NEF	Proof of Electronic Service	Transaction 1468252 - Approved By: NOREVIEW : 05-05-2010:11:37:05
6/11/2010	T200	Tickle End Code	
6/17/2010	NEF	Proof of Electronic Service	Transaction 1549405 - Approved By: NOREVIEW : 06-17-2010:15:02:04

**Case Description: POST: BRENDAN DUNCKLEY (D4)**

**Case ID:** CR07P1728 **Case Type:** POST CONVICTION **Initial Filing Date:** 7/21/2009

6/17/2010	3347	Order to Set	EVIDENTRIARY HEARING ON THE PETITION AND SUPPLEMENTAL PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) W/IN 15 DAYS - Transaction 1549375 - Approved By: NOREVIEW : 06-17-2010:14:58:22
6/30/2010	1665	Ex-Parte Application...	EX PARTE APPLICATION FOR INTERIM CLAIM FOR FEES
7/1/2010	1250E	Application for Setting eFile	EVIDENTIARY HEARING (PETITION FOR WRIT OF HABEAS CORPUS - POST CONVICTION): NOVEMBER 9, 2010 @ 10:00 A.M. (1 DAY) - Transaction 1577245 - Approved By: NOREVIEW : 07-01-2010:16:27:33
7/1/2010	T200	Tickle End Code	
7/1/2010	NEF	Proof of Electronic Service	Transaction 1577275 - Approved By: NOREVIEW : 07-01-2010:16:32:02
7/16/2010	2777	Order Approving ...	RECOMMENDATION AND ORDER FOR PAYMENT OF INTERIM ATTORNEY'S FEES - SEALED
10/7/2010	1260	Application Produce Prisoner	
10/7/2010	3862	**Criminal Submit	DOCUMENT TITLE: ORDER TO PRODUCE PRISONER PARTY SUBMITTING: GARY HATLESTAD DATE SUBMITTED: 10-8-10 SUBMITTED BY: S STINCHFIELD DATE RECEIVED JUDGE OFFICE: MOTION FOR ORDER TO PRODUCE PRISONER
10/11/2010	2490	Motion ...	
10/12/2010	3862	**Criminal Submit	DOCUMENT TITLE: MOTION FOR ORDER TO PRODUCE THE PRISONER PARTY SUBMITTING: BRENDAN DUNCKLEY, PRO PER DATE SUBMITTED: 10-12-10 SUBMITTED BY: LMATHEUS DATE RECEIVED JUDGE OFFICE: Transaction 1776019 - Approved By: NOREVIEW : 10-12-2010:16:58:49
10/12/2010	3340	Ord to Produce Prisoner	Transaction 1776032 - Approved By: NOREVIEW : 10-12-2010:17:01:25
10/12/2010	NEF	Proof of Electronic Service	
10/25/2010	1230	Application for Fees	MOTION FOR FEES FOR COPY COSTS
11/1/2010	1665	Ex-Parte Application...	SEALED - EX PARTE APPLICATION FOR INTERIM CLAIM FOR FEES
11/3/2010	1250E	Application for Setting eFile	EVIDENTIARY HEARING-WRIT OF HABEAS CORPUS (POST CONVICTION): APRIL 1, 2011 @ 9:00 A.M. (VACATES NOVEMBER 9, 2010 HEARING) - Transaction 1822819 - Approved By: NOREVIEW : 11-03-2010:10:29:32 Transaction 1822827 - Approved By: NOREVIEW : 11-03-2010:10:30:54
11/3/2010	NEF	Proof of Electronic Service	
11/9/2010	2777	Order Approving ...	RECOMMENDATION AND ORDER GRANTING DEFENSE FEES
11/15/2010	2777	Order Approving ...	RECOMMENDATION AND ORDER FOR PAYMENT OF INTERIM ATTORNEY'S FEES - SEALED
2/10/2011	1665	Ex-Parte Application...	SEALED - EX PARTE APPLICATION FOR INTERIM CLAIM FOR FEES (RECOMMENDATION AND ORDER RECEIVED - MS)
2/14/2011	4045	Stipulation to Continuance	STIPULATION FOR CONTINANCE OF HEARING DATE - EVIDENTIARY HEARING CONTINUED FROM APRIL 1, 2011 TO APRIL 22, 2011 AT 9:00 A.M. - Transaction 2031396 - Approved By: AZION : 02-14-2011:10:18:26 Transaction 2031422 - Approved By: NOREVIEW : 02-14-2011:10:20:04
2/14/2011	NEF	Proof of Electronic Service	
3/8/2011	2777	Order Approving ...	SEALED - RECOMMENDATION AND ORDER FOR PAYMENT OF INTERIM ATTORNEY'S FEES
3/11/2011	1250E	Application for Setting eFile	EVIDENTIARY HEARING ON PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) - JUNE 3, 2011 AT 9:00 A.M. (VACATES APRIL 22, 2011 HEARING) - Transaction 2087480 - Approved By: NOREVIEW : 03-11-2011:13:15:36 Transaction 2087508 - Approved By: NOREVIEW : 03-11-2011:13:18:19
3/11/2011	NEF	Proof of Electronic Service	
3/11/2011	3105	Ord Granting ...	ORDER GRANTING STIPULATION FOR CONTINUANCE OF HEARING DATE (CONTINUE EVIDENTIARY HEARING FROM APRIL 1, 2011 TO APRIL 22, 2011) - Transaction 2087504 - Approved By: NOREVIEW : 03-11-2011:13:19:25 Transaction 2087544 - Approved By: NOREVIEW : 03-11-2011:13:25:03
3/11/2011	NEF	Proof of Electronic Service	
6/21/2011	1670	Ex-Parte Mtn...	SEALED - EX PARTE APPLICATION FOR INTERIM CLAIM FOR FEES - Transaction 2300734 - Approved By: JYOST : 06-21-2011:14:38:42 (RECOMMENDATION AND ORDER RECEIVED - MS)

**Case Description: POST: BRENDAN DUNCKLEY (D4)**

**Case ID:** CR07P1728 **Case Type:** POST CONVICTION **Initial Filing Date:** 7/21/2009

6/21/2011	NEF	Proof of Electronic Service	Transaction 2300887 - Approved By: NOREVIEW : 06-21-2011:14:40:55
7/1/2011	2777	Order Approving ...	SEALED - RECOMMENDATION AND ORDER FOR PAYMENT OF INTERIM ATTORNEY'S FEES
7/13/2011	4185	Transcript ...	MOTION TO WITHDRAW PLEA - JUNE 3, 2011 - Transaction 2342913 - Approved By: NOREVIEW : 07-13-2011:13:23:43
7/13/2011	NEF	Proof of Electronic Service	Transaction 2342930 - Approved By: NOREVIEW : 07-13-2011:13:26:47
7/26/2011	MIN	***Minutes	PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) - 6/3/11 - Transaction 2369050 - Approved By: NOREVIEW : 07-26-2011:14:24:33
7/26/2011	NEF	Proof of Electronic Service	Transaction 2369078 - Approved By: NOREVIEW : 07-26-2011:14:27:08
8/10/2011	S200	Request for Submission Complet	
8/18/2011	MIN	***Minutes	CONFERENCE CALL - TELEPHONIC DECISION - 8-12-11 - Transaction 2415325 - Approved By: NOREVIEW : 08-18-2011:08:43:15
8/18/2011	NEF	Proof of Electronic Service	Transaction 2415335 - Approved By: NOREVIEW : 08-18-2011:08:45:13
12/29/2011	1750	Findings, Conclusions & Judg	FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT - Transaction 2672262 - Approved By: NOREVIEW : 12-29-2011:10:55:16
12/29/2011	NEF	Proof of Electronic Service	Transaction 2672281 - Approved By: NOREVIEW : 12-29-2011:10:57:49
12/30/2011	2515	Notice of Appeal Supreme Court	APPELLANT, BRENDAN DUNCKLEY - Transaction 2674644 - Approved By: LMATHEUS : 12-30-2011:10:36:58
12/30/2011	NEF	Proof of Electronic Service	Transaction 2674881 - Approved By: NOREVIEW : 12-30-2011:10:38:48
12/30/2011	1310	Case Appeal Statement	Transaction 2675054 - Approved By: LMATHEUS : 12-30-2011:11:25:52
12/30/2011	NEF	Proof of Electronic Service	Transaction 2675175 - Approved By: NOREVIEW : 12-30-2011:11:28:49
12/30/2011	3868	Req to Crt Rptr - Rough Draft	Transaction 2674700 - Approved By: SHAMBRIG : 12-30-2011:11:56:50
12/30/2011	NEF	Proof of Electronic Service	Transaction 2675283 - Approved By: NOREVIEW : 12-30-2011:11:58:16
12/30/2011	1350	Certificate of Clerk	CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 2675876 - Approved By: NOREVIEW : 12-30-2011:14:53:18

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

\* \* \*

BRENDAN DUNCKLEY,

Petitioner,

v.

Case No. CR07P1728

JACK PALMER,

Dept. No. 4

Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND JUDGMENT

This matter came before the Court on Dunckley's Petition for Writ of Habeas Corpus (Post-Conviction) and the Supplemental Petition filed by counsel. There has been an evidentiary hearing. The Court, being fully advised of the premises, hereby denies the relief requested.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Dunckley argued that he did not receive effective assistance of counsel from his trial lawyer, David O'Mara, and that his pleas are invalid. The Court is not persuaded.

A. Ineffective Assistance of Counsel

Before considering the merits, the Court will start by setting forth the applicable standard of review.

1                   1. The Applicable Standard of Review

2           To prove ineffective assistance of counsel sufficient to invalidate a judgment of  
3 conviction based on a guilty plea, a petitioner must demonstrate (a) that his counsel's  
4 performance was deficient in that it fell below an objective standard of reasonableness and (b)  
5 resulting prejudice in that there is a reasonable probability that, but for counsel's errors,  
6 petitioner would not have pleaded guilty and would have insisted on going to trial. *Hill v.*  
7 *Lockhart*, 474 U.S. 52, 58–59 (1985); *Kirksey v. State*, 112 Nev. 980, 988, 923 P.2d 1102, 1107  
8 (1996). Both components of the inquiry must be shown, *Strickland v. Washington*, 466 U.S.  
9 668, 697 (1984), and the petitioner must demonstrate the underlying facts by a preponderance  
10 of the evidence, *Means v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004).

11                   2. Application of the Standard to the Alleged Instances of  
12                   Ineffective Assistance

13           In his original petition and in the Supplemental Petition filed by counsel, Dunckley sets  
14 forth a large number of instances of ineffective assistance of counsel. As noted above, there  
15 was an evidentiary hearing, but, despite having a full and fair opportunity to do so, Dunckley  
16 did not present any evidence in support of the vast majority of the pleaded claims. Accordingly,  
17 those claims were not proved, and the relief requested by them is denied. The Court will now  
18 consider the claims for which Dunckley did present evidence.

19                   a. Failure to Investigate and Present an Alibi Defense

20           At various places in his moving papers, Dunckley alleged that he did not commit the  
21 crime charged in Count I because he was not in the State of Nevada or Washoe County at the  
22 relevant time. Dunckley testified at the evidentiary hearing that, despite informing Mr. O'Mara  
23 of his alibi and providing documentary evidence to substantiate it, O'Mara was ineffective  
24 because he failed to take the defense seriously or otherwise investigate it. Dunckley went on to  
25 allege that, had Mr. O'Mara investigated the alibi, he would not have pleaded guilty to the  
26 charges.



1 From the standpoint of the performance prong of *Strickland* and *Hill*, the Court will  
2 note that Mr. O'Mara confirmed that he and Dunckley discussed the alibi defense to Count I,  
3 and that, prior to Dunckley accepting the State's plea offer, he had received the documents  
4 Dunckley claimed substantiated the alibi. Furthermore, O'Mara testified credibly that, upon  
5 investigating the case and reviewing discovery, he planned on taking the case to trial, asserting  
6 the alibi defense to Count I, not negotiating it. Mr. O'Mara added that, as the trial date  
7 approached, the State tendered a plea offer that put probation "on the table," an offer Mr.  
8 O'Mara was duty bound to convey to his client. Mr. O'Mara went on to say that Dunckley  
9 decided in favor of a change of plea to reduced charges because he was sure he would get  
10 probation. Mr. O'Mara, however, warned Dunckley that he was not so sure about probation in  
11 this case, believing prison a more likely outcome. Dunckley rejected Mr. O'Mara's assessment  
12 and advice.

13 Given the testimony presented at the evidentiary hearing, the Court finds Mr. O'Mara's  
14 testimony to be credible. In fact, contrary to Dunckley's testimony, Mr. O'Mara was well aware  
15 of Dunckley's alibi defense, took it quite seriously, and believed it could be successful. Likewise,  
16 Mr. O'Mara cautioned Dunckley about the potential consequences of taking the plea bargain: it  
17 may have placed probation "on the table," but the parties remained "free to argue" and he  
18 believed prison time to be a definite possibility. Dunckley rejected Mr. O'Mara's advice.

19 In short, Dunckley failed to establish, with credible evidence, that Mr. O'Mara's  
20 performance in this case was objectively unreasonable. Quite the contrary, Mr. O'Mara  
21 conducted a reasonably complete investigation, approached the case as if it were going to trial,  
22 but upon conveying the State's plea offer, as he is required to do, Dunckley accepted it.  
23 Thereafter, Mr. O'Mara counseled Dunckley on the possible ramification of his decision and  
24 prepared for sentencing. In the end, it was Dunckley's decision to make after consulting with  
25 counsel, and he made his decision.

26 ///

1                                   b. Failure to Investigate DNA Evidence

2           According to Jessica, one of the two victims in the case, she engaged in oral sex with  
3 Dunckley in Washoe County. When the police investigated the accusation, they acquired a DNA  
4 swab from Dunckley's penis. Subsequent forensic analysis revealed no DNA.

5           Dunckley alleged and then testified that he was unaware of the results of the forensic  
6 examination before he entered his plea, and, had he known of it, he would have insisted on  
7 going to trial. The Court is not persuaded.

8           First, it is undisputed Mr. O'Mara knew the results of the forensic examination prior to  
9 the time Dunckley entered his plea. Moreover, while Mr. O'Mara said he never showed the  
10 forensic report to Dunckley, he testified credibly that he and Dunckley went over its results.  
11 Consequently, the Court finds that Dunckley was aware of the results of the forensic  
12 examination before he accepted the plea bargain. Dunckley's testimony to the contrary is not  
13 credible. The fact that Mr. O'Mara may not have shown Dunckley the actual written report  
14 does not change the fact he was aware of its content. By the same token, Dunckley presented  
15 no evidence proving or tending to prove that an objective standard of reasonableness required  
16 Mr. O'Mara to present the forensic report to his client if, as was the case here, he explained its  
17 content. As a result, Dunckley failed to establish the performance prong of *Strickland-Hill*.

18           Furthermore, Dunckley failed to establish prejudice. In *Hill v. Lockhart*, the Court said  
19 the following on the subject of prejudice in a plea context: "where the alleged error of counsel is  
20 a failure to investigate or discover potentially exculpatory evidence, the determination whether  
21 the error 'prejudiced' the defendant will depend on . . . whether the evidence likely would have  
22 changed the outcome of a trial." *Id.*, p. 59. If not, then the petitioner has failed to show a  
23 reasonable probability that he would not have pleaded guilty and insisted on going to trial. *Id.*  
24 Such is the case here.

25           For example, it is undisputed that Dunckley and Jessica were together at the time and  
26 place Jessica claimed the crime was committed. It is also undisputed that, when Detective

1 Broome interviewed Dunckley, Dunckley admitted Jessica placed her mouth on his penis. He  
2 repeated the same admissions to Steven Ing, the expert who prepared a psychosexual  
3 evaluation. Thus, in light of Dunckley's admissions, the Court finds the fact that no DNA was  
4 found on the penial swab is of no material consequence under *Hill's* prejudice prong. The  
5 Court is, of course, aware that Dunckley testified that he lied to Detective Broome and Mr. Ing,  
6 presumably in an effort to enhance the significance of the negative test results, but the Court  
7 finds Dunckley's subsequent recantation to be unworthy of belief.

8 c. Motion to Suppress: *Miranda*

9 Dunckley also alleged and testified that Mr. O'Mara was ineffective because he failed to  
10 file and litigate a motion to suppress statements he made to Detective Broome. As noted  
11 above, Dunckley's statements to Detective Broome were important pieces of incriminating  
12 evidence. Consequently, it would be objectively reasonable for Mr. O'Mara to at least consider  
13 filing a motion to suppress the statements, and, if the motion enjoyed a reasonable probability  
14 of being granted, then it would have been objectively unreasonable and prejudicial to omit it.

15 Here, Mr. O'Mara testified credibly that he was aware that his client had made  
16 statements to Detective Broome, and he considered filing a motion to suppress them. Mr.  
17 O'Mara went on to say, however, that, upon researching the motion, he concluded that the  
18 motion would not be successful because they were voluntarily made and not the product of  
19 custodial interrogation. Dunckley presented no credible evidence drawing Mr. O'Mara's  
20 assessment into question.

21 Accordingly, the Court finds and concludes that, even though Mr. O'Mara did not make  
22 a motion to suppress Dunckley's statements, Dunckley failed to prove that this omission was  
23 objectively unreasonable or prejudicial.

24 d. Failure to Investigate or Interview the Victims

25 Dunckley also alleged and testified that Mr. O'Mara provided ineffective assistance  
26 because he did not investigate and interview the two victims. While it might be the case that a

1 reasonably competent lawyer would try to interview the victims, Dunckley failed to establish  
2 that victims were under an obligation to talk to his lawyer, outside the preliminary hearing, nor  
3 did he establish what the victims would have said if they elected to talk. Consequently, even  
4 assuming Mr. O'Mara should have put forth the effort and did not do so, Dunckley failed to  
5 show prejudice.

6 e. Failure to Object to the Prosecutor's Breach of the  
7 Plea Bargain

8 Finally, Dunckley alleged and then testified that he should be awarded a new sentencing  
9 hearing because the prosecutor breached the plea bargain, and Mr. O'Mara was ineffective in  
10 failing to object and demand specific performance. The Court has carefully reviewed the terms  
11 and conditions of the plea bargain, and compared and contrasted those terms and conditions  
12 with the comments made by the prosecutor during the sentencing hearing, and can find no  
13 grounds upon which to maintain that the prosecutor breached the plea bargain. Accordingly,  
14 the Court finds that, because there was no breach, Mr. O'Mara failure to object was neither  
15 deficient nor prejudicial.

16 B. Validity of the Pleas

17 Under Ground Three, Dunckley alleged that his pleas were invalid because he was not  
18 properly advised of the consequences of his pleas: namely, the unavailability of probation.  
19 While it is true that a plea may be invalidated when a district judge fails to personally address a  
20 defendant and inform him when probation is not available, probation was available as a  
21 possible sentence for each of the two crimes at issue here at the time the crimes were  
22 committed. As a result, the Court properly advised Dunckley that probation was available, and  
23 his argument to the contrary is a nonstarter.<sup>1</sup>

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24  
25 <sup>1</sup>Insofar as Dunckley alleged that the Court applied the newly enacted version of NRS  
26 176A.110, which disallows probation, and thus violated the Ex Post Facto Clause of the  
Constitution, that claim lacks merit because the Court applied the law in effect at the time the

1 JUDGMENT

2 It is therefor the judgment and order of the Court that Dunckley's request for post-  
3 conviction habeas relief is denied.

4 DATED this 23 day of December, 2011.

5 Connie S. Steinheimer  
6 DISTRICT JUDGE  
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25 crimes were committed and those provisions allowed for probation. The overarching problem  
26 therefore was not the availability of probation, but whether probation was appropriate in this case.

**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	<b><u>ARRAIGNMENT</u></b>	
HONORABLE	Deputy District Attorney Kelli Vilorio, Esq., represented the State. Defendant	<b>10/19/07</b>
CONNIE	present with counsel David O'Mara, Esq. Probation officer Lupe Garrison also	<b>9:00 a.m.</b>
STEINHEIMER	present.	<b>Pre-Trial</b>
DEPT. NO.4	Defendant handed copy of Information; indicated to the Court that name as set	<b>Motions</b>
M. Stone	forth on same was his true name; waived reading and entered a plea of not	<b>(3 Hours)</b>
(Clerk)	guilty to the charge set forth therein.	
S. Loder	Defendant waived the 60-Day Rule and <b>COURT ORDERED</b> this matter set for	<b>3/13/07</b>
(Reporter)	jury trial.	<b>9:00 a.m.</b>
	<b>COURT FURTHER ENTERED ORDER</b> that all pre-trial motions shall be filed	<b>Mtn to</b>
	and served no later than September 17, 2007; all responses to those pre-trial	<b>Confirm Trl</b>
	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,	<b>3/24/07</b>
	2007.	<b>10:00 a.m.</b>
	Defendant remained out of custody.	<b>Jury Trial</b>
		<b>(5 Days)</b>

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**FILED**

Electronically

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 DUNCANLEY**

**DATE, JUDGE**

**OFFICERS OF**

**COURT PRESENT**

**APPEARANCES-HEARING**

**CONT'D TO**

3/6/08

**MOTION TO CONFIRM TRIAL DATE/ARRAIGNMENT ON AMENDED**

HONORABLE

**INFORMATION**

**8/5/08**

CONNIE

Deputy District Attorney Kelli Vioria, 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 name as set forth on same was his true name; waived reading and enter a plea of guilty to Lewdness with a Child Under the Age of Fourteen Years and Attempted Sexual Assault as set forth therein.

(Clerk)

B. Van Auken

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.

(Reporter)

**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.

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**FILED**

Electronically

09-16-2008:11:34:10 AM

Howard W. Conyers

Clerk of the Court

Transaction # 366951

CASE NO. CR07-1728

**TITLE: THE STATE OF NEVADA VS. BRENDAN DUNCANLEY**

**DATE, JUDGE  
OFFICERS OF  
COURT PRESENT**

**APPEARANCES-HEARING**

**CONT'D TO**

8/5/08

**ENTRY OF JUDGMENT AND IMPOSITION OF SENTENCE**

HONORABLE

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

CONNIE

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

STEINHEIMER

Garrison also present.

DEPT. NO.4

Court noted receipt of report.

R. Cotter

Court noticed document received.

(Clerk)

Defense counsel did not concur with the recommendation; presented

L. Young

argument on behalf of defendant.

(Reporter)

**EXHIBITS A & B** marked and offered by Defense counsel; no objection by State's counsel; ordered admitted into evidence.

Pam McFerren made a statement on behalf of the Defendant.

State's counsel did not concur with the recommendation. Probation Officer Garrison stood on recommendation. Defendant made statement on his own behalf.

**COURT ORDERED JUDGMENT ENTERED** and sentenced defendant to the Nevada Department of Prisons for the maximum term of life with the minimum parole eligibility of ten (10) years, for Count I; and that he be punished by imprisonment in the Nevada Department of Prisons for the maximum term of one hundred twenty (120) months with the minimum parole eligibility of twenty-four (24) months, for Count II, to be served concurrently with sentence imposed in Count I; with credit for four (4) days time served, and by submission to a DNA Analysis Test for the purpose of determining genetic markers. Defendant is further ordered to pay a Twenty-Five Dollar (\$25.00) administrative assessment fee, a One Hundred Fifty Dollar (\$150.00) DNA testing fee, and a Nine Hundred Fifty Dollar (\$950.00) Psychosexual Evaluation Fee to the Clerk of the Second Judicial District Court.

**COURT FURTHER ORDERED** that the Defendant serve a special sentence of lifetime supervision to commence after any term of imprisonment or after any period of release on parole.

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**FILED**

Electronically

07-26-2011:02:16:02 PM

Howard W. Conyers

Clerk of the Court

Transaction # 2368996

CASE NO. CR07-1728

**TITLE: THE STATE OF NEVADA VS. BRENDAN DUNCANLEY**

**DATE, JUDGE**

**OFFICERS OF**

**COURT PRESENT**

**APPEARANCES-HEARING**

**CONT'D TO**

6/3/11

**MOTION FOR WITHDRAWAL OF GUILTY PLEA**

HONORABLE Chief Deputy District Attorney Gary Hatlestad, Esq., represented the State.

CONNIE Defendant present representing himself.

STEINHEIMER Motion for Withdrawal of Guilty Plea by Defendant; presented argument;

DEPT. NO.4 objection and argument by State's counsel; reply by Defendant.

M. Stone **COURT** took matter under advisement.

(Clerk)

S. Loder

(Reporter)

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**FILED**

Electronically

08-18-2011:08:22:50 AM

Howard W. Conyers

Clerk of the Court

Transaction # 2415266

CASE NO. CR07-1728 **TITLE: THE STATE OF NEVADA VS. BRENDAN DUNCKLEY**

**DATE, JUDGE**

**OFFICERS OF**

**COURT PRESENT**

**APPEARANCES-HEARING**

**CONT'D TO**

8/12/11

**CONFERENCE CALL – TELEPHONIC DECISION**

HONORABLE

Chief Deputy District Attorney Gary Hatlestad, Esq., was present

CONNIE

telephonically representing the State. Defendant Brendan Dunckley was

STEINHEIMER

present telephonically representing himself.

DEPT. NO.4

**COURT ENTERED ORDER** denying the Defendant's Motion to Withdraw

R. Woosley

Guilty Plea, based upon the defendant knowingly entering his plea at the

(Clerk)

time of the hearing.

Not Reported

(Reporter)

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**FILED**

Electronically

08-18-2011:08:42:38 AM

Howard W. Conyers

Judge of the Court

Transaction # 2415325

CASE NO. CR07P1728 **TITLE: BRENDAN DUNCKLEY VS. THE STATE OF NEVADA**

**DATE, JUDGE**

**OFFICERS OF**

**COURT PRESENT**

**APPEARANCES-HEARING**

**CONT'D TO**

8/12/11

**CONFERENCE CALL – TELEPHONIC DECISION**

HONORABLE

CONNIE

STEINHEIMER

DEPT. NO.4

R. Woosley

(Clerk)

Not Reported

(Reporter)

Robert Story, Esq., present telephonically with Petitioner Brendan Dunckley, who also present telephonically. Chief Deputy District Attorney Gary Hatlestad, Esq., was present telephonically representing the State.

**COURT ENTERED ORDER** finding that based upon counsel not being ineffective, and that no prosecutorial misconduct having occurred, the Petition for Writ of Habeas Corpus is denied.

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1 **Code 1350**

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6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

7 **IN AND FOR THE COUNTY OF WASHOE**

8 **BRENDAN DUNCKLEY,**

9 **Petitioner,**

10 **vs.**

**Case No. CR07P1728**

11 **THE STATE OF NEVADA, et al,**

**Dept. No. 4**

12 **Respondent.**

13 \_\_\_\_\_/

14 **CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL**

15 I certify that I am an employee of the Second Judicial District Court of the State of  
16 Nevada, County of Washoe; that on the 30th day of December, 2011, I electronically filed  
17 the Notice of Appeal in the above entitled matter to the Nevada Supreme Court.

18 I further certify that the transmitted record is a true and correct copy of the original  
19 pleadings on file with the Second Judicial District Court.

20 Dated this 30th day of December, 2011.

21  
22 **CRAIG FRANDEN**  
**ACTING CLERK OF THE COURT**

23 By /s/Mary Fernandez  
24 Mary Fernandez  
25 Deputy Clerk  
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