

John R. Lockett
P.O. Box 1989
Ely, Nevada 89301

Petitioner In Pro Se

FILED

OCT 30 2 15 AM '00

Shirley A. Morgan
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

JOHN R. LUCKETT,

Petitioner,

vs.

E.K. McDANIEL, et al.,

Respondents.

No. 36945

CASE NO.: C-69269

DEPT. NO.: VII

DOCKET NO.: P

FILED

NOV 03 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *Alvarado*
DEPUTY CLERK

PETITIONER'S NOTICE OF APPEAL
AND MOTION FOR APPOINTMENT OF
COUNSEL ON THE APPEAL

DATE OF HEARING: 11-9-00

TIME OF HEARING: 9:00

TO: ALL CONCERNED PARTIES:

PLEASE TAKE NOTICE that the above-named Petitioner is appealing the District Court's Order denying Petitioner's petition for writ of habeas corpus, entered on October 18, 2000, by the Honorable Mark Gibbons, District Judge. Petitioner is appealing this Order to the Nevada Supreme Court on the following grounds:

- 1.) That the district court failed to comply with Chapter 34. et seq., wherein the Court ordered Respondent's to file an answer within (45)days but failed to permit Petitioner the (15)days that is perscribed by this same statute.
- 2.) That the district court abused its discretion when it failed to appoint

RECEIVED

NOV 03 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

00-19362

counsel to Petitioner, when all other co-defendants have counsels, i.e., Flanagan and Moore, and who have already received the benefit of new penalty phase hearings.

3.) That the district court abused its discretion in denying Petitioner's petition, which was based upon a miscarriage of justice and actual innocence claims, equal protection claims and due process of law, as well as Batson claims and prosecutorial misconduct, in the forms of withholding evidence, racial profiling, religious profiling and improper closing and penalty phase arguments to the jurors. Also, making evident the claim of ineffective assistance of counsel.

4.) That the district court abused its discretion in failing to conduct an evidentiary hearing on Petitioner's claims.

5.) That the district court abused its discretion in failing to permit Petitioner to present further evidence in support of cause for his delay, if any, in filing his petition for writ of habeas corpus.

6.) That the district court abused its discretion when it conducted a hearing on October 10, 2000, when Petitioner's reply/response/opposition to the Respondent's answer/motion to dismiss was not due until October 25, 2000, per Chapter 34 et seq.

THIS COURT SHOULD APPOINT COUNSEL ON APPEAL

Petitioner for the past (15)years has been forced to rely on inmates and incompetent counsels, as is evidenced through his appeal briefs on direct appeal, i.e., one (1) issue raised. Petitioner was a (17)year-old high school drop-out who had no understanding of the judicial process, other than the false belief that innocent people don't go to prison and that the courts were there to protect the rights of the innocent and indigent. So much for dreams and fairness when one cannot afford the price tag covering the eyes of lady justice -- or ^{is a} ~~the~~ lawyer!!

Now after Petitioner has been able to prove his innocence the court has rejected his petition, even though there is an exception to N.R.S. 34.726, actual

innocence and manifested injustice. Dickerson vs. State, 967 P.2d 1132 (Nev. 1998).

Wherefore, Petitioner prays this Court will appoint counsel to represent
Petitioner on the appeal of this Court's denial.

DATED this 25th day of October, 2000. *Thank You.*

Respectfully Submitted,

John R. Lockett
JOHN R. LUCKETT

.../

.../

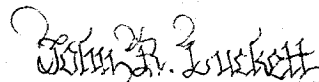
.../

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify, that on the 25th day of October, 2000, that I placed a true and correct copy of the foregoing Notice of Appeal in the United States Mail, postage prepaid, addressed as follows :

STEWART L. BELL, ESQ.,
DISTRICT ATTORNEY
200 S. THIRD STREET
LAS VEGAS, NEVADA 89155-2212

Attorney for Respondents



JOHN R. LUCKETT
Post Office Box 1989-21832
Ely, Nevada 89301

Petitioner In Pro Se

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ORIGINAL

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Shirley B. Kim

OCT 31 10 31 AM '00

FILED

DISTRICT COURT
CLARK, COUNTY, NEVADA

Case No. C69269

Department VII

THE STATE OF NEVADA,

Plaintiff,

vs.

JOHN R. LUCKETT,

Defendant(s),

CASE APPEAL STATEMENT

1. Appellant(s): JOHN R. LUCKETT

2. Judge: MARK GIBBONS

3. All Parties, District Court:

Plaintiff, THE STATE OF NEVADA

Defendant(s), JOHN R. LUCKETT

4. All Parties, Appeal:

Appellant(s), JOHN R. LUCKETT

1 Respondent, THE STATE OF NEVADA

2 5. Appellate Counsel: Proper Person, JOHN R. LUCKETT,
3 P. O. BOX 1989 ELY, NV. 89301, Appellant

4 Respondent Counsel: THE STATE OF NEVADA, Stewart L. Bell,
5 District Attorney, 200 South Third Street, Las Vegas, Nevada 89155 (702) 455-4711,
6 Counsel for Respondent

7 6. District Court, APPOINTED

8 7. On Appeal, N/A

9 8. Forma Pauperis: GRANTED

10 9. Date Commenced in District Court: 02-19-85

11
12 DATED this 31st day of October, 2000.

13 SHIRLEY B. PARRAGUIRRE

14 CLARK COUNTY CLERK

15
16 By 

17 Barbara Belt
18 DEPUTY CLERK
19 200 South Third Street
20 PO Box 551601
21 Las Vegas, Nevada 89155-1601
22 (702) 455-4409
23
24
25
26
27
28

DATE: 10/31/00
CASE NO. 85-C-069269-C

I N D E X

TIME 8:26 AM
JUDGE:Gibbons, Mark

STATE OF NEVADA

[] vs Flanagan, Dale E

[E]

001 D1 Dale E Flanagan

001988 Potter, III, Cal J.
NO. 1 Potter & Associates
428 South Fourth
Las Vegas, NV 89101

002 D Randolph Moore

004771 Thomas, JoNell
NO. 1 Supreme Court Complex
Carson City, NV 89710-0000

003 D Roy McDowell
P O Box 359
Lovelock, NV 89419-0359

Pro Se

004 D Johnny R Lockett
P O Box 1989-21832
Ely, NV 89301

Pro Se

005 D Michael B Walsh

000069 Kelesis, George P.
NO. 1 Gentile, Porter & Kelesis
302 Carson Avenue #702
Las Vegas, NV 89101

006 D Thomas Akers

001742 Waterman, Charles
NO. 1 630 South Seventh St.
Las Vegas, NV 89101

NO.	FILED/REC	CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0001	02/19/85		COMP/CRIMINAL COMPLAINT	*D			
0002	02/20/85		ARRN/INITIAL ARRAIGNMENT	*D		02/25/85	
0003	02/25/85		INFO/INFORMATION	*D		02/25/85	
0004	04/14/89		SENT/CONFIRMATION OF VERDICT AND IMPOSITION OF SENTENCE	001		07/31/89	
0005	05/17/91		MOT /MOTION FOR FEES IN EXCESS OF STATUTORY ALLOWANCE	002	GR	06/03/91	
0006	05/20/91		ROC /RECEIPT OF COPY OF MOTION FOR FEES IN EXCESS OF STATUTORY ALLOWANCE BY DA'S	002		05/20/91	Y
OFFICE							
0007	05/31/91		JUDG/CLERKS CERTIFICATE AND JUDGMENT	*D		05/21/91	
0008	06/06/91		ORDR/ORDER GRANTING MOTION FOR FEES IN EXCESS OF STATUTORY ALLOWANCE	002		06/06/91	
0009	06/10/91		MOT /MOTION FOR THE COURT TO ISSUE SUPPLE- MENTAL WARRANT OF EXECUTION	001	GR	06/24/91	
0010	06/10/91		MOT /MOTION FOR COURT TO ISSUE SUPPLEMENTAL WARRANT OF EXECUTION	002	GR	06/24/91	
0011	06/24/91		MOT /ALL PENDING MOTIONS (6/24/91)	AL		06/24/91	
0012	06/19/91		OPPS/OPPOSITION TO STATES MOTION FOR SUPPLEMTNAL WARRANT OF EXECUTION	001			
0013	06/20/91		RSPN/AMENDED RESPONSE TO OPPOSITION TO STATES MOTION FOR SUPPLEMENTAL WARRANT OF	001			Y
EXECUTION							
0014	06/20/91		CERT/CERTIFICATE OF MAILING OF OPPOSITION FOR SUPPLEMENTAL WARRANT OF EXECUTION	001		06/20/91	Y

(Continued to page 2)

NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
TO ALL PARTIES						
0015	06/20/91	ROC /RECEIPT OF COPY OF OPPOSITION TO MOTION FOR SUPPLEMENTAL WARRANT OF EXECUTION	001		06/19/91	Y
BY DA'S OFFICE AND D SCHIECK						
0016	06/21/91	ROC /RECEIPT OF COPY OF AMENDED RESPONSE TO OPPOSITION TO MOTION FOR SUPPLEMENTAL WARRANT OF EXECUTION BY DA'S OFFICE AND D SCHIECK	001		06/20/91	Y
0017	06/24/91	CERT/CERTIFICATE OF MAILING OF AMENDED RESPONSE TO OPPOSITION FOR WARRANT OF EXECUTION TO M LAWRENCE AND D FLANAGAN	001		06/21/91	Y
0018	06/25/91	OTTE/ORDER TO TRANSPORT FOR EXECUTION	002		06/24/91	
0019	06/25/91	SUPP/SUPPLEMENTAL ORDER OF EXECUTION	002		06/24/91	
0020	06/25/91	SUPP/SUPPLEMENTAL WARRANT OF EXECUTION	002			
0021	06/25/91	SUPP/SUPPLEMENTAL WARRANT OF EXECUTION	001			
0022	06/25/91	OTTE/ORDER TO TRANSPORT FOR EXECUTION	001		06/24/91	
0023	06/24/91	SUPP/SUPPLEMENTAL ORDER OF EXECUTION	001		06/24/91	
0024	07/03/91	MOT /MOTION FOR STAY OF EXECUTION	002	GR	07/10/91	
0025	07/03/91	PET /PETITION FOR POST CONVICTION RELIEF AND STAY OF EXECUTION	001			
0026	07/08/91	ROC /RECEIPT OF COPY OF MOTION TO STAY EXECUTION BY DA'S OFFICE	002		07/08/91	
0027	07/10/91	ORDR/ORDER TO STAY EXECUTION	002		07/10/91	
0028	07/10/91	NOTC/NOTICE OF ENTRY OF ORDER	AL			
0029	07/10/91	CERT/CERTIFICATE OF MAILING OF ORDER TO STAY EXECUTION TO ALL PARTIES	002		07/10/91	
0030	10/22/92	SENT/SENTENCING	003		11/27/85	
0031	04/14/89	SENT/CONFIRMATION OF VERDICT AND IMPOSITION OF SENTENCE	002	GR	07/31/89	
0032	10/22/92	MOT /PRO PER MOTION TO RELEASE TRIAL TRANSCRIPTS	003	GR	11/04/92	
0033	10/22/92	MOT /PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS	003	GR	11/04/92	
0034	11/06/92	MOT /ALL PENDING MOTIONS (11-4-92)	003		11/04/92	
0035	02/18/93	MOT /MOTION TO WITHDRAW AS ATTORNEY OF RECORD AND APPOINT COUNSEL FOR REPRESENTATION	001	GR	03/01/93	
0036	02/19/93	ROC /RECEIPT OF COPY	001		02/19/93	
0037	02/19/93	CERT/CERTIFICATE OF MAILING	001		02/18/93	
0038	02/19/93	CERT/CERTIFICATE OF MAILING	001		02/18/93	
0039	02/22/93	HEAR/ORAL REQUEST OF DISTRICT ATTORNEY SCHEDULE NEW PENALTY HEARING	001		03/22/93	
0040	02/22/93	HEAR/ORAL REQUEST OF DISTRICT ATTORNEY SCHEDULE NEW PENALTY HEARING	002		03/22/93	
0041	02/24/93	MOT /ALL PENDING MOTIONS (2/24/93)	AL		02/24/93	
0042	02/25/93	ORDR/ORDER APPOINTING COUNSEL	002		02/24/93	
0043	03/01/93	MOT /ALL PENDING MOTIONS (3/01/93) (1 & 2)	001		03/01/93	
0044	03/01/93	HEAR/CONFIRMATION OF COUNSEL	001	CM	03/22/93	
0045	03/02/93	ORDR/ORDER ALLOWING COUNSEL TO WITHDRAW AS ATTORNEY OF RECORD	001		03/01/93	
0046	03/03/93	ROC /RECEIPT OF COPY	001		03/03/93	
0047	03/05/93	CERT/CERTIFICATE OF MAILING	001		03/04/93	
0048	03/10/93	MOT /ALL PENDING MOTIONS (3/10/93) (1 & 2)	AL		03/10/93	
0049	03/12/93	JUDG/NEVADA SUPREME COURT CLERKS CERTIFICATE/JUDGMENT - REVERSED AND REMANDED	002		02/10/93	

(Continued to page 3)

NO.	FILED/REC	CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0050	03/16/93	ORDR/	ORDER FOR PRODUCTION OF INMATE DALE EDWARD FLANAGAN	001 001		03/12/93	
0051	03/16/93	ORDR/	ORDER FOR PRODUCTION OF INMATE RANDOLPH MOORE	002 002		03/12/93	
0052	03/22/93	CALC/	CALENDAR CALL (PENALTY PHASE) (1 & 2)	AL		08/31/93	
0053	03/22/93	HEAR/	PENALTY PHASE (1 & 2) (VJ 8/31)	AL	VC	09/07/93	
0054	03/22/93	MOT /	ALL PENDING MOTIONS (3/22/93) (1 & 2)	AL		03/22/93	
0055	04/20/93	MOT /	MOTION FOR ORDER FOR PAYMENT OF FEES	001	GR	05/03/93	
0056	04/21/93	CERT/	CERTIFICATE OF MAILING	001		04/21/93	
0057	04/22/93	JUDG/	NEVADA SUPREME COURT CLERKS CERTIFICATE/ JUDGMENT - REVERSED AND REMANDED	001 001		04/22/93	
0058	04/28/93	ORDR/	STIPULATION AND ORDER GRANTING FEES IN EXCESS OF STATUTORY ALLOWANCE	001 001			
0059	06/10/93	SUBP/	SUBPOENA DUCES TECUM	002	SC	06/11/93	
				002	SV	06/10/93	
0060	06/10/93	SUBP/	SUBPOENA DUCES TECUM	002	SC	06/11/93	
				002	SV	06/10/93	
0061	06/11/93	EXPT/	EX PARTE APPLICATION FOR ORDER TO PREPARE TRANSCRIPTS	002 002			
0062	06/15/93	EXPR/	EX PARTE ORDER GRANTING APPLICATION TO PREPARE TRANSCRIPTS	002 002			
0063	06/16/93	EXPT/	EX PARTE MOTION TO APPOINT CO-COUNSEL	002			
0064	06/18/93	ROC /	RECEIPT OF COPY	002			
0065	06/22/93	EXPT/	EX PARTE ORDER GRANTING EX PARTE MOTION TO APPOINT CO-COUNSEL	002 002			
0066	07/14/93	OCAL/	MINUTE ORDER RE: RESET 9/01/93 HEARING (1 & 2)	AL AL		07/14/93	
0067	08/03/93	MOT /	MOTION FOR FEES IN EXCESS OF STATUTORY ALLOWANCE	002 002	GR	08/18/93	
0068	08/03/93	ROC /	RECEIPT OF COPY	002		08/03/93	
0069	08/05/93	ROC /	RECEIPT OF COPY	002		08/05/93	
0070	08/25/93	MOT /	MOTION TO CONTINUE TRIAL DATE		GR	08/31/93	
0071	08/25/93	ORDR/	ORDER GRANTING MOTION FOR FEES IN EXCESS OF STATUTORY ALLOWANCE	002 002			
0072	08/31/93	CALC/	CALENDAR CALL (1 & 2) (VJ 2-3-94)	AL	VC	03/30/94	
0073	08/31/93	HEAR/	PENALTY PHASE (1 & 2) (VJ 2-3-94)	AL	VC	04/04/94	
0074	08/31/93	MOT /	ALL PENDING MOTIONS (8/31/93) (1 & 2)	AL		08/31/93	
0075	12/09/93	PET /	LUCKETT'S PRO PER MOTION TO CORRECT AN ILLEGAL SENTENCE	004 004	GR	12/22/93	
0076	12/15/93	TRAN/	REPORTER'S TRANSCRIPT	AL		12/15/93	
0077	12/20/93	ANSW/	ANSWER IN OPPOSITION TO MOTION TO CORRECT AN ILLEGAL SENTENCE	004 004			
0078	12/23/93	JUDG/	AMENDED JUDGMENT OF CONVICTION - PLEA	004			
0079	01/05/94	ROC /	RECEIPT OF COPY	002		01/05/94	
0080	01/05/94	REQT/	MOTION TO DISQUALIFY JUDGE	002			
0081	01/14/94	MOT /	MOTION TO DISQUALIFY JUDGE/COURT	002	GR	01/24/94	
0082	01/18/94	ROC /	RECEIPT OF COPY	002		01/14/94	
0083	01/19/94	NOTC/	NOTICE OF APPEAL	004	AP		
0084	01/19/94	NOAS/	DESIGNATION OF RECORD ON APPEAL	001			
0085	01/21/94	AFFD/	AFFIDAVIT	002			
0086	01/24/94	PET /	PROPER PERSON PETITION FOR APPOINTMENT OF COUNSEL ON APPEAL	004 004		02/08/94	

(Continued to page 4)

NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0087	01/25/94	TRAN/REPORTER'S TRANSCRIPT RE: DEFENDANT'S MOTION TO DISQUALIFY JUDGE			01/24/94	
0088	01/25/94	ASSG/REASSIGNMENT OF JUDGE MOSLEY TO JUDGE GUY, III				
0089	01/31/94	HEAR/AT THE REQUEST OF THE COURT CHECK PENALTY HEARING	001		02/03/94	
0090	01/31/94	HEAR/AT THE REQUEST OF THE COURT CHECK PENALTY HEARING	002		02/03/94	
0091	01/02/94	ORDR/ORDER GRANTING MOTION TO DISQUALIFY	002			
0092	02/02/94	NOTC/NOTICE OF ENTRY OF ORDER GRANTING MOTON TO DISQUALIFY	002			
0093	02/03/94	MOT /ALL PENDING MOTIONS FOR 2-3-94			02/03/94	
0094	02/03/94	OCAL/STATUS CHECK (VJ 4/21/94)	001	VC	06/09/94	
0095	02/03/94	OCAL/STATUS CHECK (VJ 4/21/94)	002	VC	06/09/94	
0096	02/03/94	MOT /ALL PENDING MOTIONS FOR 6-9-94 VJ 4/21/94		VC	06/09/94	
0097	02/03/94	HEAR/PENALTY HEARING (VJ 4/21/94)	001	VC	10/03/94	
0098	02/03/94	HEAR/PENALTY HEARING (VJ 4/21/94)	002	VC	10/03/94	
0099	02/03/94	MOT /ALL PENDING MOTIONS FOR 10-3-94 (VJ 4-21-94)		VC	10/03/94	
0100	02/08/94	MOT /DEFENDANT'S PRO PER MOTION FOR APPT OF COUNSEL ON APPEAL	004	GR	02/17/94	
0101	02/09/94	TRAN/REPORTER'S TRANSCRIPT AT REQUEST OF COURT: CHECK PENALTY HRG	001		02/03/94	
0102	02/09/94	TRAN/REPORTER'S TRANSCRIPT AT REQUEST OF COURT: CHECK PENALTY HRG	002		02/03/94	
0103	02/17/94	OCAL/STATUS CHECK	004		05/05/94	
0104	03/30/94	MOT /MOTION TO RESET TRIAL DATE	001	GR	04/21/94	
0105	04/18/94	TRAN/REPORTER'S TRANSCRIPT DEFT'S MOT RESET TRIAL DATE	001		04/14/94	
0106	04/21/94	HEAR/PENALTY HEARING (VJ 12-1-94)	001	VC	01/03/95	
0107	04/21/94	CALC/CALENDAR CALL (VJ 12-1-94)	001	VC	12/29/94	
0108	04/21/94	HEAR/PENALTY HEARING (VJ 12-1-94)	002	VC	01/03/95	
0109	04/21/94	CALC/CALENDAR CALL (VJ 12-1-94)	002	VC	12/29/94	
0110	04/22/94	EXPT/EX PARTE APPLICATION FOR TRANSCRIPT ORDER	004			
0111	04/22/94	ORDR/ORDER	004			
0112	04/25/94	TRAN/REPORTER'S TRANSCRIPT OF DEFENDANT FLANAGAN'S MOTION TO RESET TRIAL DATE AS TO DEFT. FLANAGAN AND MOORE.	001		04/21/94 Y	
0113	04/29/94	MOT /MOTION TO RESET TRIAL DATE	002		04/21/94	
0114	04/29/94	MOT /ALL PENDING MOTIONS (4/21/94)	AL		04/21/94	
0115	05/05/94	OCAL/STATUS CHECK: TRANSCRIPTS	004	MR	09/15/94	
0116	05/06/94	TRAN/REPORTER'S TRANSCRIPT DEFT'S PP MOT TO CORRECT ILLEGAL SENT	004		12/22/93	
0117	05/09/94	TRAN/REPORTER'S TRANSCRIPT STATUS CHECK	004		05/05/94	
0118	06/10/94	TRAN/REPORTER'S TRANSCRIPT DEF FLAN MOT TO C _T NT TRIAL DATE	001		08/31/93	
0119	06/29/94	ORDR/ORDER FOR PRODUCTION OF INMATE	004			
0120	09/14/94	REQT/MOTION TO VACATE SENTENCE	004			
0121	09/15/94	OCAL/FURTHER PROCEEDINGS	004		09/22/94	
0122	09/22/94	ORDR/ORDER	004			

(Continued to page 5)

NO.	FILED/REC	CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0123	09/22/94	JUDG/SECOND AMENDED JUDGMENT OF CONVICTION (JURY TRIAL)	004			09/22/94	
0124	09/27/94	TRAN/REPORTER'S TRANSCRIPT RE: STATUS CHECK: TRANSCRIPTS	004			09/15/94	
0125	11/29/94	MOT /DEFENDANT'S MOTION TO CONTINUE PENALTY HEARING	001			12/01/94	
0126	12/01/94	OCAL/STATUS CHECK: WAIVER	001			12/15/94	
0127	12/01/94	OCAL/STATUS CHECK: WAIVER	002	MR		12/15/94	
0128	12/01/94	MOT /ALL PENDING MOTIONS	AL			12/15/94	
0129	12/01/94	CALC/CALENDAR CALL	001			06/08/95	
0130	12/01/94	HEAR/PENALTY HEARING	001			06/23/95	
0131	12/01/94	CALC/CALENDAR CALL	002			06/08/95	
0132	12/01/94	HEAR/PENALTY HEARING	002			06/23/95	
0133	12/14/94	WAIV/WAIVER OF PERSONAL APPEARANCE	002			12/14/94	
0134	12/15/94	WAIV/WAIVER	001			12/15/94	
0135	12/28/94	TRAN/REPORTER'S TRANSCRIPT OF DEFENDANT'S MOTION TO CONTINUE PENALTY HEARING	001			12/01/94	
0136	05/19/95	MOT /DEFT'S MOTION FOR NEW TRIAL	002	DN		06/06/95	
0137	05/19/95	MOT /DEFT'S MOTION FOR INDIVIDUALIZED VOIR DIRE AND SUBMISSION OF QUESTIONNAIRE	002	DP		06/06/95	
0138	05/19/95	PET /PETITION FOR HABEAS CORPUS	002				
0139	05/19/95	PTAT/POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS	002				
0140	05/22/95	MOT /MOTION TO STRIKE DEATH PENALTY	002	DN		06/06/95	
0141	05/22/95	ROC /RECEIPT OF COPY	002			05/19/95	
0142	05/23/95	MOT /DEFT'S MOTION IN LIMINE TO PRECLUDE REFERENCE TO THE SENTENCES OF DEFTSCE	002	DN		06/06/95	
0143	05/23/95	MOT /DEFT'S MOTION TO DISCLOSE INDUCEMENTS, PROMISES & PAYMENTS TO STATE WITNESSES	002	DN		06/06/95	
0144	05/19/95	PET /DEFT'S PETITION FOR WRIT OF HABEAS CORPUS	002	DN		06/06/95	
0145	05/24/95	MOT /DEFT'S MOTION TO PROHIBIT TESTIMONY OF D.A. TO SUMMARIZE WITNESS' PRIOR TESTIMO	001	MR		06/13/95	
0146	05/24/95	ORDR/ORDER FOR PRODUCTION OF INMATE	002				
0147	05/24/95	ROC /RECEIPT OF COPY	002			05/23/95	
0148	05/24/95	ORDR/ORDER FOR PRODUCTION OF INMATE	002				
0149	05/25/95	OCAL/MINUTE ORDER RE: HEARING MOTIONS	AL			05/25/95	
0150	05/26/95	MOT /DEFT'S MTN FOR DISCLOSURE TO INFORMATION RE: STATE WITNESS' ESPECTATIONS OF	001	DN		06/06/95	
0151	05/30/95	MOT /DEFT'S MOTION TO JOIN CO-DEFT MOORE'S MOTION IN LIMINE TO PRECLUDE REFERENCE	001	GR		06/06/95	
0152	05/30/95	MOT /DEFT'S MOTION TO AMEND DEFT'S PREVIOUSLY FILED MOTION FOR NEW TRIAL TO REFLECT A	001	GR		06/06/95	
0153	05/30/95	MOT /DEFT'S MOTION IN LIMINE TO PROHIBIT EVIDENCE OF DEVIL WORSHIP	001	DN		06/06/95	
0154	05/31/95	PET /DEFT'S PETITION FOR WRIT OF HABEAS CORPUS	001	DN		06/06/95	
0155	05/31/95	MOT /DEFT'S MOTION TO STRIKE DEATH PENALTY	001	DN		06/06/95	
0156	05/31/95	MOT /DEFT'S MOTION TO STRIKE DEATH PENALTY	002	DN		06/06/95	
0157	06/05/95	RSPN/RESPONSE TO DEFENDANT DALE EDWARD FLANAGANS MOTION TO PROHIBIT TESTIMONY	001				Y

OF DISTRICT ATTORNEY

(Continued to page 6)

NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0158	06/05/95	RSPN/RESPONSE TO DEFENDANT DALE EDWARD	002			Y
		FLANAGANS MOTION TO PROHIBIT TESTIMONY	002			
OF DISTRICT ATTORNEY						
0159	06/05/95	ANSW/ANSWER IN OPPOSITION TO DEFENDANTS DALE	001			
		EDWARD FLANAGANS MOTION FOR NEW TRIAL	001			
0160	06/05/95	ANSW/ANSWER IN OPPOSITION TO DEFENDANT DALE	002			
		EDWARD FLANAGANS MOTION FOR NEW TRIAL	002			
0161	06/05/95	ANSW/ANSWER IN OPPOSITION TO DEFENDANT	001			Y
		FLANAGANS PETITION FOR WRIT OF HABEAS	001			
CORPUS POST-CONVICTION						
0162	06/05/95	ANSW/ANSWER IN OPPOSITION TO DEFENDANT	002			Y
		FLANAGANS PETITION FOR WRIT OF HABEAS	002			
CORPUS POST-CONVICTION						
0163	06/05/95	ANSW/ANSWER IN OPPOSITION TO DEFENDANT DALE	001			Y
		EDWARD FLANAGANS MOTION IN LIMINE TO	001			
PROHIBIT EVIDENCE OF DEVIL WORSHIP						
0164	06/05/95	ANSW/ANSWER IN OPPOSITION TO DEFENDANT DALE	002			Y
		EDWARD FLANAGANS MOTION IN LIMINE TO	002			
PROHIBIT EVIDENCE OF DEVIL WORSHIP						
0165	06/05/95	ANSW/ANSWER IN OPPOSITION TO DEFENDANT DALE	001			Y
		EDWARD FLANAGANS MOTION TO DISCLOSE	001			
INFORMATION REGARDING STATE WITNESS EXPECTATION OF BENEFITS OF TESTIMONY						
0166	06/05/95	ANSW/ANSWER IN OPPOSITION TO DEFENDANT DALE	002			Y
		EDWARD FLANAGANS MOTION TO DISCLOSE	002			
INFORMATION REGARDING STATE WITNESS EXPECTATION OF BENEFITS OF TESTIMONY						
0167	06/05/95	ANSW/ANSWER IN OPPOSITION TO DEFENDANT DALE	001			Y
		EDWARD FLANAGANS MOTION FOR	001			
INDIVIDUALIZED VOIR DIRE AND RESPONSE TO MOTION FOR SUBMISSION OF JURY QUESTIONNAIRE						
0168	06/05/95	ANSW/ANSWER IN OPPOSITION TO DEFENDANT DALE	002			Y
		EDWARD FLANAGANS MOTION FOR	002			
INDIVIDUALIZED VOIR DIRE AND RESPONSE TO MOTION FOR SUBMISSION OF JURY QUESTIONNAIRE						
0169	06/05/95	ANSW/ANSWER IN OPPOSITION TO DEFENDANT	001			Y
		RANDOLPH MOORES MOTION TO DISCLOSE	001			
INDUCEMENTS PROMISES AND PAYMENTS TO PROSPECTIVE STATE WITNESSES						
0170	06/05/95	ANSW/ANSWER IN OPPOSITION TO DEFENDANT	002			Y
		RANDOLPH MOORES MOTION TO DISCLOSE	002			
INDUCEMENTS PROMISES AND PAYMENTS TO PROSPECTIVE STATE WITNESSES						
0171	06/05/95	ANSW/ANSWER IN OPPOSITION TO DEFENDANT MOORES	001			Y
		PETITION FOR WRIT OF HABEAS CORPUS	001			
POST-CONVICTION						
0172	06/05/95	ANSW/ANSWER OPPOSITION TO DEFFENDANT MOORES	002			Y
		PETITION FOR WRIT OF HABEAS CORPUS	002			
POST-CONVICTION						
0173	06/05/95	ANSW/ANSWER IN OPPOSITION TO DEFENDANT	001			Y
		RANDOLPH MOORES MOTION IN LIMINE TO	001			
PRECLUDE REFERENCE TO THE SENTENCES OF CO-DEFENDANTS						
0174	06/05/95	ANSW/ANSWER IN OPPOSITION TO DEFENDANT	002			Y
		RANDOLPH MOORES MOTION IN LIMINE	002			
TO PRECLUDE REFERENCE TO THE SENTENCES OF CO-DEFENDANTS						
0175	06/05/95	ANSW/ANSWER IN OPPOSITION TO DEFENDANTS	001			
		MOTIONS TO STRIKE DEATH PENALTY	001			

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NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0176	06/05/95	ANSW/ANSWER IN OPPOSITION TO DEFENDANTS MOTIONS TO STRIKE DEATH PENALTY	002 002			
0177	06/05/95	ROC /RECEIPT OF COPY	001		06/05/95	
0178	06/05/95	ROC /RECEIPT OF COPY	002		06/05/95	
0179	06/07/95	MOT /ALL PENDING MOTIONS 6-6-95	AL		06/06/95	
0180	06/07/95	REQT/MOTION TO ADMIT PRIOR TESTIMONY OF DEFENSE PENALTY PHASE WITNESSESS				
0181	06/07/95	TRAN/REPORTER'S TRANSCRIPT OF PROCEEDINGS - DEFENDANTS' MOTIONS	AL AL		06/06/95	
0182	06/07/95	OTTE/ORDER TO TRANSPORT	001		06/07/95	
0183	06/08/95	MOT /ALL PENDING MOTIONS 6-8-95	AL		06/08/95	
0184	06/06/95	JOIN/JOINDER IN MOTIONS OF CO-DEFENDANT FLANANGAN	002 002			
0185	06/12/95	TRAN/REPORTER'S TRANSCRIPT			06/08/95	
0186	06/09/95	SUBP/SUBPOENA DUCES TECUM	002 002	SC SV	06/13/95 06/08/95	
0187	06/12/95	MOT /STATE'S MOTION TO USE REPORTED TESTIMONY	AL	GR	06/13/95	
0188	06/12/95	TRAN/REPORTER'S TRANSCRIPT OF HEARING RE WRIT OF HABEAS CORPUS, COURT'S JURISDICTION,	AL AL		06/12/95	Y
ETC.						
0189	06/09/95	NOTC/NOTICE OF APPEAL	001	AP		
0190	06/09/95	NOTC/NOTICE OF APPEAL	002	AP		
0191	06/13/95	TRAN/REPORTER'S TRANSCRIPT OF COURT'S DISMISSAL OF PROSPECTIVE JURORS;	AL AL		06/12/95	Y
END-OF-DAY PROCEEDINGS						
0192	06/12/95	REQT/MOTION TO USE REPORTED TESTIMONY	001			
0193	06/12/95	REQT/MOTION TO USE REPORTED TESTIMONY	002			
0194	06/14/95	TRAN/REPORTER'S TRANSCRIPT OF JURY TRIAL-- PENALTY PHASE (DAY 1, VOLUME I)	AL AL		06/13/95	
0195	06/15/95	TRAN/REPORTER'S TRANSCRIPT OF JURY TRIAL-- PENALTY PHASE (DAY 2, VOLUME II)	AL AL		06/14/95	
0196	06/16/95	TRAN/REPORTER'S TRANSCRIPT OF JURY TRIAL-- PENALTY PHASE (DAY 3, VOLUME III)	AL AL		06/15/95	
0197	06/19/95	TRAN/REPORTER'S TRANSCRIPT OF JURY TRIAL-- PENALTY PHASE (DAY 4, VOLUME IV)	AL AL		06/16/95	
0198	06/19/95	SUBP/SUBPOENA DUCES TECUM	002 002	SC SV	06/19/95 06/14/95	
0199	06/19/95	SUBP/SUBPOENA	002 002	SC SV	06/20/95 06/19/95	
0200	06/16/95	JURY/JURY	001			
0201	06/16/95	JURY/JURY	002			
0202	06/20/95	TRAN/REPORTER'S TRANSCRIPT OF JURY TRIAL-- PENALTY PHASE (DAY 5, VOLUME V)	AL AL		06/19/95	
0203	06/20/95	NOAS/DESIGNATION OF CONTENTS OF RECORD ON APPEAL	002 002			
0204	06/21/95	TRAN/REPORTER'S TRANSCRIPT OF JURY TRIAL-- PENALTY PHASE (DAY 6, VOLUME VI)	AL AL		06/20/95	
0205	06/21/95	SUBP/SUBPOENA	002 002	SC SV	06/20/95 06/20/95	
0206	06/22/95	TRAN/REPORTER'S TRANSCRIPT OF JURY TRIAL-- PENALTY PHASE (DAY 7, VOLUME VII)	AL AL		06/21/95	
0207	06/23/95	TRAN/REPORTER'S TRANSCRIPT OF JURY TRIAL-- PENALTY PHASAE (DAY 8, VOLUME VIII)	AL AL		06/22/95	

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NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0208	06/23/95	TRAN/REPORTER'S TRANSCRIPT OF JURY TRIAL-- PENALTY PHASE (DAY 9, VOLUME IX)	AL AL		06/23/95	Y
INCLUDING MASTER TRIAL INDEX--PENALTY PHASE						
0209	06/23/95	INST/INSTRUCTIONS TO THE JURY	001			
0210	06/23/95	INST/INSTRUCTIONS TO THE JURY	002			
0211	06/23/95	VER /VERDICT	001		06/23/95	
0212	06/23/95	VER /SPECIAL VERDICT	001		06/23/95	
0213	06/23/95	VER /SPECIAL VERDICT	001		06/23/95	
0214	06/23/95	VER /VERDICT	001		06/23/95	
0215	06/23/95	VER /SPECIAL VERDICT	001		06/23/95	
0216	06/23/95	VER /SPECIAL VERDICT	001		06/23/95	
0217	06/23/95	VER /VERDICT	002		06/23/95	
0218	06/23/95	VER /SPECIAL VERDICT	002		06/23/95	
0219	06/23/95	VER /SPECIAL VERDICT	002		06/23/95	
0220	06/23/95	VER /VERDICT	002		06/23/95	
0221	06/23/95	VER /SPECIAL VERDICT	002		06/23/95	
0222	06/23/95	VER /SPCEIAL VERDICT	002		06/23/95	
0223	06/28/95	NOEV/NOTICE OF EXHIBIT(S) IN THE VAULT			06/12/95	
0224	06/29/95	NOAS/DESIGNATION OF CONTENTS OF RECORD ON APPEAL	001 001			
0225	06/12/95	MOT /ALL PENDING MOTIONS - PENALTY HEARING	AL		06/12/95	
0226	06/13/95	MOT /ALL PENDING MOTIONS - PENALTY HEARING	AL		06/13/95	
0227	06/14/95	MOT /ALL PENDING MOTIONS - PENALTY HEARING	AL		06/14/95	
0228	06/15/95	MOT /ALL PENDING MOTIONS - PENALTY HEARING	AL		06/15/95	
0229	06/16/95	MOT /ALL PENDING MOTIONS - PENALTY HEARING	AL		06/16/95	
0230	06/19/95	MOT /ALL PENDING MOTIONS - PENALTY HEARING	AL		06/19/95	
0231	06/20/95	MOT /ALL PENDING MOTIONS - PENALTY HEARING	AL		06/20/95	
0232	06/21/95	MOT /ALL PENDING MOTIONS - PENALTY HEARING	AL		06/21/95	
0233	06/22/95	MOT /ALL PENDING MOTIONS - PENALTY HEARING	AL		06/22/95	
0234	06/23/95	MOT /ALL PENDING MOTIONS - PENALTY HEARING	AL		06/23/95	
0235	06/23/95	SENT/SENTENCING - COUNTS VI & VII	001	GR	07/11/95	
0236	06/23/95	SENT/SENTENCING - COUNTS VI & VII	002	GR	07/11/95	
0237	07/05/95	ORDR/ORDER FOR TRANSCRIPT	001			
0238	07/05/95	ORDR/ORDER FOR TRANSCRIPT	002			
0239	07/11/95	ORDR/ORDER	001			
0240	07/11/95	MOT /ALL PENDING MOTIONS 7-11-95	AL		07/11/95	
0241	07/11/95	OCAL/STATUS CHECK: CREDIT FOR TIME SERVED AND PERFECTION OF APPEAL	001 001	GR	08/17/95	
0242	07/11/95	OCAL/STATUS CHECK: CREDIT FOR TIME SERVED AND PERFECTION OF APPEAL	002 002	GR	08/17/95	
0243	07/12/95	NOTC/NOTICE OF APPEAL	002	AP		
0244	07/11/95	JUDG/JUDGMENT OF CONVICTION - PLEA	001			
0245	07/11/95	JUDG/JUDGMENT OF CONVICTION - PLEA	002			
0246	07/11/95	WARR/WARRANT OF EXECUTION	001			
0247	07/11/95	ORDR/ORDER OF EXECUTION	001			
0248	07/11/95	WARR/WARRANT OF EXECUTION	002			
0249	07/11/95	ORDR/ORDER OF EXECUTION	002			
0250	07/18/95	NOTC/NOTICE OF ENTRY OF ORDER	001			
0251	07/18/95	ORDR/STIPULATION AND ORDER FOR PAYMENT OF EXCESS FEES	002 002			
0252	07/18/95	ORDR/ORDER TO STAY EXECUTION	002			
0253	07/18/95	EMO /ENTRY OF MINUTE ORDER	001		07/18/95	

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NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0254	07/18/95	EMO /ENTRY OF MINUTE ORDER	002		07/18/95	
0255	07/19/95	CERT/CERTIFICATE OF MAILING	002		07/18/95	
0256	07/19/95	NOAS/DESIGNATION OF CONTENTS OF RECORD ON APPEAL	002			
0257	07/24/95	ORDR/ORDER OF APPOINTMENT	002			
0258	07/28/95	TRAN/REPORTER'S TRANSCRIPT			07/11/95	
0259	07/28/95	ORDR/ORDER	001			
0260	07/28/95	ORDR/ORDER	002			
0261	08/09/95	NOAS/DESIGNATION OF CONTENTS OF RECORD ON APPEAL	001			
0262	08/09/95	NOTC/NOTICE OF APPEAL	001	AP		
0263	08/15/95	MOT /ALL PENDING MOTIONS 8-15-95	AL		08/15/95	
0264	08/17/95	MOT /ALL PENDING MOTIONS 8-17-95	AL		08/17/95	
0265	08/21/95	TRAN/REPORTER'S TRANSCRIPT OF STATUS CHECK: CRDIT FOR TIME SERVED AND PERFECTION OF APPEAL AS TO BOTH DEFENDANT'S (FLANAGAN AND MOORE)			08/17/95	Y
0266	01/12/96	ASSG/Reassign Case From Judge GUY, III TO Judge DOUGLAS				
0267	02/02/96	PET /DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS (VA 02-16-96)	004	VC	02/20/96	
0268	02/02/96	MOT /DEFT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS	004	GR	02/20/96	
0269	02/02/96	PET /DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS	004	DN	02/20/96	
0271	02/02/96	AFFD/AFFIDAVIT IN SUPPORT OF MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS	004			
0272	02/15/96	MOT /STATE'S MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS	004	GR	02/20/96	
0273	02/15/96	REQT/NOTICE OF MOTION AND MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS	004		02/20/96	Y
POST-CONVICTION						
0274	02/20/96	MOT /ALL PENDING MOTIONS (02-20-96)	004		02/20/96	
0275	02/26/96	REQT/NOTICE OF MOTION AND MOTION FOR APPOINTMENT OF COUNSEL	004		03/12/96	
0276	02/26/96	MOT /DEFT'S PRO PER MOTION FOR APPOINTMENT OF COUNSEL	004	DN	03/12/96	
0277	03/14/96	ORDR/ORDER	004			
0278	03/26/96	OPPS/OPPOSITION TO MOTION TO DISMISS	004			
0279	03/27/96	ORDR/ORDER	004			
0280	03/28/96	OPPS/OPPOSITION TO MOTION TO DISMISS	004			
0281	04/04/96	NOTC/NOTICE OF APPEAL AND DESIGNATION OF RECORD ON APPEAL	004	AP		
0282	12/04/97	CCJA/NEVADA SUPREME COURT CLERKS CERTIFICATE/ JUDGMENT - AFFIRMED	001		12/04/97	
0283	12/04/97	CCJA/NEVADA SUPREME COURT CLERKS CERTIFICATE/ JUDGMENT - AFFIRMED	002		12/04/97	
0284	02/24/98	NOTC/NOTICE TRANSCRIPTS ON SHELVES	AL			
0285	02/26/98	NSCO/NEVADA SUPREME COURT JUDGMENT / ORDERED APPEAL DISMISSED	004	GR	02/26/98	
0286	05/20/98	CASO/CASE (RE)ACTIVATED ON				
0287	05/20/98	MOT /DEFT'S MOTION FOR FEES IN EXCESS OF STATUTORY ALLOWANCE AND FOR EXPENSES	002	GR	06/01/98	

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NO.	FILED/REC	CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0288	05/22/98	ROC	/RECEIPT OF COPY	002		05/22/98	
0289	05/28/98	MOT	/DEFT'S REQUEST APPOINTMENT OF COUNSEL FOR POST CONVICTION RELIEF	001	GR	06/11/98	
0291	05/27/98	AFFD	/AFFIDAVIT IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS	001			
0292	05/28/98	PET	/DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS	001	MC	11/30/99	
0293	06/02/98	PET	/DEFT'S PETITION FOR WRIT OF HABEAS CORPUS	002	MC	11/30/99	
0294	06/01/98	ORDR	/ORDER GRANTING MOTION FOR FEES IN EXCESS OF STATUTORY ALLOWANCE AND FOR EXPENSES	002			
0295	06/02/98	ORDR	/ORDER	001		07/20/98	
0296	06/03/98	CCJA	/NEVADA SUPREME COURT CLERKS CERTIFICATE/ JUDGMENT - AFFIRMED	001		06/03/98	
0297	06/03/98	CCJA	/NEVADA SUPREME COURT CLERKS CERTIFICATE/ JUDGMENT - AFFIRMED	002		06/03/98	
0298	06/02/98	PET	/PETITION FOR WRIT OF HABEAS CORPUS POST-CONVICTION AND APPOINTMENT OF COUNSEL	002		06/04/98	Y
0299	06/03/98	ROC	/RECEIPT OF COPY	002		06/03/98	
0300	06/04/98	MOT	/ALL PENDING MOTIONS 6-4-98	AL		06/04/98	
0301	06/05/98	ROC	/RECEIPT OF COPY	001		06/05/98	
0302	06/11/98	MOT	/ALL PENDING MOTIONS (06-11-98)	AL		06/11/98	
0303	06/11/98	OCAL	/STATUS CHECK: SUPPLEMENTAL MOTIONS/PETITIONS	AL		11/25/98	
0304	06/29/98	REQT	/MOTION FOR PRISON ACCESS AND INVESTIGATION AND EXPERT FUNDS	001			
0305	06/29/98	AFFD	/AFFIDAVIT OF ROBERT D NEWELL	001			
0306	07/07/98	EXPR	/EX PARTE PLEADING PROPOSED ORDER GRANTING PETITIONERS EX PARTE MOTION FOR INVESTIGATION AND EXPERT FUNDS	001			Y
0308	07/17/98	EXPR	/EX PARTE PLEADING PROPOSED ORDER GRANTING PETITIONERS EX PARTE MOTION TO ALLOW PRISON ACCESS	001			Y
0309	08/05/98	APPL	/VERIFIED APPLICATION FOR ASSOCIATION OF COUNSEL UNDER NEVADA SUPREME CRT RULE 42	001			
0310	08/11/98	MOT	/DEFT'S PRO PER MOTION FOR PRODUCTION OF DOCUMENTS	003	DN	08/24/98	
0311	08/11/98	NOTC	/NOTICE OF MOTION	003			
0312	08/18/98	APPL	/EX PARTE APPLICATION FOR ORDER TO PREPARE TRANSCRIPTS	002			
0313	08/18/98	ORDR	/ORDER APPOINTING ATTORNEY	002			
0314	08/21/98	EXPR	/EX PARTE ORDER TO PREPARE TRANSCRIPTS	002			
0315	08/27/98	ORDR	/ORDER DENYING DEFENDANTS PROPER PERSON MOTION FOR PRODUCTION OF DOCUMENTS	003			
0316	09/02/98	CERT	/CERTIFICATE OF MAILING	001		09/02/98	
0317	09/02/98	CERT	/CERTIFICATE OF MAILING	002		09/02/98	
0318	09/02/98	TRAN	/REPORTER'S TRANSCRIPT OF DEFENDANT FLANAGAN'S REQUEST FOR APPOINTMENT OF COUNSEL FOR POST-CONVICTION RELIEF / DEFENDANT MOORE'S PETITION FOR WRIT OF HABEAS CORPUS	AL		06/11/98	Y
0319	09/21/98	ROC	/RECEIPT OF COPY OF THE EX PARTE ORDER TO PREPARE TRANSCRIPTS	002		08/31/98	

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NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0320	11/19/98	MOT /DEFT'S MOTION TO ASSOCIATE COUNSEL	001	GR	11/25/98	
0321	11/19/98	MOT /DEFT'S MOTION TO ASSOCIATE COUNSEL	002	OC	11/25/98	
0322	11/19/98	ORDR/NOTICE OF HEARING	001		11/25/98	
0323	11/25/98	MOT /ALL PENDING MOTIONS (11-25-98)	AL		11/25/98	
0324	11/25/98	MOT /DEFT'S SUBMISSION OF SUPPLEMENTAL POINTS ON WRIT OF HABEAS CORPUS	001	MC	11/30/99	
0325	11/25/98	MOT /DEFT'S SUBMISSION OF SUPPLEMENTAL POINTS ON WRIT OF HABEAS CORPUS	002	MC	11/30/99	
0326	11/18/98	CERT/CERTIFICATE OF MAILING	001		11/18/98	
0327	11/25/98	APPL/EX PARTE APPLICATION FOR PERMISSION TO INSPECT AND COPY ANY AND ALL	001			Y
JUVENILE RECORDS MAINTAINED BY THE CLERK OF THE COURT PROBATION DEPARTMENT AND IN THE CUSTODY OF JUVENILE AUTHORITIES INCLUDING POLICE REPORTS PSYCHIATRIC AND PSYCHOLOGICAL EVALUATION AND MEDICAL RECORDS						
0328	11/25/98	APPL/EX PARTE APPLICATION FOR PERMISSION TO INSPECT AND COPY ANY AND ALL RECORDS	001			Y
IN THE CUSTODY OF THE DEPARTMENT OF SOCIAL SERVICES ENCOMPASING THE CHILD PROTECTION SERVICE INCLUDING POLICE REPORTS PSYCHIATRIC AND PSYCHOLOGICAL EVALUATION AND MEDICAL RECORDS						
0329	11/25/98	APPL/EX PARTE APPLICATION FOR PERMISSION TO INSPECT AND COPY ANY AND ALL JUVENILE	001			Y
RECORDS MAINTAINED BY THE CLERK OF THE COURT PROBATION DEPARTMENT AND IN THE CUSTODY OF JUVENILE AUTHORITIES INCLUDING POLICE REPORTS PSYCHIATRIC AND PSYCHOLOGICAL EVALUATIONS AND MEDICAL RECORDS						
0330	11/25/98	APPL/EX PARTE APPLICATION FOR PERMISSION TO INSPECT AND COPY ANY AND ALL RECORDS	001			Y
IN THE CUSTODY OF THE DEPARTMENT OF SOCIAL SERVICES ENCOMPASSING THE CHILD PROTECTION SERVICE INCLUDING POLICE REPORTS PSYCHIATRIC AND PSYCHOLOGICAL EVALUATIONS AND MEDICAL RECORDS						
0331	11/25/98	ORDR/ORDER	001			
0332	12/03/98	STAT/SUPREME COURT RULE 42 STATEMENT	001			
0333	12/31/98	EXPR/EX PARTE ORDER GRANTING PERMISSION TO INSPECT AND COPY ANY AND ALL JUVENILE	001			Y
RECORDS MAINTAINED BY THE CLERK OF THE COURT PROBATION DEPARTMENT AND IN THE CUSTODY OF JUVENILE AUTHORITIES INCLUDING POLICE REPORTS PSYCHIATRIC AND PSYCHOLOGICAL EVALUATIONS AND MEDICAL RECORDS						
0334	12/29/98	NOTC/NOTICE OF ENTRY OF ORDER	001		12/29/98	
0335	02/08/99	EXPR/EX PARTE ORDER GRANTING PERMISSION TO INSPECT AND COPY ANY AND ALL RECORDS	001			Y
IN THE CUSTODY OF THE DEPARTMENT OF SOCIAL SERVICES ENCOMPASSING THE CHILD PROTECTION SERVICE INCLUDING POLICE REPORTS PSYCHIATRIC AND PSYCHOLOGICAL EVALUATIONS AND MEDICAL RECORDS						
0336	02/24/99	REQT/EX PARTE MOTION FILED UNDER SEAL MOTION FOR INVESTIGATION FUNDS	001			
0337	02/24/99	EXPR/EX PARTE ORDER GRANTING INVESTIGATON FUNDS	001			
0338	05/12/99	MOT /HEARING: DEFT'S EX PARTE MOTION FOR RELEASE OF OF JUVENILE RECORDS	001	GR	05/17/99	
0339	05/12/99	MOT /HEARING: DEFT'S EX PARTE MOTION FOR PRISON ACCESS	001	GR	05/17/99	
0340	05/12/99	MOT /HEARING: DEFT'S EX PARTE MOTION FOR REIM AND WAIVER OF COUNTY RECORDS' CHARGES	001	GR	05/17/99	

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NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0341	05/12/99	MOT /HEARING: DEFT'S EX PARTE MOTION FOR SOCIAL HISTORIAN INVESTIGATION FUNDS	001	GR	05/17/99	
0342	05/12/99	MOT /HEARING: DEFT'S EX PARTE MOTION FOR NEUROPSYCHOLOGICAL EXAMINATION FUNDS	001	GR	05/17/99	
0344	05/12/99	MOT /HEARING: DEFT'S EX PARTE FOR CORONER'S RECORDS	001	GP	05/17/99	
0345	05/13/99	REQT/EX PARTE PLEADING-FILED UNDER SEAL MOTION FOR PRISON ACCESS	001			
0346	05/13/99	REQT/EX PARTE PLEADING-FILED UNDER SEAL MOTION FOR CORONERS RECORDS	001			
0347	05/13/99	AFFD/EX PARTE PLEADING-FILED UNDER SEAL AFFIDAVIT OF ROBERT D NEWELL	001			
0348	05/13/99	REQT/EX PARTE MOTION FILED UNDER SEAL MOTION FOR NEUROPSYCHOLOGICAL EXAMINATION FUNDS	001			Y
0349	05/13/99	REQT/EX PARTE PLEADING FILED UNDER SEAL MOTION FOR SOCIAL HISTORIAN INVESTIGATION FUNDS	001			Y
0350	05/13/99	MEMO/SUPPLEMENTARY MEMORANDUM WITH DECLARATION OF SCHARLETTE HOLDMAN	001			Y
0351	05/13/99	IN SUPPORT OF RELEASE OF JUVENILE RECORDS EX PARTE MOTION FILED UNDER SEAL REQT/EX PARTE PLEADING FILED UNDER SEAL MOTION FOR REIMBURSEMENT AND WAIVER	001			Y
0352	05/18/99	OF COUNTY RECORDS CHARGES MOT /ALL PENDING MOTIONS (05-17-99)	001	GP	05/17/99	
0353	05/18/99	ORDR/EX PARTE PLEADING ORDER GRANTING MOTION FOR SOCIAL HISTORIAN INVESTIGATION FUNDS	001			
0354	05/18/99	ORDR/EX PARTE PLEADING-FILED UNDER SEAL PROPOSED ORDER GRANTING PETITIONERS	001			Y
0355	05/18/99	EX PARTE MOTION TO ALLOW PRISON ACCESS ORDR/ORDER GRANTING PETITIONERS MOTION FOR NEUROPSYCHOLOGICAL EXAMINATION FUNDS	001			
0356	05/27/99	MOT /ALL PENDING MOTIONS (5-27-99)	AL		05/27/99	
0357	05/27/99	ORDR/EX PARTE PLEADING ORDER GRANTING MOTION FOR CORONERS RECORDS	001			
0358	05/27/99	ORDR/EX PARTE PLEADING ORDER GRANTING MOTION TO LIMIT COUNTY RECORDS CHARGES	001			
0359	06/30/99	NSCO/NEVADA SUPREME COURT JUDGMENT / ORDERED APPEAL DISMISSED	004		06/30/99	
0360	06/29/99	JMNT/REMITTITUR APPEAL DISMISSED	0004		07/07/99	
0361	08/27/99	MOT /DEFT'S MOTION TO ASSOCIATE COUNSEL	001	GR	09/08/99	
0362	08/27/99	MOT /DEFT'S MOTION TO ASSOCIATE COUNSEL	002	GR	09/08/99	
0363	08/27/99	NOTC/NOTICE OF HEARING	001		09/08/99	
0364	08/27/99	APPL/VERIFIED APPLICATION FOR ASSOCIATION OF COUNSEL UNDER NEVADA SUPREME CRT RULE 42	001			
0365	09/01/99	CERT/CERTIFICATE OF MAILING	001		09/01/99	
0366	09/08/99	MOT /ALL PENDING MOTIONS (09-08-99)	AL	GR	09/08/99	
0367	09/08/99	REQT/MOTION FOR REIMBURSEMENT OF INVESTIGATION EXPENSES	001			
0368	09/08/99	ORDR/ORDER	001			
0369	11/30/99	OCAL/STATUS CHECK: BRIEFING SCHEDULE	AL		12/20/99	
0370	11/30/99	MOT /ALL PENDING MOTIONS 11/30/99	AL		11/30/99	

(Continued to page 13)

NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0371	11/30/99	PET /SUPPLEMENTAL PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)	001			
0372	11/30/99	CERT/CERTIFICATE OF MAILING	001		11/29/99	
0373	12/09/99	NOTC/NOTICE OF ENTRY OF ORDER	001		12/09/99	
0374	12/16/99	ASSG/Reassign Case From Judge Douglas TO Judge Hardcastle				
0375	12/20/99	HEAR/CONFIRMATION OF COUNSEL (J THOMAS)	002	CM	12/23/99	
0376	12/20/99	OCAL/STATUS CHECK	002		12/23/99	
0377	12/20/99	ARGU/ARGUMENT: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS VJ 1/19	001	VC	03/09/00	
0378	12/22/99	MOT /ALL PENDING MOTIONS (12-22-99)	002		12/22/99	
0379	12/28/99	MOT /ALL PENDING MOTIONS			12/23/99	
0380	01/13/00	HEAR/STATE'S REQUEST FOR EXTENSION OF TIME TO FILE WRIT/RESPONSE	001	GR	01/19/00	
0381	01/19/00	MOT /DAVID SCHIECK'S MOTION FOR ATTORNEY'S FEES IN EXCESS OF STATUTORY ALLOWANCE &	002	GR	01/31/00	
0382	01/19/00	ARGU/ARGUMENT: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS	001	DP	08/16/00	
0383	01/19/00	MOT /DEFT'S MOTION FOR SEVERANCE	001	DN	01/31/00	
0384	01/20/00	CERT/CERTIFICATE OF MAILING	002		01/20/00	
0385	01/21/00	ROC /RECEIPT OF COPY	001		01/21/00	
0386	01/31/00	ORDR/ORDER GRANTING MOTION FOR ATTORNEYS FEES IN EXCESS OF STATUTORY ALLOWANCE AND	002			Y
FOR EXPENSES						
0387	02/02/00	MOT /ALL PENDING MOTIONS 01-31-00	AL		01/31/00	
0388	03/29/00	RSPN/STATES RESPONSE TO DEFENDANTS PETITION FOR WRIT OF HABEAS CORPUS	001			Y
POST-CONVICTION						
0389	05/17/00	MOT /DEFT'S MOTION FOR DISCOVERY	001	DN	08/16/00	
0390	05/17/00	HEAR/DEFT'S MOTION FOR EVIDENTIARY HEARING	001	GP	08/16/00	
0391	05/17/00	RPLY/PETITIONERS REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS	001			
0392	05/18/00	NOTC/NOTICE OF EXHIBITS TO PETITIONERS REPLY (VOL I THRU V) IN THE VAULT			05/17/00	
0393	05/23/00	MOT /STATE'S REQUEST CHANGE/SET BRIEFING SCHEDULE	002		06/19/00	
0394	05/25/00	RPLY/SUPPLEMENT TO PETITIONERS REPLY IN SUPPORT OF PETITION FOR WRIT OF	001			Y
HABEAS CORPUS						
0395	05/25/00	CERT/CERTIFICATE OF MAILING	001		05/17/00	
0396	05/25/00	CERT/CERTIFICATE OF MAILING	001		05/17/00	
0397	05/25/00	CERT/CERTIFICATE OF MAILING	001		05/17/00	
0398	05/25/00	CERT/CERTIFICATE OF MAILING	001		05/17/00	
0399	05/31/00	MOT /ALL PENDING MOTIONS FOR 5/31/00	001		05/31/00	
0400	06/05/00	MOT /DEFT'S MOTION FOR DISQUALIFICATION OF JUDGE VJ 6/6	001	VC	06/15/00	
0401	06/05/00	TRAN/REPORTER'S TRANSCRIPT OF MAY 31, 2000 ARGUMENT:	001		05/31/00	Y
DEFENDANT FLANAGAN'S PETITION FOR WRIT OF HABEAS CORPUS, DEFENDANT'S MOTION FOR DISCOVERY, DEFENDANT'S MOTION FOR EVIDENTIARY HEARING						
0402	06/06/00	OCAL/MINUTE ORDER RE: DISQUALIFICATION OF JUDGE	001		06/06/00	

(Continued to page 14)

NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0403	06/09/00	OPPS/OPPOSITION TO DEFENDANTS MOTION FOR DISCOVERY	001			
0404	06/13/00	MOT /STATE'S MOTION FOR WAIVER OF ATTORNEY-CLIENT PRIVILEGE	001	DN	08/16/00	
0405	06/12/00	MEMO/PETITIONERS MEMORANDUM OPPOSING WAIVER OF ATTORNEY-CLIENT PRIVILEGE	001			
0406	06/12/00	CERT/CERTIFICATE OF MAILING	001		06/09/00	
0407	06/13/00	OCAL/MINUTE ORDER RE: RECUSAL VI	001		06/13/00	
0408	06/13/00	ASSG/RECUSAL OF JUDGE Hardcastle REASSIGNED TO JUDGE Bonaventure				
0409	06/13/00	ASSG/RECUSAL OF JUDGE Bonaventure REASSIGNED TO JUDGE Gibbons				
0410	06/13/00	NDR /NOTICE OF DEPARTMENT REASSIGNMENT			06/13/00	Y
		004771001988FC				
001988004771						
0411	06/19/00	ARGU/ARGUMENT: DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS	002		01/02/01	
0412	06/22/00	MOT /ALL PENDING MOTIONS 6/22/00	001		06/22/00	
0413	08/03/00	REQT/MOTION FOR REIMBURSEMENT OF INVESTIGATION EXPENSES - UNDER SEAL	001			
0414	08/03/00	AFFD/AFFIDAVIT OF ROBERT D NEWELL - UNDER SEAL	001			
0415	08/14/00	MOT /DEFT'S PRO PER REQUEST (MOTION) FOR APPOINTMENT OF ATTORNEY	003	DN	09/28/00	
0416	08/14/00	PET /DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS	003	DN	09/28/00	
0417	08/15/00	ORDR/ORDER RE PETITION FOR WRIT OF HABEAS CORPUS	003	HG	09/28/00	
0418	08/16/00	OCAL/STATUS CHECK: EVIDENTIARY HEARING	001		09/13/00	
0419	08/17/00	MOT /ALL PENDING MOTIONS 8-16-00	001		08/16/00	
0420	08/17/00	EXPT/EX PARTE PLEADING FILED UNDER SEAL - MOTION FOR EXPERT FUNDS	001			
0421	08/23/00	AFFD/PETITIONERS SUPPLEMENTAL FINANCIAL AFFIDAVIT - CERTIFICATE OF MAILING	003			
0422	08/23/00	CERT/CERTIFICATE OF MAILING	003		08/23/00	
0423	08/23/00	AFFD/AFFIDAVIT IN SUPPORT OF MOTION REQUESTING APPOINTMENT OF COUNSEL	003			
0424	08/23/00	CRTF/CERTIFICATE OF INMATES INSTITUTIONAL ACCOUNT	003			
0428	08/23/00	AFFD/AFFIDAVIT IN SUPPORT OF MOTION TO PROCEED IN FORMA PAUPERIS	004			
0429	08/23/00	CRTF/FINANCIAL CERTIFICATE	004			
0430	08/23/00	CERT/CERTIFICATE OF MAILING	003		08/23/00	
0432	08/23/00	PET /DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS	004	DN	10/10/00	
0433	08/23/00	MOT /DEFT'S PRO PER MOTION FOR APPOINTMENT OF COUNSE	004	DN	10/10/00	
0434	08/23/00	MOT /DEFT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS	004	GR	10/10/00	
0435	08/29/00	ORDR/ORDER RE PETITION FOR WRIT OF HABEAS CORPUS	004		10/10/00	
0436	08/29/00	ORDR/ORDER	001			

(Continued to page 15)

NO.	FILED/REC CODE	REASON/DESCRIPTION	FOR	OC	SCH/PER	C
0437	09/07/00	MOT /DEFT'S PRO PER MOTION FOR APPOINTMENT OF COUNSEL	004	DN	10/10/00	
0438	09/13/00	HEAR/EVIDENTIARY HEARING (REMAINING ISSUES ON WRIT)	001		01/26/01	
0439	09/18/00	OPPS/OPPOSITION TO MOTION TO APPOINT COUNSEL	003			
0440	09/18/00	OPPS/OPPOSITION TO DEFENDANTS PETITION FOR WRIT OF HABEAS CORPUS POST-CONVICTION	003			
0441	09/28/00	MOT /ALL PENDING MOTIONS 9/28/00	003		09/28/00	
0442	09/28/00	ORDR/ORDER FOR PRODUCTION OF INMATE	001	HG	01/26/01	
0443	09/28/00	ORDR/ORDER REGARDING EVIDENTIARY HEARING	001		09/28/00	
0444	10/03/00	OPPS/OPPOSITION TO DEFENDANTS PROPER PERSON PETITION FOR WRIT OF HABEAS CORPUS POST-CONVICTION	004			Y
0445	10/03/00	OPPS/OPPOSITION TO DEFENDANTS PROPER PERSON MOTION TO APPOINT COUNSEL	004			
0446	10/09/00	NOTC/NOTICE OF ENTRY OF ORDER	001		10/09/00	
0447	10/10/00	MOT /ALL PENDING MOTIONS 10/10/00	004		10/10/00	
0448	10/12/00	ORDR/STIPULATION TO CONTINUE DUE DATE FOR SUPPLEMENTAL PETITION FOR WRIT OF	001		10/12/00	Y
0449	10/17/00	RPLY/REPLY TO OPPOSITIN TO PETITIONERS PROPER PERSONS PETITION FOR WRIT OF	004			Y
0450	10/18/00	ORDR/STIPULATION	001		10/18/00	
0451	10/19/00	JUDG/FINDINGS OF FACTS, CONCLUSIONS OF LAW AND ORDER	003	HG	09/28/00	
0452	10/19/00	JUDG/FINDINGS OF FACTS, CONCLUSIONS OF LAW AND JUDGMENT	004	HG	10/10/00	
0453	10/19/00	NOTC/NOTICE OF ENTRY OF ORDER	004		10/19/00	
0454	10/30/00	PET /DEFT'S PRO PER APPOINTMENT OF COUNSEL ON THE APPEAL	004		11/09/00	

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W

1 **ORDR**
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

FILED
OCT 19 4 49 PM '00
Shirley B. Pangione

DISTRICT COURT CLERK
CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,
8 Plaintiff,

9 -vs-

10 JOHNNY RAY LUCKETT,
11 #0640282

12 Defendant.

Case No.. C69269
Dept. No. VII
Docket P

14 FINDINGS OF FACT, CONCLUSIONS OF
15 LAW AND ORDER

16 DATE OF HEARING: 10/10/00
17 TIME OF HEARING: 9:00 A.M.

18 THIS CAUSE having come on for hearing before the Honorable Mark Gibbons, District
19 Judge, on the 10th day of October, 2000, the Petitioner not being present, proceeding in Forma
20 Pauperis, the Respondent being represented by STEWART L. BELL, District Attorney, by and
21 through H. LEON SIMON, Deputy District Attorney, and the Court having considered the
22 matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now
23 therefore, the Court makes the following findings of fact and conclusions of law:

24 FINDINGS OF FACT

25 1. John Lockett, hereinafter Defendant, was charged by way of an Information on February 25, 1985
26 charging Defendant with Conspiracy to Commit Burglary, Conspiracy to Commit Robbery, Conspiracy
27 to Commit Murder, Burglary, Robbery with Use of a Deadly Weapon, and two counts of Murder with
28 Use of a Deadly Weapon. Defendant was charged in conjunction with five other co-conspirators, Dale
Flanagan, Randolph Moore, Roy McDowell, Michael Walsh, and Thomas Akers. Defendant entered

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COUNTY CLERK

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1 a not guilty plea and the case was set for trial.

2 2. On October 11, 1985 a trial was conducted and the jury returned a verdict of guilty. On
3 November 27, 1985 Defendant was sentenced to the Nevada State Prison for a term of: six (6) years for
4 Count III, Conspiracy to Commit Murder; six (6) years for Count IV, Burglary; Life With Possibility of
5 Parole for Counts VI and VII, Murder in the First Degree, plus a consecutive Life Without the Possibility
6 of Parole for the Use of a Deadly Weapon for Counts VI and VII; Counts III and IV to run concurrently
7 with Count VI; Count VII to run consecutively to Count VI.

8 3. Due to clerical error, the original Judgment of Conviction, filed on January 29, 1986, imposed
9 a sentence of Life With Possibility of Parole for the murder charges and a consecutive Life Without
10 Possibility of Parole for the enhancement. An Amended Judgment of Conviction was filed on December
11 23, 1993, correcting the sentence for the murder charges to Life Without the Possibility of Parole. On
12 September 22, 1994 a Second Amended Judgment of Conviction was filed in open court due to the fact
13 that Defendant was not present at the re-sentencing in 1993. The Second Amended Judgment of
14 Conviction correctly reflects that the amendments to the Judgment of Conviction relate back to the
15 original sentencing date of November 27, 1985. Defendant petitioned the Supreme Court for a rehearing
16 on the district court's Second Amended Judgment of Conviction. On December 24, 1997 the Supreme
17 Court issued an order dismissing Defendant's appeal and on February 6, 1998 the order was filed. The
18 Supreme Court noted that Defendant's appeal did not constitute a direct appeal from his judgment of
19 conviction. A Remittitur was issued on February 17, 1998.

20 4. Defendant filed a Petition for Writ of Habeas Corpus (Post-Conviction) on February 2, 1996.
21 The State filed a Notice of Motion and Motion to Dismiss Defendant's petition on February 15, 1996.
22 The district court denied Defendant's petition as untimely and filed an Order on March 14, 1996.
23 Defendant's subsequent Opposition to Motion to Dismiss was filed on March 26, 1996 and was
24 dismissed by the court on March 27, 1996 as untimely. Defendant petitioned the Supreme Court for a
25 rehearing on the district court's denial of his Petition for Writ of Habeas Corpus. The Supreme Court
26 dismissed the appeal on April 16, 1999 and a Remittitur was issued on June 10, 1999.

27 5. On August 23, 2000 Defendant filed this Pro Per Petition for Writ of Habeas Corpus (Post-
28 Conviction), Motion for leave to Proceed in Forma Pauperis, Affidavit in Support of Motion to Proceed

1 in Forma Pauperis, Motion for Appointment of Counsel and Financial Certificate. The State filed an
2 opposition on October 3, 2000.

3 6. Defendant's petition is time-barred because Defendant has failed to show good cause for his
4 untimely filing of the petition.

5 **CONCLUSIONS OF LAW**

6 1. "Any person convicted of a crime and under sentence of death or imprisonment who claims that
7 the conviction was obtained, or that the sentence was imposed, in violation of the Constitution of the
8 United States or the constitution or laws of this state . . . may . . . file a post-conviction petition for a writ
9 of habeas corpus to obtain relief from the conviction or sentence . . ." NRS 34.724. However, a petition
10 under this section must be filed within one year after the date of the entry of the judgment of conviction
11 or from the issuance of the remittitur from a timely direct appeal to this court from the judgment of
12 conviction, unless good cause is shown for the delay. NRS 34.726; See also, Dickerson v. State, 114
13 Nev. 1084, 1085, 967 P.2d 1132, 1133 (1998).

14 2. If a petition is filed beyond the one year limit, Defendant is required to show good cause for the
15 delay pursuant to NRS 34.726. The defendant must demonstrate some impediment external to the
16 defense in order to establish the necessary good cause needed to surmount the procedural bar created by
17 an untimely habeas petition. Harris v. Warden, 114 Nev. 956, 964, 964 P.2d 785, 787 (1998).
18 Additionally, the defendant must establish prejudice. Prejudice is established when the defendant
19 demonstrates that the alleged errors worked to his actual and substantial disadvantage. Hogan v.
20 Warden, 109 Nev. 952, 860 P.2d 710 (1993). Defendant filed his petition beyond the one year time limit
21 and has failed to demonstrate good cause for the late filing.

22 3. NRS 34.800 creates a rebuttable presumption of prejudice to the State if "[a] period of five years
23 [elapses] between the filing of a judgment of conviction, an order imposing sentence of imprisonment
24 or a decision on direct appeal of a judgment of conviction and the filing of a petition challenging the
25 validity of a judgment of conviction..." NRS 34.800. Relief is precluded in this case as the State has
26 pled laches and the Defendant has failed to overcome this presumption of prejudice.

27 ///

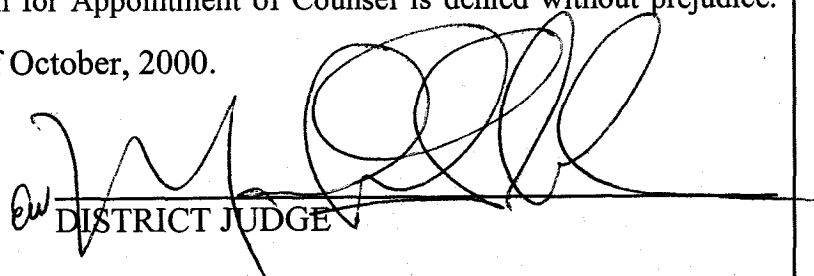
28 ///

ORDER

Based on the Findings of Fact and Conclusions of Law herein contained, it is hereby:


ORDERED, ADJUDGED, AND DECREED that Defendant's Pro Per Motion for Leave to Proceed in Forma Pauperis is granted. Defendant's Pro Per Petition for Writ of Habeas Corpus is denied and Defendant's Pro Per Motion for Appointment of Counsel is denied without prejudice.

DATED this 18 day of October, 2000.


DISTRICT JUDGE

STEWART L. BELL
DISTRICT ATTORNEY
Nevada Bar #000477

BY


H. LEON SIMON
Deputy District Attorney
Nevada Bar #000411

/jeh

1 **NEOJ**
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

FILED
OCT 19 4 49 PM '00

Shirley B. Augustine
CLERK

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 JOHNNY RAY LUCKETT
12 #0640282

13 Defendant.
14

Case No. C69269
Dept. No. VII
Docket P

15 NOTICE OF ENTRY OF ORDER

16 TO: JOHNNY RAY LUCKETT, Defendant in proper person

17 YOU WILL PLEASE TAKE NOTICE that an Order was entered in the above-entitled
18 action, a copy of which is attached hereto.

19 DATED this 19 day of October, 2000.

20 STEWART L. BELL
21 DISTRICT ATTORNEY
22 Nevada Bar #000477

23 BY

H. Leon Simon
24 H. LEON SIMON
25 Deputy District Attorney
26 Nevada Bar #000411
27
28

CLERK

OCT 19 2000

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CERTIFICATE OF MAILING

I hereby certify that service of the NOTICE OF ENTRY OF ORDER was made the
19 day of October, 2000, by depositing a copy in the U.S. Mail, postage prepaid, addressed
to:

JOHNNY RAY LUCKETT, BAC#21832
ELY STATE PRISON
PO BOX 1989
ELY NV 89301

BY 
Secretary for the District Attorney's Office

/jeh

CASE NO. C69269 TITLE THE STATE OF NEVADA VS. DALE EDWARD FLANAGAN, RANDOLPH MOORE AK SMITH, JOHNNY RAY LUCKETT, MICHAEL WALSH, ROY MC DOWELL and THOMAS AKERS

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES — HEARING

CONTINUED TO:

7/31/89 DONALD M. MOSLEY DEPT. XIV D. SEATON, DDA S. DAHL, DPD (Flanagan) D. SCHIECK, ESQ. (Moore) L. BAZAR, CLERK C. JOHNSON, RPTR.	<u>CONTINUED</u> would still look at this case with an eye toward the propriety of the death sentence. They would think it would be a good idea to ask Mr. Dahl to remain counsel of record. They were going to need the record up there. He should make inquiries of the Supreme Court to see what their desire is. COURT ORDERED, under the circumstances, this Court thinks it appropriate to give Mr. Dahl leave to withdraw with the understanding, first, that he would be available to receive any communication from Mr. Flanagan should he change his mind, and second, that he see the necessary documents are forwarded to the Supreme Court. Mr. Dahl concurred and acknowledged. CUSTODY	
10/02/89 DONALD M. MOSLEY DEPT. XIV F. PONTICELLO, DDA J. GRAVES, ESQ. L. BAZAR, CLERK R. SILVAGGIO, RPTR.	<u>DEFENDANT'S PRO PER MOTION FOR POST-CONVICTION APPOINTMENT OF COUNSEL</u> <u>DEFENDANT'S PRO PER MOTION TO COMPEL TRANSFER OF RECORDS FROM PREVIOUS COUNSEL; MOTION FOR PRODUCTION OF TRANSCRIPTS OF RECENT HEARINGS</u> State represented by Frank Ponticello, DDA. Defendant Lockett not present; represented by John Graves, Esq. Court stated its findings. COURT ORDERED, motion for post-conviction relief not being timely filed, denied. Defendant's motion for attorney would be moot as would the motion for transfer of records and production of transcripts. Mr. Graves advised he was prepared to send the materials to the defendant, but it would cost \$8.29. Defendant was so advised. COURT ORDERED, this Court does not see Mr. Graves position as inappropriate, if the defendant wishes they be sent to him, he can defray expenses. CUSTODY NSP	
10/9/89 DONALD M. MOSLEY DEPT. XIV CAROL GREEN (CLERK) RENEE SILVAGGIO (REPORTER)	<u>AT REQUEST OF DISTRICT ATTORNEY: APPOINTMENT OF COUNSEL</u> State represented by Dan Seaton, DDA. Deft. Flanagan not present, represented by counsel, Stephen Dahl, Esq. and Lee McMahon, Esq. Mr. Dahl advised that waiver has been properly filed with the Supreme Court. Ms. McMahon confirmed. COURT ORDERED, Ms. McMahon appointed to review validity of Waiver of Appeal. CUSTODY (NSP)	

CASE NO. C69269

TITLE THE STATE OF NEVADA VS. DALE EDWARD FLANAGAN, RANDOLPH MOORE AKA SMITH, JOHNNY RAY LUCKETT, MICHAEL WALSH, ROY MC DOWELL and THOMAS AKERS

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES — HEARING

CONTINUED TO:

7/31/89 DONALD M. MOSLEY DEPT. XIV D. SEATON, DDA S. DAHL, DPD (Flanagan) D. SCHIECK, ESQ. (Moore) L. BAZAR, CLERK C. JOHNSON, RPTR.	CONFIRMATION OF JURY'S VERDICT AND IMPOSITION OF SENTENCE AS TO COUNTS VI & VII (SET EXECUTION DATE) State represented by Dan Seaton, DDA. Defendant Flanagan present in custody; represented by Stephen Dahl, DPD. Defendant Moore present in custody; represented by David Schieck, Esq. The Court inquired of defendant Flanagan if there was any reason why judgment should not be pronounced against him. Defendant answered in the negative. COURT ORDERED, by virtue of the jury's findings in the matter concerning the two capital counts of
	"Murder with Use of a Deadly Weapon" (F); that finding being the imposition of the death penalty; this Court acknowledges that finding. Statement by Mr. Flanagan condemning the judicial system and waiving his appeal for the death penalty and requesting he be executed upon the date set. Court inquired of defendant if he had seriously considered waiving his appeal. Defendant concurred. Court further canvassed the defendant with regard to his decision. Mr. Dahl requested that independent counsel be appointed to talk to the defendant about the case, because in his statement, part of his dissatisfaction was with the Public Defender's Office. Court inquired of the defendant if he felt Mr. Dahl's advise was somewhat slanted and if he wanted someone else to assist him. Defendant said no. State asked that the record reflect that in observing the defendant he seemed to be quite calm and rational. Court agreed with the State's observation with regard to the defendant's demeanor. COURT ORDERED, record to so reflect. Moore
	Moore in accordance with the law of the State of Nevada, this Court confirms the jury's verdict of death; defendant Moore will be taken to an appropriate place and put to death through lethal injection on October 23, 1989. The Court inquired of defendant Moore if there was any reason why judgment should not be pronounced against him. Defendant answered in the negative. COURT ORDERED, by virtue of the jury's verdict concerning the two capital counts of "Murder with Use of a Deadly Weapon" (F); the defendant is adjudged guilty. Statement by Mr. Moore. No statement by counsel. Court inquired of Mr. Moore if he was contemplating giving up his right of appeal. Defendant advised he did not and wished to preserve that right. Court ordered in accordance with the law of the State of Nevada, this Court confirms the jury's verdict of death; defendant Moore will be executed on October 23, 1989. Mr. Schieck advised defendant had the right to an automatic appeal and would be agreeable to his representing him. Court inquired if Mr. Schieck had
	advised him of the ramifications of having the same attorney represent him on the appeal. Mr. Schieck concurred. Defendant concurred. COURT ORDERED, Mr. Schieck is appointed as appellant counsel. Mr. Dahl advised his client had requested he not file notice of appeal, but he did not know how the Supreme Court would view that. Mr. Dahl made an oral motion to withdraw. COURT ORDERED, motion to withdraw is granted; but this Court would ask Mr. Dahl to stand by in case defendant Flanagan would wish to communicate with him. State advised the Supreme Court

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CASE NO. C69269TITLE THE STATE OF NEVADA VS. DALE EDWARD FLANAGAN, RANDOLPH MOORE AKA
SMITH, JOHNNY RAY LUCKETT, MICHAEL WALSH, ROY MC DOWELL and
THOMAS AKERSDATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES — HEARING

CONTINUED TO:

7/14/89 DONALD M. MOSLEY DEPT. XIV L. BAZAR, CLERK S. THIELMAN, RPTR.	<u>PENALTY PHASE CONTINUED</u> grandparents. If Ms. Saldana or any other witness has to be impeached, they should have been impeached from the stand. 10:44 A.M. - Jury summoned. Clerk called roll of jury. 10:45 A.M. - Court read Jury Instructions 1 through 18 to the Jury. 10:55 A.M. - Closing arguments by Mr. Seaton. Recess for lunch. 1:15 P.M. - Closing arguments by Mr. Dahl on behalf of defendant Flanagan. 1:55 P.M. - Closing argument by Mr. Schieck on behalf of defendant	
	Moore. 2:23 P.M. - Rebuttal argument by Mr. Seaton. 3:00 P.M. - Bailiff sworn and matter submitted to the jury for deliberation. 6:32 P.M. - Court reconvened. Appearances as noted above. Jury returned with a verdict of death as to Counts VI and VII as to defendants Flanagan and Moore. COURT ORDERED, continued for confirmation of the jury's verdict and imposition of sentence. Court thanked and excused the jury. Defendants remanded to the custody of the jail.	7/31/89 @ 9:00 A.M. CONFIRMATION OF JURY's VERDICT AND IMPOSITION OF SENTENCE AS TO COUNTS VI & VII (SET EXECUTION DATE)
	Outside presence of jury: Defense counsel advised that when they approached the bench at the finish of State's rebuttal argument, they had requested surrebuttal argument. They had made the motion earlier in the case and the Court denied it at the bench. They just wished to put it on the record. State argued that it was not up to the State to put on mitigating circumstances. COURT ORDERED, as this Court had mentioned rather hurriedly, admittedly at the bench, it was this Court's view that although Mr. Seaton had suggested there was a burden on the defense	
	to show reasonable doubt as to mitigating circumstances, he explained that and it was corrected with the jury. There was no need to recover on rebuttal in that area and that is why the motion was denied. CUSTODY (BOTH)	

MINUTES — CRIMINAL

CASE NO. C69269 TITLE THE STATE OF NEVADA VS. DALE EDWARD FLANAGAN, RANDOLPH MOORE AKA SMITH, JOHNNY RAY LUCKETT, MICHAEL WALSH, ROY MC DOWELL AND THOMAS AKERS

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES — HEARING

CONTINUED TO:

7/12/89 DONALD M. MOSLEY DEPT. XIV L. BAZAR, CLERK S. THIELMAN, RPTR.	PENALTY PHASE CONTINUED inappropriate, but it does have some hesitancy concerning the sentences of Mr. Luckett and Mr. McDowell as far as the jury is concerned. Following further arguments of counsel, COURT ORDERED, this Court does not know that the jury should not have the information regarding the co-defendants' sentences. This Court thinks a cautionary instruction is warranted. Jury summoned. Counsel stipulated that all members of the jury were present and properly seated. Melvin T. Harmon, DDA, sworn and testified for the purpose of reading the testimony of Johnny Ray Luckett from the trial transcript. COURT ORDERED, matter is continued to July 13, 1989 at 10:00 A.M.	
7/13/89	Appearances as noted above. Clerk called roll of jury. Witnesses sworn and testified and exhibits offered and admitted per attached worksheets. Mr. Dahl and Mr. Schieck read into the record the testimony from the last trial of Ronald Jims, supervisor, from prior hearing on September, 1984. Recess for lunch. Reconvene at 1:15 P.M.	
	Counsel stipulated that all members of the jury were present and properly seated. Court advised there had been a suggestion there had been certain discussions in the hallway by other persons, spectators. Court inquired of jury if anyone had heard any discussions of that kind. No indication by the jury. Witnesses sworn and testified and exhibits offered and admitted per attached worksheets. 3:20 P.M.: Outside presence of the jury, Court advised defendants of their rights not to be compelled to testify in this case in their own behalf. Jury summoned.	
	Counsel stipulate that all members of the jury were present and properly seated. Court advised that the defendants had elected to make what is known as an unsworn statement. The prosecutor under the law cannot cross-examine the defendants. 3:23 P.M. - Dale Flanagan made an unsworn statement. 3:28 P.M. - Randolph Moore made an unsworn statement. Defense rested. 3:30 P.M. - court recessed. COURT ORDERED, matter is continued to July 14, 1989 at 10:00 A.M. Counsel moved to proceed in the absence in their clients' absence for the limited purposes of settling jury instructions. Jury Instructions 1 through 16 settled in open court. Court adjourned. 10:00 A.M.	
7/14/89	Appearances as noted above. Outside presence of jury. Defense asked to reserve the right to sur-rebuttal regarding the penalty. COURT ORDERED, this Court will leave that open to possibility. Defense counsel argued there was no evidence introduced regarding dissension and arguments between grandparents and he did not bring that out. State argued that there had been talk by one of the witnesses about some dissatisfaction, unhappiness between Dale and the grandparents. COURT ORDERED, in this Court's view if there is a discrepancy as Mr. Dahl suggests, it would not amount to a basis for a mistrial because it is minor in this Court's view. This Court understands that your closing remarks must track the evidence in this hearing. The jury needs to hear only the argument regarding evidence in this matter. This Court quite frankly does not recall any mention of dissension between the defendant and his	

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MINUTES — CRIMINAL

CASE NO. C69269TITLE THE STATE OF NEVADA VS. DALE EDWARD FLANAGAN, RANDOLPH MOORE AKA
SMITH, JOHNNY RAY LUCKETT, MICHAEL WALSH, ROY MC DOWELL AND
THOMAS AKERSDATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES — HEARING

CONTINUED TO:

7/12/89
DONALD M. MOSLEY
DEPT. XIV
D. SEATON, DDA
S. DAHL, DPD
(Flanagan)
D. SCHIECK, ESQ.
(Moore)
L. BAZAR, CLERK
S. THIELMAN, RPTR.

PENALTY PHASE CONTINUED

Mr. McDowell. They would ask the Court to allow them to talk to Mr. McDowell tonight rather than today. Mr. Dahl advised the chief issue was what the State's purpose was in calling co-defendant McDowell. State advised it did not think defendant McDowell was going to testify, they had instructed the jail, at the first opportunity to send him back to Carson City. COURT ORDERED, we will proceed on the belief he will not testify and if he changes his mind, this Court will entertain the matter at that time.

10:32 A.M. - Jury summoned. Clerk called roll of jury. Court advised jury that there was a penalty phase hearing about four years ago and there was a sentence imposed. The Supreme Court in reviewing the transcript determined there were irregularities in those proceedings and set aside the sentence and asked that we conduct a new penalty phase. Court advised the jurors that they should not be concerned of the penalty phase hearing in the past. This was a whole new decision and up to you twelve individuals

to make the decision at this time. Opening statement by Mr. Seaton. Opening statement by Mr. Dale in behalf of defendant Dale Flanagan. Opening statement by Mr. Schieck on behalf of defendant Randolph Moore. Witnesses sworn and testified. Outside presence of jury, Mr. Dahl objected to State's Exhibit 119. Following arguments of counsel, COURT ORDERED, objection overruled. Mr. Dahl's continuing objection to the reference to devil worship that the State was using it as an aggravating argument is

so noted. State advised for the record that State's exhibit was coming in to show character, nothing more. Jury summoned. Counsel stipulated that all members of the jury were present and properly seated. Witnesses sworn and testified and exhibits offered and admitted per attached worksheets. Outside presence of jury, Mr. Dahl advised there were certain things Mr. Seaton wanted to use Mel Harmon, DDA, for, which they objected to. There were two problems, (1) he is using Mr. Harmon to bring in Mr. Luckett's testimony. Mr. Dahl thought

they should, if desired, have a right of confrontation. Different information might be brought out with Mr. Luckett. Their other objection would be the sentences imposed on the other defendants at the trial. Mr. Schieck joined on the objection. State argued that the laws in a penalty hearing say that hearsay, as long as it is trustworthy and reliable, can be brought in. Mr. Luckett has appellant things going on right now and may not want to help the State, we put him in prison. Mr. Harmon has read the transcript to make sure his testimony does

not deviate from the transcript. The sentences of the others, he says, are not relevant. The jury has been apprised of all the deeds these gentlemen have done together, they should be apprised of the sentences. COURT ORDERED, concerning the question of Mr. Luckett's testimony, we are not trying anew the guilt phase of this proceeding. If Mr. Harmon intends to essentially parrot what Mr. Luckett's testimony is, there is no objection. The alternative would be to admit the transcript, but that would be more time consuming. This Court sees nothing

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MINUTES — CRIMINAL

CASE NO. C69269

TITLE THE STATE OF NEVADA VS. DALE EDWARD FLANAGAN, RANDOLPH MOORE AKA
SMITH, JOHNNY RAY LUCKETT, MICHAEL WALSH, ROY MC DOWELL and
THOMAS AKERSDATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES — HEARING

CONTINUED TO:

7/10/89 DONALD M. MOSLEY DEPT. XIV D. SEATON, DDA S. DAHL, DPD (Flanagan) D. SCHIECK, ESQ. (Moore) L. BAZAR, CLERK S. THIELMAN, RPTR.	<u>PENALTY PHASE</u> State represented by Dan Seaton, DDA. Defendant Flanagan present in custody; represented by Stephen Dahl, DPD. Defendant Moore present in custody; represented by David Schieck, Esq. Outside presence of prospective jury panel. Mr. Schieck made oral motion in limine regarding the State's intent to relate certain information regarding gang activity and a cult. Mr. Dahl joined on the motion on behalf of his client. Following arguments of counsel, COURT ORDERED, Mr. Schieck suggests that black and white	
	magic would be prejudicial, but in a penalty phase the character is at issue. This Court expects the evidence in this penalty phase will track that in the previous penalty phase. This Court will allow mention of magic and gangs as was mentioned in the prior proceeding. In this Court's view, it is appropriate to sift out evidence if it was an error at the prior proceeding, but neither the prosecutor nor the defense can take another bite of the apple. This Court will allow them to the extent they were allowed in the prior proceeding. Mr. Seaton	
	advised assuming a witness, not asked before had brought in new information, he would expect to bring it out. He would make it known to the Court. COURT ORDERED, as a rule, this Court thinks it appropriate if it is reasonable and feasible, and that evidence deviates from that in the prior guilt phase, it is to be brought to this Court's attention. Mr. Dahl objected to preserve the record. Mr. Dahl requested the State provide a list of witnesses as they intend to call them. Mr. Seaton agreed. Mr. Schieck advised he intended to preserve all the ob-	
	jections throughout the last guilt phase; without having to raise them again, which would include Angela Saldana. Court inquired if he would be subscribing to those objections and endorsing them as if they were his own. Mr. Schieck concurred. Mr. Seaton asked, given that, could they assume the Court's ruling would be the same today. Court concurred. 11:20 A.M. - Prospective jury panel summoned. Clerk called roll of prospective jury. Jury selection began. 5:00 P.M.: COURT ORDERED, matter is continued to July 11, 1989 at 10:00 A.M.	
7/11/89	10:00 A.M.	
	Appearances as noted above. Court clerk called roll of prospective jurors. Jury and alternate selected and sworn. COURT ORDERED, matter continued to July 12, 1989 at 10:00 A.M.	
7/12/89	10:00 A.M.	
	Appearances as noted above. Outside presence of jury: defense counsel advised they had agreed they would have to inform the jury why the penalty phase was five years after the fact. COURT ORDERED, this Court agrees that the jury should be informed as to why we are here and what occurred four years or so ago. The Jury need not concern themselves on what the sentence was. They would be advised there were irregularities in the process and it has been returned to Court for one more penalty hearing. Mr. Schieck advised the State had advised they were going to call Roy McDowell in the hearing. He did not testify in the first hearing. They would ask any documents or statements be furnished and they would like to talk to	

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MINUTES — CRIMINAL

CASE NO. C69269 TITLE THE STATE OF NEVADA VS. DALE EDWARD FLANAGAN, RANDOLPH MOORE AKA SMITH, JOHNNY RAY LUCKETT, MICHAEL WALSH, ROY MC DOWELL and THOMAS AKERS

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES — HEARING

CONTINUED TO:

6/19/89 DONALD M. MOSLEY DEPT. XIV E. JORGENSEN, DDA D. SCHIECK, ESQ. (Moore) S. DAHL, DPD (Flanagan) L. BAZAR, CLERK S. THIELMAN, RPTR.	<p>DEFENDANT'S MOTION FOR ORDER TO TRANSPORT DEFENDANT DEFENDANT'S MOTION FOR DISCOVERY (7/05/89 CC & 7/10/89 J.T. Penalty Phase)</p> <p>State represented by Eric Jorgenson, DDA. Defendant Moore not present; represented by David Schieck, Esq. Defendant Flanagan represented by Stephen Dahl, DPD, who advised he had been made aware of the hearing and would request that he be allowed to join in on the motion for transport in behalf of defendant Flanagan. COURT SO ORDERED. Mr. Schieck argued in support of his</p>	
	<p>motion for discovery. State advised it would be more comfortable if the assigned deputy, Dan Seaton, responded to the motion. Mr. Dahl advised he had spoken to Mr. Seaton and he believed he would be willing to cooperate. COURT ORDERED, motion is granted; if there is substantial disagreement, the State will not be precluded from voicing its objection. State requested reciprocal discovery. COURT SO ORDERED, Mr. Schieck advised there was one additional matter which was not on calendar; he would move to sever for the penalty hearing. COURT ORDERED, absent anything new to consider, the ruling would be the same. FURTHER ORDERED, both defendants to be transported no later than June 26, 1989. CUSTODY</p>	
7/05/89 DONALD M. MOSLEY DEPT. XIV D. SEATON, DDA S. DAHL, DPD (Flanagan) D. SCHIECK, ESQ. (Moore) L. BAZAR, CLERK S. THIELMAN, RPTR.	<p>DEFENDANT MOORE'S MOTION FOR INDIVIDUAL SEQUESTERED VOIR DIRE CALENDAR CALL (7/10/89 J.T. PENALTY PHASE)</p> <p>State represented by Dan Seaton, DDA. Defendant Flanagan present in custody; represented by Stephen Dahl, DPD. Defendant Moore present in custody; represented by David Schieck, Esq. Mr. Dahl joined in on the motion for individual voir dire on behalf of defendant Flanagan. Mr. Seaton advised the State had no objection. Following representations of counsel, COURT ORDERED, this</p>	
	<p>Court thinks counsels' points are well-taken; we will evolve a process on Monday, when we begin, we will poll the prospective jurors as a group. Then we will sit together in chambers and discuss a procedure and whatever we agree on, we will utilize. Mr. Seaton advised there was another matter; inasmuch as a trial has already occurred and the majority of the aggravating circumstances arose out of that trial, it puts the State in a little bit of a dilemma as to what witnesses they could put on. There were certain things they could inform or should not</p>	
	<p>inform the jury about. Therefore he would ask if the Court would be willing to meet with all three counsel sometime today, tomorrow or Friday to work out those potential problems prior to trial. Court agreed. Upon Court's inquiry, Mr. Seaton advised his case would take approximately three to four days. Mr. Dahl advised his would take another day. Mr. Schieck advised his would take a day also. COURT ORDERED, this Court will be in touch with counsel this week and would work something out. Date for penalty phase will stand. CUSTODY (Both)</p>	

CASE NO. C69269 TITLE THE STATE OF NEVADA VS. DALE EDWARD FLANAGAN, RANDOLPH MOORE AKA SMITH, JOHNNY RAY LUCKETT, MICHAEL WALSH, ROY MC DOWELL, and THOMAS AKERS

DATE, JUDGE OFFICERS OF COURT PRESENT	APPEARANCES — HEARING	CONTINUED TO:
6/22/88 DONALD M. MOSLEY DEPT. XIV K. VAN DE POL, DDA D. WALL, DPD (Flanagan) E. AYERS, ESQ. (Moore) L. BAZAR, CLERK S. THIELMAN, RPTR.	REMITTITUR RECEIVED FROM SUPREME COURT; SET PENALTY HEARING DATE State represented by Karen Van De Pol, DDA. Defendant Flanagan not present; represented by David Wall, DPD. Defendant Moore not present; represented by Earl Ayers, Esq., who advised he had been retained by the defendant. COURT ORDERED, pursuant to discussions in chambers earlier, the Jury Trial for the Penalty Phase is set on January 23, 1989 at 10:00 A.M. Mr. Wall is to look into the propriety of the Public Defender's Office representing defendant Flanagan. This Court would ask counsel to enlighten the Court if there is a conflict. CUSTODY	1/23/89 @ 10:00 A.M. JURY TRIAL - PENALTY PHASE ----- 1/18/88 @ 9:30 A.M. CALENDAR CALL
1/18/89 DONALD M. MOSLEY DEPT. XIV F. PONTICELLO, DDA S. DAHL, DPD (Flanagan) E. AYERS, ESQ. (Moore) L. BAZAR, CLERK S. THIELMAN, RPTR.	CALENDAR CALL (J.T. - Penalty Phase) State represented by Frank Ponticello, DDA. Defendant Flanagan not present; represented by Steven Dahl, DPD. Defendant Moore not present; represented by Earl Ayers, Esq. Murray Posin, Esq., also present. Court advised that there was a conference in chambers with Dan Seaton, DDA, there was a difficulty in that David Gibson, DPD, has taken ill and Eugene Martin, DPD, is substituting in for him. Court advised that the soonest this Court could entertain the matter would be July 10, 1989. Court inquired if that would be a problem for Mr. Posin. Mr. Ayers advised he had been retained as counsel for defendant Moore for further proceedings. Mr. Posin concurred and advised he had withdrawn as counsel. There being no objection, COURT ORDERED, matter is set on July 10, 1989 for the penalty phase; with calendar call on July 5, 1989. CUSTODY (BOTH)	7/10/89 @ 10:00 A.M. JURY TRIAL - PENALTY PHASE ----- 7/05/89 @ 9:30 A.M. CALENDAR CALL
4/3/89 DONALD M. MOSLEY DEPT. XIV E. ALVAREZ CLERK S. THIELMAN REPORTER	AT REQUEST OF COURT: APPOINTMENT OF COUNSEL State represented by Pandora Ryder, DDA. Defendant Moore not present, represented by Mark Blaskey, DPD. Also present was David Schieck, Esq. The Court advised this matter was remanded to appoint counsel for Deft. Moore due to previous counsel, Mr. Earl Ayer's limitation from practice; thereafter, BY THE COURT ORDERED, Mr. David Schieck appointed as counsel for Defendant Moore. Further, Mr. Schieck inquired if Mr. Ayers directed appeal, whereby, the Court advised Mr. Schieck to contact Mr. Ayers to obtain necessary documents as to this matter.	

CASE NO. C69269

TITLE THE STATE OF NEVADA VS. DALE EDWARD FLANAGAN, RANDOLPH MOORE A
SMITH, JOHNNY RAY LUCKETT, MICHAEL WALSH, ROY MC DOWELL, AND
THOMAS AKERSDATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES — HEARING

CONTINUED TO:

1/21/87 DONALD M. MOSLEY DEPT. XIV D. SMITH, DDA J. JIMMERSON, ESQ. T. LEEDS, ESQ. L. BAZAR, CLERK P. GRAF, CLERK S. THIELMAN, RPTR.	JAMES J. JIMMERSON'S MOTION TO WITHDRAW AS COUNSEL FOR DEFENDANT RANDOLPH MOORE State represented by Doug Smith, DDA. Defendant Moore not present and represented by James Jimmerson, Esq. State advised there was no objection to the motion. Tom Leeds, Esq., also present and advised he was prepared to assume responsibility as counsel of record in this matter. COURT ORDERED, motion to withdraw is granted. Mr. Leeds inquired if the entire record on appeal was available. Court advised it did not know, but it would aid him in anyway possible to obtain it. Upon Mr. Leeds inquiry, Mr. Jimmerson advised the time constraints as to this particular defendant had never begun. CUSTODY	
5/04/87 MIRIAM SHEARING DEPT. XV for XIV M. O'CALLAGHAN, DDA M. COOPER, DPD L. BAZAR, CLERK A. SALISBURY, RPTR.	DEFENDANT'S PRO PER MOTION FOR THE REMOVAL AND SUBSTITU- TION OF APPOINTED ATTORNEY OF RECORD State represented by Michael O'Callaghan, DDA. Defendant Flanagan not present and represented by Marcus Cooper, DPD, who requested matter be continued to Wednesday. There being no objection, COURT SO ORDERED. CUSTODY (NSP)	5/06/87 @ 9:00 A.M. DEFT'S PRO PER MOTION FOR THE REMOVAL AND SUBSTITUTION OF APPOINTED ATTORNEY OF RECORD
5/06/87 DONALD M. MOSLEY DEPT. XIV T. MOREO, DDA R. MILLER, DPD L. BAZAR, CLERK S. THIELMAN, RPTR.	DEFENDANT'S PRO PER MOTION FOR THE REMOVAL AND SUBSTITU- TION OF APPOINTED ATTORNEY OF RECORD State represented by Tom Moreo, DDA. Defendant Flanagan not present and represented by Robert Miller, DPD. Court advised the defendant feels he should have more contact with his attorney. Mr. Miller advised he had been up to Carson City twice and had telephonic communication several times. Mr. Miller further advised that the matter was scheduled to be argued in the Supreme Court on Monday and he was ready to go. COURT ORDERED, motion is denied. CUSTODY (NSP)	
11/16/87 MIRIAM SHEARING DEPT. XV for XIV K. GRANT, DDA G. CARTER, DPD L. BAZAR, CLERK J. HUFF, CLERK B. SHAVALIER, RPTR.	DEFENDANT'S MOTION FOR FEES IN EXCESS OF STATUTORY ALLOWANCE State represented by Tom Fitzpatrick, DDA. Defendant McDowell not present; represented by George Carter, Esq., who advised he had spoken to Judge Mosley and he had said that \$7,000 to \$7,500 was not unreasonable. Court advised it did not want to make a decision for Judge Mosley, but it he had agreed. State advised the statute allowed \$2,500 and counsel was asking for three times that amount. COURT ORDERED, this Court will grant the motion tentatively, subject to Judge Mosley's approval. Mr. Carter advised he would prepare the order to so reflect. CUSTODY	

MINUTES — CRIMINAL

CASE NO. C69269

TITLE THE STATE OF NEVADA VS. DALE EDWARD FLANAGAN, RANDOLPH MOORE AKA SMITH, JOHNNY RAY LUCKETT, MICHAEL WALSH, ROY MC DOWELL, AND THOMAS AKERS

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES — HEARING

CONTINUED TO:

12/18/85 DONALD M. MOSLEY DEPT. XIV M. HARMON, DDA M. COOPER, DPD (Flanagan) M. POSIN, ESQ. (Moore) L. BAZAR, CLERK S. THIELMAN, RPTR.	CONTINUED can go to State prison. This Court will entertain any arguments one way or the other. Mr. Cooper advised there was no objection. Mr. Posin advised there was no objection. State agreed. There being no objection by counsel, COURT ORDERED, the Count I sentence is hereby ordered to run concurrent with those other counts, Counts II through VII; Counts II through VII to remain consecutive to each other. State inquired if the file contained a judgment of conviction. Court advised it did not. State requested permission to present an amended judgment of conviction order as to both defendants for the Court's signature. COURT ORDERED, permission granted; such order to supersede the original if one has been in the system. Order signed in open court. CUSTODY	
2/19/86 DONALD M. MOSLEY DEPT. XIV R. BLOXHAM, DDA R. HANDFUSS, ESQ. R. PIKE, ESQ. L. BAZAR, CLERK S. THIELMAN, RPTR.	RANDALL PIKE, MURRAY POSIN, ROBERT HANDFUSS, AND WILLIAM SMITH'S MOTION FOR EXCESS FEES State represented by Ronald Bloxham, DDA. Defendants not present. Robert Handfuss, Esq., present on behalf of himself and William Smith, Esq., and Murray Posin, Esq., who were not present. Randall Pike, Esq., present on his own behalf. Mr. Pike advised he had spoken to Johnnie Rawlings, DDA civil, and she advised she was not going to appear or file any negative response to the motions. Mr. Bloxham concurred. Court stated its findings. COURT ORDERED, motion is granted as to all counsel. CUSTODY	
2/21/86 DONALD M. MOSLEY DEPT. XIV R. O'NEALE, DDA L. BAZAR, CLERK S. THIELMAN, RPTR.	MURRAY POSIN'S MOTION TO WITHDRAW AS COUNSEL FOR DEFENDANT MOORE State represented by Robert O'Neale, DDA. Defendant Moore neither present nor represented by counsel, Murray Posin. COURT ORDERED, matter is continued to Wednesday. CUSTODY	2/26/86 @ 9:00 A MURRAY POSIN'S MOTION TO WITHDRAW AS COUNSEL FOR DEFENDANT MOORE
2/26/86 DONALD M. MOSLEY DEPT. XIV R. BLOXHAM, DDA J. JIMMERSON, ESQ. L. BAZAR, CLERK S. THIELMAN, RPTR.	MURRAY POSIN'S MOTION TO WITHDRAW AS COUNSEL FOR DEFENDANT MOORE State represented by Ron Bloxham, DDA. Defendant Moore neither present nor represented by counsel, Murray Posin. Court advised this matter is on for the withdrawal of Mr. Posin and the assumption of that appointment by Mr. James Jimmerson, who is present to confirm as counsel. Mr. Jimmerson confirmed as counsel. COURT ORDERED, motion to withdraw is granted. CUSTODY (NSP)	

CASE NO. C69269

TITLE THE STATE OF NEVADA VS. DALE EDWARD FLANAGAN, RANDOLPH MOORE AKA
SMITH, JOHNNY RAY LUCKETT, MICHAEL WALSH, ROY MC DOWELL, AND
THOMAS AKERSDATE, JUDGE
OFFICERS OF
COURT PRESENT

CONTINUED

APPEARANCES — HEARING

CONTINUED TO:

11/27/85 DONALD M. MOSLEY DEPT. XIV D. SEATON, DDA R. PIKE, ESQ. (Flanagan) M. POSIN, ESQ. (Moore) R. HANDFUSS, ESQ. (McDowell) W. SMITH, ESQ. (Luckett) L. BAZAR, CLERK S. THIELMAN, RPTR. M. MILLER, P&P	on Count VII - Life with Possibility of Parole plus consecutive Life with Possibility on the UDW; to run consecutive with Count VI; 342 days C COURT ORDERED defendant Lockett is sentenced on Count III to six (6) years NSP; on Count IV to six (6) years NSP; on Counts VI and VII, the Court confirmed the jury's verdict of Life without the Possibility of Parole plus on the enhancement a consecutive sentence of Life without the Possibility of Parole on each count. Counts III and IV to run concurrently and concurrently with Count VI; Count VII to run consecutive to Count VI. Credit for time served of 342 days. Mr. Posin asked that the Court defer his motion to with- draw. Court consented. Mr. Pike moved to withdraw as counsel of record for defendant Flanagan and requested the Public Defender's Office be appointed for purposes of appeal. COURT SO ORDERED and requested Mr. Cooper to advise the Public Defender's Office. Mr. Handfuss and Mr. Smith requested permission to withdraw as counsel for their respective clients. Mr. Smith advised he would coordinate the appeal. COURT ORDERED, counsel allowed to withdraw, contract attorneys are appointed for defendants McDowell and Luckett. FURTHER ORDERED, matter is continued one week for confirmation of counsel. CUSTODY (All)	
11/27/85 DONALD M. MOSLEY DEPT. XIV L. BAZAR, CLERK	MINUTE ORDER Court appointed John Graves, Esq. and Mark Bailus, Esq. as counsel for defendants Luckett and McDowell and advised them as to the confirmation date. Mr. Bailus unable to confirm. George Carter advised of appointment	12/04/85 @ 9:00 AM CONFIRMATION OF COUNSEL (Defts. Flanagan, McDowell and Luckett)
12/04/85 DONALD M. MOSLEY DEPT. XIV R. O'NEALE, DDA M. COOPER, DPD (Flanagan) J. GRAVES, ESQ. (Luckett) G. CARTER, ESQ. (McDowell) L. BAZAR, CLERK S. THIELMAN, RPTR.	CONFIRMATION OF COUNSEL State represented by Roberta O'Neale, DDA. Defendant Flanagan present in custody with Marcus Cooper, DPD, who confirmed as counsel for purposes of appeal. Defendant McDowell present in custody with George Carter, Esq., who confirmed as counsel for purposes of appeal. Defendant Luckett present in custody with John Graves, Esq., who confirmed as counsel for purposes of appeal. CUSTODY (All)	
12/18/85 DONALD M. MOSLEY DEPT. XIV M. HARMON, DDA M. COOPER, DPD (Flanagan) M. POSIN, ESQ. (Moore) L. BAZAR, CLERK S. THIELMAN, RPTR.	AT REQUEST OF COURT: CLARIFICATION OF SENTENCE State represented by Mel Harmon, DDA. Defendant Flanagan not present and represented by Marcus Cooper, DPD. Defendant Moore not present and represented by Murray Posin, Esq. Both defendants' presence waived. Court advised that with regard to the sentence on Count I of one year Clark County Jail, that out of necessity they must serve that jail term before they can serve at NSP. It has been suggested that the sentence be amended to run the gross misdemeanor concurrent so the defendants	

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MINUTES — CRIMINAL

CASE NO. C69269

TITLE THE STATE OF NEVADA VS. DALE EDWARD FLANAGAN, RANDOLPH MOORE AKA SMITH, JOHNNY RAY LUCKETT, MICHAEL WALSH, ROY MC DOWELL, AND THOMAS AKERS

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES — HEARING

CONTINUED TO:

11/18/85 DONALD M. MOSLEY DEPT. XIV 1. HARMON, DDA 2. BLOXHAM, DDA 3. COLEMAN, P&P 4. BAZAR, CLERK 5. THIELMAN, RPTR.	MOTION TO WITHDRAW AS COUNSEL OF RECORD FOR DEFENDANT MOORE <u>SENTENCING (ALL DEFENDANTS)</u> State represented by Mel Harmon, DDA and Ron Bloxham, DDA. Defendants neither present nor represented by respective counsel. COURT ORDERED, this matter is going to be continued for sentencing to November 20, 1985 in that the P.S.I.'s were not received until late Friday. CUSTODY	11/20/85 @ 9:00 AM MOTION TO WITHDRAW (Moore) SENTENCING (All)
11/20/85 DONALD M. MOSLEY DEPT. XIV 1. O'NEALE, DDA 2. BAZAR, CLERK 3. THIELMAN, RPTR. 4. THOMAS, P&P	MOTION TO WITHDRAW AS COUNSEL OF RECORD FOR DEFENDANT MOORE <u>SENTENCING (ALL DEFENDANTS)</u> State represented by Roberta O'Neale, DDA. Defendants Flanagan, Moore, McDowell and Luckett present in custody without benefit of respective counsel. Court advised defendants that there were problems with the P.S.I. reports and it had spoken to their counsel in chambers and they had agreed to continue the matter to Friday to straighten this out. COURT ORDERED, matter continued to Friday. CUSTODY	11/22/85 @ 9:00 AM MOTION TO WITHDRAW (Moore) SENTENCING (All)
11/22/85 DONALD M. MOSLEY DEPT. XIV 1. SEATON, DDA 2. PIKE, ESQ. 3. FLANAGAN, POSIN, ESQ. 4. MOORE, HOOPER, P&P 5. BAZAR, CLERK 6. THIELMAN, RPTR.	MOTION TO WITHDRAW AS COUNSEL OF RECORD FOR DEFENDANT MOORE <u>SENTENCING (ALL DEFENDANTS)</u> State represented by Dan Seaton, DDA. Defendant Flanagan present in custody with Randall Pike, Esq. Defendant Moore present in custody with Murray Posin, Esq. Defendants McDowell and Luckett present in custody without benefit of counsel. Court advised that Mr. Handfuss is ill and Mr. Smith was excused from this hearing pursuant to discussion this morning. Matter will be continued for sentencing until Wednesday, November 27, 1985 for appearance of Mr. Handfuss. However, this Court will proceed with the confirmation of the Jury's Verdict as to defendants Flanagan and Moore. Court adjudged defendant [REDACTED] guilty of Count I - Conspiracy to Commit Burglary (GM); Count II - Conspiracy to Commit Robbery (F); Count III - Conspiracy to Commit Murder (F); Count IV - Burglary (F); Count V - Robbery with Use of a Deadly Weapon (F); Count VI - Murder 1st ° with Use of a Deadly Weapon (F) and Count VII - Murder 1st ° with Use of a Deadly Weapon (F). Court adjudged defendant [REDACTED] guilty of Count I - Conspiracy to Commit Burglary (GM); Count II - Conspiracy to Commit Robbery (F); Count III - Conspiracy to Commit Murder (F); Count IV - Burglary (F); Count VI - Murder 1st ° with Use of a Deadly Weapon (F) and Count VII - Murder 1st ° with Use of a Deadly Weapon (F).	11/27/85 @ 9:00 AM SENTENCING (All)

CASE NO. C69269

TITLE THE STATE OF NEVADA VS. DALE EDWARD FLANAGAN, RANDOLPH MOORE AKA
SMITH, JOHNNY RAY LUCKETT, MICHAEL WALSH, ROY MC DOWELL, AND
THOMAS AKERSDATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES -- HEARING

CONTINUED TO:

10/15/85 DONALD M. MOSLEY DEPT. XIV M. HARMON, DDA R. SEATON, DDA R. PIKE, ESQ. (Flanagan) M. POSIN, ESQ. (Moore) R. HANDFUSS, ESQ. (McDowell) J. BAZAR, CLERK J. THIELMAN, RPTR.	DEFENDANT FLANAGAN'S MOTION FOR MISTRIAL and JOINDERS BY DEFENDANTS MOORE AND MCDOWELL (Continued) After conferring with Mr. Handfuss and Mr. Posin, Mr. Pike requested that the admonition be marked as Court's Exhibit I and that it be included in the record and sent up to the Supreme Court on the appeal. Mr. Pike advised they would not request it be read to the jury. State advised they would not ask it be read. COURT SO ORDERED. The Court advised that at this juncture the bailiff has charge of the jury and there being no objection by counsel; the jury will begin deliberation. CUSTODY (All)	
10/17/85 DONALD M. MOSLEY DEPT. XIV M. HARMON, DDA R. PIKE, ESQ. (Flanagan) M. POSIN, ESQ. (Moore) R. PIKE, ESQ. for R. SMITH, ESQ. (Lockett) R. HANDFUSS, ESQ. (McDowell)	PENALTY PHASE - VERDICT @ 10:27 A.M. State represented by Mel Harmon, DDA. Defendant Flanagan present in custody with counsel, Randall Pike. Defendant Moore present in custody with counsel, Murray Posin. Defendant McDowell present in custody with counsel, Robert Handfuss. Defendant Lockett present in custody with Randall Pike, Esq., who advised he had been contacted by Mr. Smith and had agreed to take the verdict as and for his client. Clerk called roll of jury. Jury returned with verdicts of Death Penalty with Lethal Injection on Counts VI and VII as to defendants Flanagan and Moore; Life with the Possibility of Parole on Counts VI and VII as to defendant McDowell and Life without the Possibility of Parole on Counts VI and VII as to defendant Lockett. COURT ORDERED, matter is continued for Confirmation of Jury's Verdicts and Sentencing in approximately 30 days. Court Services to remove the defendants at this time. Court thanked and excused the jury. CUSTODY (All)	11/18/85 @ 9:00 AM CONFIRMATION OF JURY'S VERDICT and SENTENCING

CASE NO. C69269

TITLE THE STATE OF NEVADA VS. DALE EDWARD FLANAGAN, RANDOLPH MOORE AKA SMITH, JOHNNY RAY LUCKETT, MICHAEL WALSH, ROY MC DOWELL, AND THOMAS AKERS

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES — HEARING

CONTINUED TO:

10/10/85 DONALD M. MOSLEY DEPT. XIV 1. HARMON, DDA 2. SEATON, DDA 3. PIKE, ESQ. (Flanagan) 4. POSIN, ESQ. (Moore) 5. SMITH, ESQ. (Luckett) 6. HANDFUSS, ESQ. (McDowell) 7. BAZAR, CLERK 8. THIELMAN, RPTR.	10:00 A.M. — JURY TRIAL CONTINUED Appearances as noted above. Clerk called roll of jury. Closing remarks by State. Closing argument by Mr. Smith on behalf of Johnny Ray Luckett. Outside presence of jury, Mr. Posin moved for a mis-trial predicated by Mr. Seaton's statement made in closing remarks. He spoke in terms of no one coming forth to dispute the evidence. Improper argument. Mr. Pike joined on the motion on behalf of defendant Flanagan, statement made objectional when he directed the questions to the defendants that never took the stand. Mr. Handfuss joined with the motion for mis-trial because Mr. Seaton's argument shifted the burden of proof to the defendants. Mr. Smith joined in the motion for mis-trial on behalf of Mr. Luckett. Following arguments of counsel, Court stated its findings. COURT ORDERED, motion for mis-trial denied. Jury summoned. Counsel stipulated that all members of the jury were present and properly seated. Closing arguments by Randall Pike on behalf of Flanagan . Closing arguments by Murray Posin on behalf of defendant Moore. Closing arguments by Mr. Handfuss on behalf of defendant McDowell. Rebuttal argument by State. 7:07 P.M.: Bailiff sworn and case submitted to the jury and they retired for deliberation. 3:30 P.M. — Jury returned with a verdict.	
10/11/85	Appearances as noted above. Clerk called roll of the jury. Jury returned with verdicts of guilty as to all defendants as filed herein. At request of defense counsel, Randall Pike and Robert Handfuss, the jury was polled and all answered in the affirmative. COURT ORDERED, matter is set for penalty phase on Monday, October 14, 1985 at 10:00 A.M. Jury admonished and excused.	10/14/85 @ 10:00 AM PENALTY HEARING
10/14/85 DONALD M. MOSLEY DEPT. XIV 1. HARMON, DDA 2. SEATON, DDA 3. PIKE, ESQ. (Flanagan) 4. POSIN, ESQ. (Moore) 5. SMITH, ESQ. (Luckett) 6. HANDFUSS, ESQ. (McDowell) 7. BAZAR, CLERK	PENALTY HEARING State represented by Mel Harmon, DDA, and Dan Seaton, DDA. Defendant Flanagan present in custody with Randall Pike, Esq. Defendant Moore present in custody with Murray Posin, Esq. Defendant McDowell present in custody with Robert Handfuss, Esq. Defendant Luckett present in custody with William Smith, Esq. Outside presence of jury. Mr. Pike made a motion to impanel a new jury, for recommendation of sentence. Objection by State. COURT ORDERED, the argument for as second jury is without merit; going to decline to impanel a second jury. Jury summoned. Clerk called roll of jury. State waived opening statement and informed the Court it planed to put on no evidence. Opening statement by Mr. Pike. Witnesses sworn and	

CASE NO. C69269 TITLE THE STATE OF NEVADA VS. DALE EDWARD FLANAGAN, RANDOLPH MOORE AK/
SMITH, JOHNNY RAY LUCKETT, MICHAEL WALSH, ROY MC DOWELL, AND
THOMAS AKERS

DATE, JUDGE OFFICERS OF COURT PRESENT	APPEARANCES — HEARING	CONTINUED TO:
1/30/85 DONALD M. MOSLEY DEPT. XIV I. HARMON, DDA J. SEATON, DDA L. PIKE, ESQ. (Flanagan) I. POSIN, ESQ. (Moore) L. SMITH, ESQ. (Luckett) J. HANDFUSS, ESQ. (McDowell) J. BAZAR, CLERK J. THIELMAN, RPTR.	<u>JURY TRIAL CONTINUED</u> Appearances as noted above. Outside presence of the jury. Re Mr. Handfuss' motion to dismiss the with use counts on the Indictment. Following arguments of counsel, COURT ORDERED, motion is denied at this time. Jury summoned. Clerk called roll of jury. Opening statements by State, Opening statements by Mr. Handfuss. Mr. Pike, Mr. Smith and Mr. Posin. Outside presence of jury, Mr. Pike renewed his motion for severance. Mr. Handfuss and Mr. Posin enjoined on the motion on behalf of their clients. COURT ORDERED, motion denied. Jury summoned. Counsel stipulated that all members of the jury were present and properly seated. Witnesses sworn and testified and exhibits offered and admitted per attached worksheets. COURT ORDERED, matter continued to October 1, 1986 at 10:00 A.M. 10:00 A.M.	
0/01/85	Appearances as noted above. Clerk called roll of jury. Witnesses sworn and testified and exhibits offered and admitted per attached worksheets. Outside presence of jury, Mr. Handfuss renewed his motion for severance. Court advised he could make his objection to the reporter at recess. Mr. Pike moved for a mis-trial with reference to another bad act re the burglary of the residence and breaking into residence. Mr. Handfuss joined on the motion. Following arguments of counsel, COURT ORDERED, see no prejudice to any defendant that cannot be cured by a proper admonishment and that has been given. Perhaps an instruction along that line could be submitted to the jury. But, burglary is, per se, a bad act. Court declines to grant the motion for mistrial. Jury summoned. Testimony of witnesses continued. COURT ORDERED, matter is continued to October 2, 1985 at 10:00 A.M. 10:00 A.M.	
0/02/85	Appearances as noted above. Clerk called the roll of the jury. Witnesses sworn and testified and exhibits offered and admitted per attached worksheets. Mr. Handfuss renewed his objections and renewed prior motions and advised he would argue them at break. Outside presence of jury. Motion in limine made by Mr. Smith re the evidentiary hearing and what defendant Flanagan told Ms. Saldana that the other defendants did. Mr. Handfuss joined on the motion. All counsel joined on the 6th amendment rule. Following arguments of counsel, COURT ORDERED, motion denied. Jury summoned. Testimony of witnesses continued. COURT ORDERED, matter is continued to October 3, 1985 at 10:00 A.M. 10:00 A.M.	
0/03/85	Appearances as noted above. Clerk called roll of jury. Witnesses sworn and testified and exhibits offered and admitted per attached worksheets. Outside presence of jury. Mr. Pike moved for a limiting instruction that the testimony as to the arrest of one defendant does not	

CASE NO. C69269

TITLE THE STATE OF NEVADA VS. DALE EDWARD FLANAGAN, RANDOLPH MOORE AKA SMITH, JOHNNY RAY LUCKETT, MICHAEL WALSH, ROY MC DOWELL, AND THOMAS AKERS

DATE, JUDGE OFFICERS OF COURT PRESENT	APPEARANCES — HEARING	CONTINUED TO:
9/24/85 DONALD M. MOSLEY DEPT. XIV 1. HARMON, DDA 2. SEATON, DDA 3. PIKE, ESQ. (Flanagan) 4. POSIN, ESQ. (McDowell) 5. SMITH, ESQ. (Luckett) 6. HANDFUSS, ESQ. (McDowell) 7. BAZAR, CLERK 8. THIELMAN, RPTR.	<p>DEFENDANT FLANAGAN'S MOTION FOR SEVERANCE OF DALE FLANAGAN</p> <p>DEFENDANT FLANAGAN'S MOTION FOR SEVERANCE AND CHANGE OF VENUE</p> <p>EVIDENTIARY HEARING (ALL DEFTS)</p> <p>DEFENDANT WALSH'S MOTION IN LIMINE</p> <p>DEFENDANT LUCKETT'S MOTION FOR SEVERANCE & MOTION IN LIMINE</p> <p>DEFENDANT MCDOWELL'S MOTION FOR SEVERANCE</p> <p>DEFENDANT MOORE'S PROPER PERSON MOTION TO DISMISS</p> <p>COUNSEL & APPOINT DIFFERENT COUNSEL</p> <p>STATE'S MOTION TO ENDORSE NAMES (J.T. 9/25/85)</p> <p>State represented by Mel Harmon, DDA and Dan Seaton, DDA. Defendant Flanagan present with counsel, Randall Pike. Defendant Moore present with counsel, Murray Posin. Defendant Luckett present with counsel, William Smith. Defendant McDowell present with counsel, Robert Handfuss. Defendant Walsh neither present nor represented by counsel, George Kelesis. All defendants present were in custody. Evidentiary hearing continued</p>	<p>9/26/85 @ 10:00 AM</p> <p>EVIDENTIARY HEARING</p> <p>DEFT. FLANAGAN'S MOTION FOR SEVERANCE OF DALE FLANAGAN</p> <p>DEFT. FLANAGAN'S MOTION FOR SEVERANCE AND CHANGE OF VENUE</p> <p>DEFENDANT LUCKETT'S MOTION FOR SEVERANCE & MOTION IN LIMINE</p> <p>DEFT. MCDOWELL'S MOTION FOR SEVERANCE</p>
	<p>Witnesses sworn and testified per attached worksheet. Mehliia Moore, sister of Randolph Moore, present with counsel, Earl Ayers; sworn and testified. Following testimony of witness, Mr. Smith moved to strike Ms. Moore's testimony as being inherently unreliable. Following arguments of counsel, COURT ORDERED, the Court is going to weigh the matter with many of the considerations that the Court is sure counsel will allude to, as it is being evaluated. Evidentiary hearing to resume on Thursday, September 26, 1985.</p>	
	<p>Counsel advised there was no objection to State's Motion to Endorse Names if provided full discovery. COURT ORDERED, motion granted. Upon the Court's inquiry, defendant Moore requested to withdraw his proper person motion to dismiss counsel. COURT SO ORDERED. Defendant Walsh's motion moot. CUSTODY</p>	
9/26/85 DONALD M. MOSLEY DEPT. XIV 1. HARMON, DDA 2. SEATON, DDA 3. PIKE, ESQ. (Flanagan) 4. POSIN, ESQ. (McDowell) 5. SMITH, ESQ. (Luckett) 6. HANDFUSS, ESQ. (McDowell) 7. BAZAR, CLERK 8. THIELMAN, RPTR.	<p>DEFENDANT FLANAGAN'S MOTION FOR SEVERANCE OF DALE FLANAGAN</p> <p>DEFENDANT FLANAGAN'S MOTION FOR SEVERANCE & CHANGE OF VENUE</p> <p>EVIDENTIARY HEARING (ALL DEFENDANTS)</p> <p>DEFENDANT LUCKETT'S MOTION FOR SEVERANCE AND MOTION IN LIMINE</p> <p>DEFENDANT MCDOWELL'S MOTION FOR SEVERANCE</p> <p>State represented by Mel Harmon, DDA and Dan Seaton, DDA. Defendant Flanagan present in custody with Randall Pike. Defendant Moore present in custody with Murray Posin, Esq. Defendant Luckett present with counsel, William Smith. Defendant McDowell present with counsel, Robert Handfuss. Court advised this hearing is in regard to the examination, characterization and deter-</p>	

TITLE THE STATE OF NEVADA VS. DALE EDWARD FLANAGAN, RANDOLPH MOORE AK
SMITH, JOHNNY RAY LUCKETT, MICHAEL WALSH, ROY MC DOWELL, AND
THOMAS AKERS

CONTINUED TO:

9/24/85 @ 10:00 AM
EVIDENTIARY HEARING
AND SCHEDULED MOTIONS
(All Defts.)

JURY TRIAL

CASE NO. C69269

TITLE THE STATE OF NEVADA VS. DALE EDWARD FLANAGAN, RANDOLPH MOORE AKA
SMITH, JOHNNY RAY LUCKETT, MICHAEL WALSH, ROY MC DOWELL, AND
THOMAS AKERSDATE AND
JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES — HEARING

CONTINUED TO:

8/30/85 DONALD M. MOSLEY DEPT. XIV 1. HARMON, DDA 2. SEATON, DDA 3. PIKE, ESQ. (Flanagan) 4. POSIN, ESQ. (Moore) 5. SMITH, ESQ. (Luckett) 6. KELESIS, ESQ. (Walsh) 7. HANDFUSS, ESQ. (McDowell) 8. BAZAR, CLERK 9. THIELMAN, RPTR.	<u>EVIDENTIARY HEARING (All Defendants)</u> <u>DEFENDANT WALSH'S MOTION IN LIMINE</u> <u>DEFENDANT LUCKETT'S MOTION FOR SEVERANCE & MOTION IN</u> <u>LIMINE</u> <u>DEFENDANT MCDOWELL'S MOTION FOR SEVERANCE</u> Defendant Flanagan present in custody with counsel, Randy Pike. Defendant Moore present in custody with counsel, Murray Posin. Defendant Luckett present in custody with William Smith. Defendant Walsh present in custody with George Kelesis. Defendant McDowell present in custody with Robert Handfuss. Mr. Kelesis requested matter be continued on behalf of defendant Walsh due to the fact counsel was surprised that the State has subpoenaed eight witnesses who did not testify at the Preliminary Hearing. Mr. Smith joined in on the motion on behalf of defendant Luckett, and requested production of any notes which are discover- able with respect to any witnesses the State intends to call in this hearing and at trial, and any written statements they may have made. State argued against the motion and advised that Mr. Akers should be no surprise, counsel had known about him since yesterday. Mr. Handfuss joined in on the motion and moved not to have Mr. Akers testify today due to the lateness. Mr. Pike joined in on the previous objections. Mr. Smith advised that he thought the purpose of the hearing today was to determine whether or not certain statements are permissible at trial and whether or not there will be a severance; that he did not think the question of Mr. Akers' testifying is really all that important to his client, Mr. Luckett, in that the fact is that Mr. Luckett has made no admissions and the other defendants have. The Court has to rule on whether certain statements were made in furtherance of a conspiracy. Court advised, that (1) Mr. Kelesis is concerned about surprise. Prior to this, in chambers, the Court asked counsel to get together and determine what statements would be produced. At that time, no one was particularly concerned about what witnesses would be called. Do not see where the surprise comes in; Mr. Akers certainly has not just recently entered this case. State advised the witnesses on this hearing would be Lisa LaCotta; Wayne Whittig; Rusty Havens; Michelle Gray and Duana Manning. Objections by counsel as to the testimony of Michelle Gray and Duana Manning. COURT ORDERED, with the exception of Ms. Manning and Ms. Gray, Ms. LaCotta, Mr. Wittig, Mr. Haven, Mr. Akers and those witnesses at the Preliminary Hearing will testify. Counsel should not be surprised; defendants are not pre- judiced at this time and we will proceed with the hearing. Mr. Kelesis requested, on behalf of his client, defendant Walsh, that all prospective witnesses be excluded and that this matter be transcribed as soon as possible. COURT ORDERED, motion to exclude is granted. Upon request of counsel, Court instructed the bailiff to tell witnesses to restrict	9/17/85 @ 10:00 A.M. EVIDENTIARY HEARING SAME MOTIONS
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THE STATE OF NEVADA VS. RANDOLPH MOORE, THOMAS AKERS, JOHNNY
RAY LUCKETT, MICHAEL WALSH, ROY MC DOWELL AND DALE EDWARD
FLANAGAN

CASE NO. C69269

TITLE

DATE, JUDGE OFFICERS OF COURT PRESENT	APPEARANCES — HEARING	CONTINUED TO:
/28/85 DONALD M. MOSLEY EPT. XIV . SEATON, DDA . SMITH, ESQ. (Luckett) . BAZAR, CLERK . THIELMAN, RPTR.	DEFENDANT'S MOTION TO PLACE ON CALENDAR Defendant Luckett present in custody with William Smith, Esq. Mr. Smith advised the defendant has a motion for severance and a motion in limine which they would like to have calendared. COURT ORDERED, they will be placed on calendar on August 7, 1985 for argument. Briefing schedule; Mr. Smith to file opening brief by July 10, 1985; State to file responding brief on July 24, 1985. Upon inquiry of the Court, Mr. Smith made an ex-parte offer for the appointment of an investigator. State concurred that one would be necessary. COURT SO ORDERED. Court suggested counsel file an affidavit sealed, if necessary indicating his need. Mr. Smith voiced a concern about a continuance necessitated by a last minute disclosure of a "turn-coat" witness. State objected and advised they would be given notice. Court advised Mr. Smith that it was assuming the State, if it were to obtain an additional witness, would be filing a motion to endorse names prior to the trial. State concurred. CUSTODY	8/07/85 @ 9:00 AM DEFENDANT'S MOTION FOR SEVERANCE DEFENDANT'S MOTION IN LIMINE (Luckett)
/05/85 DONALD M. MOSLEY EPT. XIV . BLOXHAM, DDA . LIPPIS, DPD . CREEL, DPD . PIKE, ESQ. . BAZAR, CLERK . THIELMAN, RPTR.	CONFIRMATION OF COUNSEL Defendant Flanagan present in custody with Deborah Lippis, DPD, and Craig Creel, DPD. Randy Pike, Esq. present and advised he had been contacted by Judge Shearing re representing the defendant on this case. Request matter be continued to Wednesday to look over the case. Both Ms. Lippis and Mr. Creel advised there was no opposition to Mr. Pike substituting in as counsel of record. COURT ORDERED, matter is continued to Wednesday for confirmation of counsel. CUSTODY	8/07/85 @ 9:00 AM CONFIRMATION OF COUNSEL
8/07/85 DONALD M. MOSLEY EPT. XIV 1. HARMON, DDA 1. COOPER, DPD (Flanagan) 1. PIKE, ESQ. 1. SMITH, ESQ. (Luckett) 1. KULWIN, ESQ. (Walsh) 1. BAZAR, CLERK 1. THIELMAN, RPTR.	ARGUMENT: DEFENDANT WALSH'S MOTION IN LIMINE OR EVIDENTIARY HEARING DEFENDANT LUCKETT'S MOTION FOR SEVERANCE & MOTION IN LIMINE CONFIRMATION OF COUNSEL (FLANAGAN) Defendant Flanagan present in custody with Marcus Cooper, DPD. Defendant Luckett present in custody with William Smith, Esq. Defendant Walsh present in custody with Michael Kulwin, Esq. Randall Pike, Esq., present. Court inquired if Mr. Pike would be confirming as counsel for defendant Flanagan. Mr. Pike advised he was prepared to confirm if the Court wished to appoint him. Mr. Cooper advised he had no objection to Mr. Pike substituting in as counsel. COURT SO ORDERED. Court advised it was inclined to grant the request for evidentiary hearing. Upon representations of counsel with regard to probable setting for the hearing, COURT ORDERED, all counsel for all defendants to meet with the Court in chambers to discuss and consult the calendar.	
Not Reported 1. BAZAR, CLERK	2:00 P.M. Appearances by counsel as noted above. Robert Handfuss, Esq., counsel for defendant McDowell, present. Charles Waterman, Esq., counsel for defendant Akers, present. Murray Posin, Esq., counsel for defendant Moore, present.	8/30/85 @ 1:30 P.M. EVIDENTIARY HEARING (All Defendants) DEFENDANTS' MOTION

CASE NO. C69269

TITLE THE STATE OF NEVADA VS. RANDOLPH MOORE, THOMAS AKERS,
JOHNNY RAY LUCKETT, MICHAEL WALSH, ROY MC DOWELL, AND
DALE EDWARD FLANAGAN

DATE, JUDGE OFFICERS OF COURT PRESENT	APPEARANCES — HEARING	CONTINUED TO:
5/10/85 DONALD M MOSLEY EPT. XIV FOLEY, LAW JERK BAZAR, CLERK	MINUTE ORDER Having received a telephone call from William Smith, Esq., counsel for defendant Luckett, advising that he has been ordered by a Federal Court judge in Tucson, Arizona to complete a trial, COURT ORDERED, Argument on Writs set for May 13, 1985 at 9:00 A.M. is hereby vacated and reset on May 20, 1985 at 9:00 A.M. All counsel have been so advised by the law clerk.	5/20/85 @ 9:00 AM ARGUMENT ON WRITS (Luckett, Walsh and Akers)
5/13/85 DONALD M. MOSLEY EPT. XIV SEATON, DDA KELESIS, ESQ. (Walsh) BAZAR, CLERK THIELMAN, RPT	DEFENDANT'S MOTION IN LIMINE Defendant Walsh present in custody with counsel, George Kelesis, who advised he and Mr. Seaton had resolved some of the motions. Re the Defendant's Motion in Limine; it would probably depend on the Court's ruling on the writs, it may be repetitive and would be resolved at that time. Re the Defendant's Motion for Severance; Mr. Seaton would like some time to respond to the motion in writing. Re the Defendant's Motion for Discover, they had agreed on points A-E; defendant would not receive those documents or information; re points F-H he would be entitled to any documents or memoranda they have. Re the Defendant's Motion for Appointment of Psychiatrists, Mr. Seaton has no objection. Re the Defendant's Motion to File Additional Motions, Mr. Seaton has no objection. State concurred with Mr. Kelesis' representations but requested in regard to the motion for appointment of psychiatrists that a psychiatrist be appointed rather than Marv Glovinsky as he is a psychologist. COURT ORDERED, the next psychiatrist on the list will be appointed to examine the defendant. FURTHER ORDERED, the Court will approve motion to file additional motions, but this in no way condones the filing of motions that would delay the trial. FURTHER ORDERED, motion for discovery granted pursuant to stipulations of counsel. Matter continued to May 22, 1985 at 9:00 A.M. for Defendant's Motion in Limine and Defendant's Motion for Severance. CUSTODY	5/22/85 @ 9:00 AM DEFT'S MOTION IN LIMINE DEFT'S MOTION FOR SEVERANCE
5-20-85 DONALD M. MOSLEY EPT. XIV BLOXHAM, DDA SMITH, ESQ	ARGUMENT ON WRITS Defendant Luckett present in custody with William Smith, Esq. Defendant Walsh present in custody with George Kelesis, Esq. Defendant Akers present in custody with Charles Hagerman, Esq. Court advised counsel that Mr.	5-22-85 @ 9 A.M. ARGUMENT ON WRITS

CASE NO. C69269

TITLE THE STATE OF NEVADA VS. RANDOLPH MOORE, THOMAS AKERS,
JOHNNY RAY LUCKETT, MICHAEL WALSH, AND ROY MC DOWELL,
DALE EDWARD FLANAGAN

DATE, JUDGE OFFICERS OF COURT PRESENT	APPEARANCES — HEARING	CONTINUED TO:
01/85 NALD M. MOSLEY PT. XIV BARKER, DDA FOLEY, ESQ. GONZALES, ESQ. BAZAR, CLERK THIELMAN, RPTR	MOTION TO WITHDRAW AS COUNSEL OF RECORD FOR DEFENDANT (Walsh) Defendant Walsh present in custody with George Foley, Esq., who advised he appeared on behalf of Gerald Waite, Esq. Mr. Waite is retiring from practice and requests permission to with- draw as counsel for the defendant. Court inquired of Xavier Gonzales, Esq., if he could confirm as counsel for the defendant. Mr. Gonzales so confirmed. COURT ORDERED, motion to withdraw is granted. Court advised Mr. Gonzales of trial date. CUSTODY	
05/85 NALD M. MOSLEY PT. XIV BAZAR, CLERK FOLEY, LAW ERK	MINUTE ORDER Pursuant to request of counsel, COURT ORDERED, hearing on Writ of Habeas Corpus set on April 8, 1985 at 9:00 A.M. is hereby vacated and will be heard on Wednesday, April 10, 1985 at 9:00 A.M. to set Argument on Writ re defendant Lockett.	4/10/85 @ 9:00 AM SET TIME CERTAIN: ARGUMENT ON WRIT
10/85 NALD M. MOSL PT. XIV SEATON, DDA LIPPIS, DPD Flanagan) POSIN, ESQ. Moore) TERRY, ESQ. Lockett) GONZALES, ESQ. KELESIS, ESQ. Walsh) HANDFUSS, ESQ. McDowell) BAZAR, CLERK CLEAVES, RPTR	SET TIME CERTAIN: ARGUMENT ON WRIT MOTION TO WITHDRAW AS COUNSEL OF RECORD FOR DEFENDANT WALSH (4/15/85 - Writ-Walsh) Deft. Akers; neither present nor represented by D. Phillips; deft. Flanagan present in custody with Debbie Lippis, DPD; deft. Moore present in custody with Murray Posin, Esq.; defendant Lockett present in custody with William Terry, Esq.; defendant McDowell present in custody with Robert Handfuss, Esq., and defendant Walsh present in custody with Xavier Gonzales, Esq. Mr. Gonzales advised he wished to withdraw as counsel for defendant Walsh as his contract does not cover capital offenses. George Kelesis, Esq., present and Court inquired of him if he was willing confirm as counsel for defendant Walsh. Mr. Kelesis agreed. COURT ORDERED, motion to withdraw is granted and Mr. Kelesis is attorney of record for defendant Walsh. Court advised that Mr. Seaton had contacted him re consolida- tion of writs. Two are presently filed and the Court suggested all defense counsel's briefs be submitted by April 24, 1985 and Mr. Seaton to respond on May 1, 1985. COURT ORDERED, Argument on Writ as to defendant Walsh presently set on	5/08/85 @ 9:00 AM ARGUMENT ON WRITS (All defendants)

DONALD M. MOSLEY
DEPT. XIV
L. BAZAR, CLERK
NOT REPORTED

COURT ORDERED, matter continued to Monday for arraignment.

ARRAIGNMENT CONT'D

2-25-85

DONALD M. MOSLEY
DEPT. XIV

1. SEATON, DDA

4. POSIN, ESQ.

(Moore)

5. PHILLIPS, ESQ

(Akers)

7. TERRY, ESQ.

(Lockett)

8. WAITE, ESQ.

(Walsh)

9. HANDFUSS, ESQ

(McDowell)

1. CREEL, DPD

(Flanagan)

6. HENKEL, CLERK

3. THIELMAN, REPR

ARRAIGNMENT CONTINUED

Defendant Moore present in custody with Murray Posin, Esq. Defendant Akers present on bail with Dave Phillips, Esq. Defendant Lockett present in custody with William Terry, Esq. Defendant Walsh present in custody with Gerald Waite, Esq. Defendant McDowell present in custody with Robert Handfuss, Esq. Defendant Flanagan present in custody with Craig Creel, DPD. State advised there are five case numbers from Justice Court. State desires to simply have one case against all defendants. State has prepared an information with seven counts listed. Each of the seven counts independently list each defendant associated with each count. This one information reflects the entirety of all counts. At this time State would like to file in open court that information and let the Court decide what case number to go on it.

State suggested that since there is one number for Flanagan and one number for the other five defendants, perhaps the two numbers can be incorporated into this information. No objection by all counsel. COURT ORDERED, that all other cases be merged into this case C69269.

Defendant Moore arraigned and entered a plea of not guilty to Counts I, II, III, IV, V, VI & VII. Deft. Akers arraigned and entered a plea of not guilty to Counts III, IV, VI & VII.

Deft. Lockett arraigned and entered a plea of not guilty to Counts III, IV, VI & VII. Deft. Walsh arraigned and entered a plea of not guilty to Counts III, IV, V, VI & VII.

Deft. McDowell arraigned and entered a plea of not guilty to Counts I, II, III, IV, V, VI & VII.

Deft. Flanagan arraigned and entered a plea of not guilty to Counts I, II, III, IV, V, VI & VII.

Deft. Moore advised his legal name is Randolph Smith. COURT ORDERED, the information, by interlineation, is to reflect the aka of Randolph Smith. All counsel are confirmed to represent their clients in District Court.

CUSTODY
BOND (Akers)

5-20-85 10 A.M.
JURY TRIAL

5-15-85 9:30 A.M
CALENDAR CALL
(All Defts)

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA vs Lockett, Johnny R

12/22/93 09:00 AM 00 LUCKETT'S PRO PER MOTION TO CORRECT AN
ILLEGAL SENTENCE

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: LOIS BAZAR, Court Clerk
RUSSELL GARCIA, Reporter/Recorder

PARTIES: STATE OF NEVADA
000346 Mitchell, Scott S.

Y
Y

State advised the judgment of conviction incorrectly indicated life with the possibility of parole on Counts VI and VII. It should be life without the possibility of parole plus a consecutive life without the possibility of parole as to the enhancements. An Amended Judgment of Conviction had been prepared to correct the discrepancy. COURT ORDERED, motion granted. Amended Judgment of Conviction signed in open court.

CUSTODY (NSP)

02/08/94 09:00 AM 00 DEFENDANT'S PRO PER MOTION FOR APPT
OF COUNSEL ON APPEAL

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: TINA HURD, Court Clerk
NANCY BANKS, Relief Clerk
PATRICIA LOFFT, Reporter/Recorder

PARTIES: STATE OF NEVADA
004515 Andress, Melanie

Y
Y

COURT ORDERED, MS. MELIA TO BE CONTACTED FOR POSSIBLE APPOINTMENT AS APPEAL COUNSEL IN THIS CASE. THIS MATTER CONTINUED.

CUSTODY (NSP)

Ms. Melia notified by the clerk this day of continuance date.

CONTINUED TO: 02/17/94 09:00 AM 01

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Lockett, Johnny R

CONTINUED FROM PAGE: 001

02/17/94 09:00 AM 01 DEFENDANT'S PRO PER MOTION FOR APPT
OF COUNSEL ON APPEAL

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: TINA HURD, Court Clerk
PATRICIA LOFFT, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	004610 Gardner, Gerald J.	Y
	004 D Lockett, Johnny R	N
	004349 Oram, Christopher R.	Y

Mr. Oram advised he is appearing for Ms. Melia who will confirm as counsel.
State advised they oppose the appointment of counsel as they believe the
time has passed for filing an appeal; Deft. was convicted 9 years ago.
COURT ORDERED, MATTER SET FOR STATUS CHECK IN 30 DAYS; MS. MELIA TO
INVESTIGATE AND SEE WHAT SHE CAN DO.

CUSTODY (NSP)

3-17-94 9:00 A.M. STATUS CHECK

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Lockett, Johnny R

CONTINUED FROM PAGE: 002

03/17/94 09:00 AM 00 STATUS CHECK

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: TINA HURD, Court Clerk
PATRICIA LOFFT, Reporter/RecorderPARTIES: STATE OF NEVADA
002028 Booker, Gary R.
004 D Lockett, Johnny R
005039 Kozal, Marcus K.Y
Y
N
Y

Mr. Kozal advised Ms. Melia is asking for a 2-week continuance. Conference at the bench. COURT ORDERED, matter continued 2 weeks.

CUSTODY (NDP)

CONTINUED TO: 03/31/94 09:00 AM 01

03/31/94 09:00 AM 01 STATUS CHECK

HEARD BY: James Brennan, Visiting Judge; Dept. VJ6

OFFICERS: TINA HURD, Court Clerk
TERESA DeROSSETT, Reporter/RecorderPARTIES: STATE OF NEVADA
004610 Gardner, Gerald J.
004 D Lockett, Johnny R
004335 Melia, Laura L.Y
Y
N
Y

Ms. Melia advised this matter is on calendar to determine the status of the appeal. Deft. Lockett's sentence was modified and he filed a notice of appeal. Ms. Melia advised she has not been able to acquire the entire file, however, it appears Deft. has a valid issue to appeal from the amended sentence. Deft. did not file for post-conviction relief, therefore, he has options available. Ms. Melia stated she believes perhaps Judge Guy should rule on this. COURT ORDERED, MATTER CONTINUED.

CUSTODY (NDP)

CONTINUED TO: 04/07/94 09:00 AM 02

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Lockett, Johnny R

CONTINUED FROM PAGE: 003

04/07/94 09:00 AM 02 STATUS CHECK

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: NANCY BANKS, Court Clerk
PATRICIA LOFFT, Reporter/RecorderPARTIES: STATE OF NEVADA
004610 Gardner, Gerald J.
004 D Lockett, Johnny R
004335 Melia, Laura L.Y
Y
N
Y

Ms. Melia advised this matter is on for appeal of modification of sentence and there appears to be a problem. COURT ORDERED, counsel to obtain the transcript of sentencing and the re-sentencing. This matter continued.

CUSTODY (NDP)

CONTINUED TO: 05/05/94 09:00 AM 03

05/05/94 09:00 AM 03 STATUS CHECK

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: TINA HURD, Court Clerk
PATRICIA LOFFT, Reporter/RecorderPARTIES: STATE OF NEVADA
002028 Booker, Gary R.
004 D Lockett, Johnny R
004335 Melia, Laura L.Y
Y
N
Y

Ms. Melia advised an order for transcripts has been done, however, they have not received the transcripts yet. Russell Garcia and Sharon Thielman are the Court Reporters they have been requested from. Ms. Thielman did the original sentencing and they are attempting to find her. Mr. Garcia did the re-sentencing. State did not know if they had received copies. Upon Court's inquiry, Ms. Melia advised the Court Reporters have been served and Mr. Garcia indicated it would be about two weeks; Ms. Thielman has not been located and Dept. XIV is attempting to contact her. COURT ORDERED, matter CONTINUED three weeks and counsel to advise the Court what is happening in ten days.

CUSTODY (NDP)

5-26-94 9:00 AM STATUS CHECK: TRANSCRIPTS

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Lockett, Johnny R

CONTINUED FROM PAGE: 004

05/26/94 09:00 AM 00 STATUS CHECK: TRANSCRIPTS

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: NANCY BANKS, Court Clerk
PATRICIA LOFFT, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
004031	Porterfield Jr, Owen W.	Y
004 D	Lockett, Johnny R	N
004335	Melia, Laura L.	Y

Ms. Melia advised it was her understanding the transcripts have been destroyed after eight (8) years. Further advised at re-sentencing there was a clerical error. COURT ORDERED, Defendant Lockett to be transported for this matter. FURTHER, each counsel to present one (1) best case for their position. The State is to prepare the Order to Transport. STATUS CHECK CONTINUED.

CUSTODY (NDP)

CONTINUED TO: 09/15/94 09:00 AM 01

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Lockett, Johnny R

CONTINUED FROM PAGE: 005

09/15/94 09:00 AM 01 STATUS CHECK: TRANSCRIPTS

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: JOYCE BROWN, Court Clerk
PATRICIA LOFFT, Reporter/RecorderPARTIES: STATE OF NEVADA
004515 Andress, Melanie
004 D Lockett, Johnny R
004335 Melia, Laura L.

Y

Y

N

Y

Ms. Melia advised the Court the transcripts were supposed to be delivered to the Court yesterday. Court advised he was continuing the matter for one week to read through the file. Conference at Bench. Court advised he has a letter from Mr. Lockett. Counsel will bring an Order next Thursday and Court will sign it. He advised Counsel to be sure it was Nunc Pro Tunc. COURT ORDERED, matter CONTINUED.

NDP

9-22-94 9:00 AM FURTHER PROCEEDINGS

CONTINUED ON PAGE: 007

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Lockett, Johnny R

CONTINUED FROM PAGE: 006

09/22/94 09:00 AM 00 FURTHER PROCEEDINGS

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: TINA HURD, Court Clerk
PATRICIA LOFFT, Reporter/Recorder

PARTIES: STATE OF NEVADA
004031 Porterfield Jr, Owen W.

004 D Lockett, Johnny R
004335 Melia, Laura L.

Y
Y

Y
Y

Ms. Melia advised deft. LUCKETT is to be resentenced today due to a clerical error, the Judgment of Conviction being in error and the Clerk's minutes reflecting the correct sentence. State advised they have a Second Amended Judgment of Conviction to file with the Court. Court read same into the record and ORDERED, this sentence is NUNC PRO TUNC AS OF NOVEMBER 27, 1985. Court signed the Second Amended Judgment of Conviction in open court. Deft. LUCKETT having been previously ADJUDGED GUILTY of CT III-CONSPIRACY TO COMMIT MURDER (F), CT IV- BURGLARY (F) AND CTS VI & VII-MURDER WITH USE OF A DEADLY WEAPON (F), COURT ORDERED, in addition to the \$25.00 Administrative Assessment Fee, deft. sentenced to the Nevada Dept. of Prisons for SIX (6) YEARS for Count III; SIX (6) YEARS for Count IV; LIFE WITHOUT THE POSSIBILITY OF PAROLE AND A CONSECUTIVE LIFE WITHOUT THE POSSIBILITY OF PAROLE for Count VI; LIFE WITHOUT THE POSSIBILITY OF PAROLE AND A CONSECUTIVE LIFE WITHOUT THE POSSIBILITY OF PAROLE for Count VII. Counts III and IV to run concurrently and concurrently with Count VI; Count VII to run consecutively to Count VI. Deft. given 342 days Credit for Time Served. Said sentence is Nunc Pro Tunc as of November 27, 1985.

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Lockett, Johnny R

CONTINUED FROM PAGE: 007

02/20/96 09:00 AM 00 ALL PENDING MOTIONS (02-20-96)

HEARD BY: Michael L Douglas, Judge; Dept. 11

OFFICERS: SUSAN BURDETTE/sb, Court Clerk
ANITA SPRINGS-WALKER, Reporter/RecorderPARTIES: STATE OF NEVADA
004352 Owens, Steven S.Y
Y

DEFT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS ... DEFT'S PRO
PER PETITION FOR WRIT OF HABEAS CORPUS ... STATE'S MOTION TO DISMISS DEFT'S
PETITION FOR WRIT OF HABEAS CORPUS

Deft. not present; Ms. Melia not present. Mr. Owens stated he will submit
it on State's Motion. COURT ORDERED, Deft's Pro Per Petition for Writ of
Habeas Corpus DENIED, good cause not appearing for the late filing. COURT
FURTHER ORDERED, previously appointed counsel is RELIEVED as to her
APPOINTMENT as COUNSEL; Deft's Pro Per Motion for Leave to Proceed in Forma
Pauperis GRANTED. State to prepare the Order.

NDP

03/12/96 09:00 AM 00 DEFT'S PRO PER MOTION FOR APPOINTMENT OF
COUNSEL

HEARD BY: Michael L Douglas, Judge; Dept. 11

OFFICERS: JOYCE BROWN, Court Clerk
ANITA SPRINGS-WALKER, Reporter/RecorderPARTIES: STATE OF NEVADA
004352 Owens, Steven S.Y
Y

COURT ORDERED, motion DENIED.

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Lockett, Johnny R

CONTINUED FROM PAGE: 008

09/18/00 09:00 AM 00 DEFT'S PRO PER MOTION FOR APPOINTMENT OF
COUNSEL

HEARD BY: Mark Gibbons, Judge; Dept. 7

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

PARTIES:	STATE OF NEVADA	Y
003801	Robinson, Lynn M.	Y
004 D	Lockett, Johnny R	N
PRO SE	Pro Se	Y

COURT ORDERED, matter CONTINUED to October 10 with deft. Lockett's other motions.

NDP

CONTINUED TO: 10/10/00 09:00 AM 01

10/10/00 09:00 AM 00 ALL PENDING MOTIONS 10/10/00

HEARD BY: Mark Gibbons, Judge; Dept. 7

OFFICERS: AMBER FARLEY, Court Clerk
RENEE SILVAGGIO, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000411	Simon, H. L.	Y

DEFT'S PRO PER MOTION FOR APPOINTMENT OF COUNSEL

COURT ORDERED, Motion DENIED without prejudice under NRS 34.750, as Defendant hasn't shown sufficient cause to appoint counsel.

DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS

COURT ORDERED, Motion DENIED as it is time barred under NRS 34.726; further DENIED under NRS 34.800.

DEFT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

COURT ORDERED, MOTION GRANTED.

NDP

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA vs Flanagan, Dale E

06/24/91 09:00 AM 00 ALL PENDING MOTIONS (6/24/91)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: LOIS BAZAR, Court Clerk
DONNA LITTLE, Reporter/Recorder

PARTIES:	STATE OF NEVADA	N
002028	Booker, Gary R.	Y
001 D1	Flanagan, Dale E	N
001484	Hill, Judith D.	Y
002 D	Moore, Randolph	N
000824	Schieck, David M.	Y

STATE'S MOTION FOR THE COURT TO ISSUE SUPPLEMENTAL WARRANT OF EXECUTION (FLANAGAN).....STATE'S MOTION FOR THE COURT TO ISSUE SUPPLEMENTAL WARRANT OF EXECUTION (MOORE)

Ms. Hill argued that defendant Flanagan would ask the Court to dismiss the supplemental warrant of execution as it was too early. Argument by Mr. Schieck on behalf of defendant Moore, that it was a waste of time as it was just 30 days after the remittitur was issued. He would suggest the matter be continued two to three weeks. Following arguments of counsel, COURT ORDERED, a warrant of execution will issue and an execution date will be set on July 15, 1991 as to each of the defendants; Flanagan and Moore.

CUSTODY (NSP)

02/24/93 09:00 AM 00 ALL PENDING MOTIONS (2/24/93)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: LOIS BAZAR, Court Clerk
DONNA LITTLE, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
004312	Ledebohm, Karl M.	Y
002 D	Moore, Randolph	N
000824	Schieck, David M.	Y

ORAL REQUEST OF DISTRICT ATTORNEY: SCHEDULE NEW PENALTY HEARING (FLANAGAN AND MOORE).....
Mr. Schieck advised Ms. McMahon had filed a motion to withdraw which was set on March 1, 1993. State requested matter be taken off calendar, because they hadn't received a copy of the remittitur. Court advised it had. Mr. Schieck advised he would be willing to accept reappointment. There being no objection, COURT ORDERED, Mr. Schieck is reappointed. This matter is

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 001

continued to Monday.

CUSTODY (NSP) (BOTH) ...3/01/93 @ 9:00 A.M. AT ORAL REQUEST OF DISTRICT ATTORNEY: SCHEDULE NEW PENALTY HEARING (FLANAGAN AND MOORE)

03/01/93 09:00 AM 00 ALL PENDING MOTIONS (3/01/93) (1 & 2)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: LOIS BAZAR, Court Clerk
DONNA LITTLE, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000862	Harmon, Melvyn T.	Y
001 D1	Flanagan, Dale E	N
001765	McMahon, Lee E.	Y
002 D	Moore, Randolph	N
000824	Schieck, David M.	Y

AT ORAL REQUEST OF DISTRICT ATTORNEY: SCHEDULE NEW PENALTY HEARING...LEE ELIZABETH MCMAHON, ESQ.'S MOTION TO WITHDRAW AS ATTORNEY OF RECORD AND APPOINT COUNSEL FOR REPRESENTATION OF DEFENDANT IN THE DEATH PENALTY HEARING

Court inquired if there was an objection to Ms. McMahon's motion to withdraw as counsel of record for defendant Flanagan. Mr. Harmon he had no objection. COURT ORDERED, motion granted. Court inquired if Stephen Dahl, DPD, had represented defendant Flanagan prior. Ms. McMahon concurred. Court asked if it would not be appropriate to ask Mr. Dahl to resume the responsibility in this new penalty phase. Mr. Schieck advised he had no objection. Court advised it would take it up with Mr. Dahl. COURT ORDERED, matter is continued for confirmation of counsel and to set the penalty hearing.

CUSTODY (NSP) (BOTH) ...3/10/93 @ 9:00 A.M. CONFIRMATION OF COUNSEL (FLANAGAN)...SCHEDULE NEW PENALTY HEARING (FLANAGAN AND MOORE)

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 002

03/10/93 09:00 AM 00 ALL PENDING MOTIONS (3/10/93) (1 & 2)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: LOIS BAZAR, Court Clerk
DONNA LITTLE, Reporter/RecorderPARTIES: STATE OF NEVADA
004288 Hill, Steven
002 D Moore, Randolph
000824 Schieck, David M.Y
Y
N
Y

CONFIRMATION OF COUNSEL (FLANAGAN)...SCHEDULE NEW PENALTY HEARING (FLANAGAN AND MOORE)

Stephen Dahl, DPD, present. Court asked Mr. Dahl if he confirmed as counsel. Mr. Dahl advised at the end of the last penalty hearing defendant Flanagan expressed unhappiness with the representation. He thought it would be best to have Mr. Flanagan present. COURT ORDERED, this Court is going to have to pass the setting of the penalty hearing. The D.A. for the State would have to approve. It looked like Mr. Harmon would be the prosecutor. Both defendants' are being held in Ely State Prison. Upon Court's inquiry, counsel advised they transported prisoners every other week. COURT ORDERED, this Court will have the secretary call the state prison and find out and will set the matter on next Monday, or a week from next Wednesday and counsel will be noticed. Mr. Schieck suggested his client, defendant Moore also being transported. COURT ORDERED, under the circumstances, this Court will order both defendant Moore and defendant Flanagan be transported. The D.A. and counsel will be contacted on the date.

1:20 P.M. - Secretary having contacted Ely State Prison and having been apprised that next transport date would be March 18, 1993, COURT ORDERED, the hearing date would be set March 22, 1993. Court clerk contacted D.A. and P.D. Records and Mr. Schieck.

CUSTODY (NSP) (BOTH)...3/22/93 @ 9:00 A.M. CONFIRMATION OF COUNSEL (FLANAGAN)...SCHEDULE NEW PENALTY HEARING (FLANAGAN AND MOORE)

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA vs Flanagan, Dale E

CONTINUED FROM PAGE: 003

03/22/93 09:00 AM 00 ALL PENDING MOTIONS (3/22/93) (1 & 2)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: LOIS BAZAR, Court Clerk
SHARON THIELMAN, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000346	Mitchell, Scott S.	Y
001 D1	Flanagan, Dale E	Y
PUBDEF	Public Defender	Y
001069	Dahl, Stephen J.	Y
002 D	Moore, Randolph	Y
000824	Schieck, David M.	Y

CONFIRMATION OF COUNSEL (FLANAGAN)...SCHEDULE NEW PENALTY PHASE (FLANAGAN AND MOORE)

Mr. Mitchell advised he had been provided with a copy of Mr. Harmon's schedule for the year. Court asked defendant Flanagan if he had a problem with Mr. Dahl handling the responsibility of his case. Defendant Flanagan stated he had none. After consulting counsel concerning their court schedules, COURT ORDERED, date for the penalty hearing is confirmed for September 7, 1993 at 10:00 A.M.

CUSTODY (NSP) (BOTH) ...PENALTY HEARING 9/07/93 @ 10:00 A.M./C.C. 9/01/93 @ 9:30 A.M.

05/03/93 09:00 AM 00 MOTION FOR ORDER FOR PAYMENT OF FEES

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: LOIS BAZAR, Court Clerk

PARTIES:	STATE OF NEVADA	Y
004312	Ledebom, Karl M.	Y

Court advised it was Ms. McMahon's motion and was somewhat unnecessary since a stipulation had been sent over and signed. In any case, her request had been agreed to and the Court signed the order reflecting that. COURT ORDERED, motion granted.

CUSTODY (NSP) (BOTH)

CONTINUED ON PAGE: 005

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA vs Flanagan, Dale E
CONTINUED FROM PAGE: 004

07/14/93 09:00 AM 00 MINUTE ORDER RE: RESET 9/01/93 HEARING
(1 & 2)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: LOIS BAZAR, Court Clerk

PARTIES: NO PARTIES PRESENT

COURT ORDERED, due to this Court's absence, the hearing set on September 1, 1993 is hereby vacated and reset on August 31, 1993 at 9:30 A.M. Court clerk noticed D.A. Records, P.D. Records, and counsel.

08/31/93 09:30 AM 00 ALL PENDING MOTIONS (8/31/93) (1 & 2)

HEARD BY: Donald M. Mosley, Judge; Dept. 14

OFFICERS: LOIS BAZAR, Court Clerk
RUSSELL GARCIA, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000862	Harmon, Melvyn T.	Y
001 D1	Flanagan, Dale E	N
PUBDEF	Public Defender	Y
001069	Dahl, Stephen J.	Y
002 D	Moore, Randolph	N
000824	Schieck, David M.	Y

CALENDAR CALL (PENALTY PHASE 9/07/93)...DEFENDANT FLANAGAN'S MOTION TO CONTINUE TRIAL DATE

Upon Court's inquiry, Mr. Dahl advised he had called to stop transportation of the defendants from Nevada State Prison because they were continuing the trial date. Defense counsel waived the presence of defendants Flanagan and Moore for the purpose of the hearing. Court noted it was a motion to continue the setting of the penalty phase. Mr. Schieck acquiesced. Mr. Harmon advised he had no objection. Court noted the date of April 4, 1994 had been suggested. Mr. Dahl concurred. Court inquired if that was agreed universally. Counsel concurred. COURT ORDERED, motion granted.

CUSTODY (NSP) (BOTH) ...PENALTY PHASE 4/04/94 @ 10:00 A.M./C.C. 3/30/94 @ 9:30 A.M.

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 005

02/03/94 09:00 AM 00 ALL PENDING MOTIONS FOR 2-3-94

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: TINA HURD, Court Clerk
PATRICIA LOFFT, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000862	Harmon, Melvyn T.	Y
001 D1	Flanagan, Dale E	N
PUBDEF	Public Defender	Y
004065	Blaskey, Rebecca A.	Y
002 D	Moore, Randolph	N
000824	Schieck, David M.	Y
000460	Wolfbrandt, William L.	Y

Court advised a penalty hearing has been previously set in April and this Court is not ready to hear it. Court advised it has received no order for a three-judge panel. State advised the hearing will take approximately one week. COURT ORDERED, MATTER SET FOR PENALTY HEARING ON OCTOBER 3 AND WILL HAVE A STATUS CHECK ON JUNE 9. APRIL 4 AND MARCH 30 DATES ARE VACATED. Conference at the bench.

CUSTODY (BOTH)

6-9-94 9:00 A.M. STATUS CHECK

10-3-94 10:00 A.M. PENALTY HEARING

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 006

04/14/94 09:00 AM 00 MOTION TO RESET TRIAL DATE

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: TINA HURD, Court Clerk
PATRICIA LOFFT, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000862	Harmon, Melvyn T.	Y
001 D1	Flanagan, Dale E	N
PUBDEF	Public Defender	Y
001069	Dahl, Stephen J.	Y
002 D	Moore, Randolph	N
000824	Schieck, David M.	Y

Mr. Dahl advised, prior to this penalty hearing being set, counsel were before Judge Sobel on a death penalty case and were told very strongly to protect the trial date of October 10 in that case at all costs. State concurred. Court suggested counsel provide the Court with the dates they will be available and the Court will attempt to find a date compatible with the Court's and counsel's calendars. Mr. Dahl advised this penalty hearing will probably take 2 full weeks as it is to be heard before a jury and jury selection alone could take several days due to the length of time this case has been around and the publicity it has received. COURT ORDERED, matter continued one week; counsel to provide dates today.

CUSTODY (NDP)

CONTINUED TO: 04/21/94 09:00 AM 01

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 007

04/21/94 09:00 AM 00 ALL PENDING MOTIONS (4/21/94)

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: NANCY BANKS, Court Clerk
PATRICIA LOFFT, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
002028	Booker, Gary R.	Y
001 D1	Flanagan, Dale E	N
PUBDEF	Public Defender	Y
001069	Dahl, Stephen J.	Y
002 D	Moore, Randolph	Y
000824	Schieck, David M.	Y
000460	Wolfbrandt, William L.	Y

The Court advised the best date the Court can give is the first Monday in January. COURT ORDERED, status check is vacated as well as the Penalty Hearing. This matter continued for a Penalty Hearing.

CUSTODY (NDP) (FLANAGAN AND MOORE)

1/3/95 @ 10:00 A.M. - PENALTY HEARING (FLANNAGAN AND MOORE)
12/29/94 @ 9:00 A.M. - CALENDAR CALL

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 008

12/01/94 09:00 AM 00 DEFENDANT'S MOTION TO CONTINUE PENALTY
HEARING

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: TINA HURD, Court Clerk
ANITA SPRINGS-WALKER, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000862	Harmon, Melvyn T.	Y
001 D1	Flanagan, Dale E	N
PUBDEF	Public Defender	Y
001069	Dahl, Stephen J.	Y
004065	Blaskey, Rebecca A.	Y
002 D	Moore, Randolph	N
000824	Schieck, David M.	Y
000460	Wolfbrandt, William L.	Y

Mr. Dahl advised defts. FLANAGAN and MOORE are in the Nevada Dept. of Prisons and would waive their presence today. Court advised it wants the waiver in writing due to the circumstances in this case. Court advised the record will reflect that Mr. Dahl has been elected as Justice of the Peace in North Las Vegas, to take office on January 3 and Ms. Mounts has just been given this case. This is a voluminous file and Ms. Mounts cannot be ready by January 3. State advised he understands the circumstances and it is apparent the date must be vacated, however, State would request a date as early as possible as this case is ten years old and there have already been four separate penalty hearings. Ms. Mounts advised counsel have conferred and would request a date in June. COURT ORDERED, matter CONTINUED two weeks for counsel to obtain a waiver from the defts. for a continuance to the June date; Court advised he will not vacate the January date until he receives the waiver; matter set for penalty hearing in June.

NDP (BOTH)

12-15-94 9:00 AM STATUS CHECK: WAIVER (BOTH)

6-8-95 9:00 AM CALENDAR CALL (BOTH)

6-12-95 10:00 AM PENALTY HEARING (BOTH)

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 009

12/15/94 09:00 AM 00 ALL PENDING MOTIONS

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: TINA HURD, Court Clerk
ANITA SPRINGS-WALKER, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
004610	Gardner, Gerald J.	Y
001 D1	Flanagan, Dale E	N
PUBDEF	Public Defender	Y
004065	Blaskey, Rebecca A.	Y
002 D	Moore, Randolph	N
000824	Schieck, David M.	Y

Deft. Flanagan's waiver FILED IN OPEN COURT. Mr. Schieck advised he has already filed a waiver with the Court for deft. Moore. COURT ORDERED, defts FLANAGAN and MOORE's presence will be waived today and at all hearings up to, but not including, the Calendar Call; January dates are VACATED and hearing date STANDS.

CUSTODY (BOTH)

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 010

05/25/95 09:00 AM 00 MINUTE ORDER RE: HEARING MOTIONS

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: JOYCE BROWN, Court Clerk

PARTIES:	STATE OF NEVADA	Y
000862	Harmon, Melvyn T.	Y
002473	Seaton, Daniel M.	Y
001 D1	Flanagan, Dale E	N
002805	Wall, David T.	Y
002 D	Moore, Randolph	N
000824	Schieck, David M.	Y

Court met with Counsel in Chambers and advised motions will be heard on June 1, and June 6. Mr. Schieck moved to have all his motions heard on the same date. COURT ORDERED, motion GRANTED and Mr. Schieck chose June 6.

NDP (BOTH)

CLERK'S NOTE: After further consultation with the Court, Court advised to place ALL the motions to be heard prior to the penalty hearing on June 6.
th

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 011

06/06/95 09:00 AM 00 ALL PENDING MOTIONS 6-6-95

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: JOYCE BROWN, Court Clerk
ANITA SPRINGS-WALKER, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000862	Harmon, Melvyn T.	Y
001 D1	Flanagan, Dale E	N
002805	Wall, David T.	Y
004065	Blaskey, Rebecca A.	Y
002 D	Moore, Randolph	N
000824	Schieck, David M.	Y
000460	Wolfbrandt, William L.	Y

DEFT FLANAGAN'S MOTION FOR NEW TRIAL IN VIEW OF UNITED STATES SUPREME COURT DECISION IN DAWSON V. DELAWARE...DEFT FLANAGAN'S MOTION FOR INDIVIDUALIZED VOIR DIRE AND FOR SUBMISSION OF JURY QUESTIONNAIRE...DEFT MOORE'S PETITION FOR WRIT OF HABEAS CORPUS...DEFT MOORE'S MOTION TO STRIKE DEATH PENALTY... DEFT MOORE'S MOTION TO DISCLOSE INDUCEMENTS, PROMISES, AND PAYMENTS TO PROSPECTIVE STATE WITNESSES AND MEMORANDUM IN SUPPORT THEREOF... DEFT MOORE'S MOTION IN LIMINE TO PRECLUDE REFERENCE TO THE SENTENCES OF THE CO-DEFENDANTS...DEFT FLANAGAN'S MOTION TO PROHIBIT TESTIMONY OF DISTRICT ATTORNEY TO SUMMARIZE WITNESS' PRIOR TESTIMONY OR IN THE ALTERNATIVE TO DISQUALIFY DISTRICT ATTORNEY'S OFFICE...DEFT FLANAGAN'S MOTION FOR DISCLOSURE TO INFORMATION REGARDING STATE WITNESS' EXPECTATIONS OF BENEFITS OF TESTIMONY...DEFT FLANAGAN'S MOTION IN LIMINE TO PROHIBIT EVIDENCE OF DEVIL WORSHIP...DEFT FLANAGAN'S MOTION TO JOIN CO-DEFENDANT RANDOLPH MOORE'S MOTION IN LIMINE TO PRECLUDE REFERENCE TO SENTENCES OF CO-DEFENDANTS... DEFT FLANAGAN'S MOTION TO AMEND DEFENDANT FLANAGAN'S PREVIOUSLY FILED MOTION FOR NEW TRIAL TO REFLECT PETITION FOR WRIT OF HABEAS CORPUS, OR IN THE ALTERNATIVE MOTION TO JOIN DEFENDANT MOORE'S PETITION FOR WRIT OF HABEAS CORPUS...DEFT FLANAGAN'S PETITION FOR WRIT OF HABEAS CORPUS... DEFT FLANAGAN'S MOTION TO STRIKE DEATH PENALTY...DEFT MOORE'S MOTION TO STRIKE DEATH PENALTY

At Court's inquiry as to why the Defendants were not present, Schieck advised that throughout these proceedings, the Defendants have not desired to be present because of the housing situation at Ely. He further stated the Defendants always asked their presence be waived and is true of this proceeding. Mr. Wall stated the same on behalf of Mr. Moore. COURT ORDERED motion waiving Defendants' presence GRANTED. Court read entire list of motions. Mr. Wall advised four motions - DEFT FLANAGAN'S MOTION TO AMEND DEFENDANT FLANAGAN'S PREVIOUSLY FILED MOTION FOR NEW TRIAL TO REFLECT PETITION FOR WRIT OF HABEAS CORPUS, OR IN THE ALTERNATIVE MOTION TO JOIN DEFENDANT MOORE'S PETITION FOR WRIT OF HABEAS CORPUS; DEFENDANT FLANAGAN'S PETITION FOR WRIT OF HABEAS CORPUS; DEFT FLANAGAN'S MOTION FOR NEW TRIAL IN

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CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 012

VIEW OF UNITED STATES SUPREME COURT DECISION IN DAWSON V. DELAWARE; AND DEFT MOORE'S PETITION FOR WRIT OF HABEAS CORPUS could be argued together if Deft Flanagan's Motion to Amend Deft Flanagan's Previously Filed Motion for New Trial is granted first. No objection by State. COURT ORDERED, motion GRANTED. Schieck advised he would be filing a Joinder in Motions later joining in all the motions. These four motions were argued together. COURT ORDERED Deft Flanagan's Motion For New Trial in View of United States Supreme Court Decision in Dawson V. Delaware DENIED; Deft Flanagan's Petition for Writ of Habeas Corpus DENIED; and Deft Moore's Petition for Writ of Habeas Corpus DENIED.

As to DEFT FLANAGAN'S MOTION FOR INDIVIDUALIZED VOIR DIRE AND FOR SUBMISSION OF JURY QUESTIONNAIRE, COURT ORDERED Individualized Voir Dire is DENIED, but Court will consider Mr. Harmon's questions of Jury as a whole. As to a Jury Questionnaire, Court has no problem with that and if all three parties come in with a stipulated set of questions by tomorrow or Thursday, it may be used. Court instructed Counsel to see Jury Services today about deadlines.

As to DEFT MOORE'S AND DEFT FLANAGAN'S MOTIONS TO STRIKE DEATH PENALTY, Argument by Counsel and COURT ORDERED both motions DENIED. As to DEFT MOORE'S MOTION TO DISCLOSE INDUCEMENTS, PROMISES AND PAYMENTS TO PROSPECTIVE STATE WITNESSES AND MEMORANDUM IN SUPPORT THEREOF and DEFT FLANAGAN'S MOTION FOR DISCLOSURE TO INFORMATION REGARDING STATE WITNESS' EXPECTATIONS OF BENEFITS OF TESTIMONY, Court advised Mr. Harmon says there are none. Court further advised there are always payments of travel and motel expenses for State witnesses. COURT ORDERED both motions DENIED, but will grant leeway in questioning at depth.

As to DEFT FLANAGAN'S MOTION TO JOIN CO-DEFENDANT RANDOLPH MOORE'S MOTION IN LIMINE TO PRECLUDE REFERENCE TO SENTENCES OF CO-DEFENDANTS, COURT ORDERED, motion GRANTED.

As to DEFT MOORE'S MOTION IN LIMINE TO PRECLUDE REFERENCE TO THE SENTENCES OF THE CO-DEFENDANTS, argument by Harmon that Jury is asked to set punishment on two out of six Defendants and they need to help the Jury as much as possible. Argument by Schieck and Wall, who joined in the motion, that Co-Defendants' sentences bear no relevance as to what these two Defendants should receive. Court read from the Statutes and ORDERED motion DENIED.

As to DEFT FLANAGAN'S MOTION TO PROHIBIT TESTIMONY OF DISTRICT ATTORNEY TO SUMMARIZE WITNESS' PRIOR TESTIMONY OR IN THE ALTERNATIVE TO DISQUALIFY DISTRICT ATTORNEY'S OFFICE, Mr. Wall argued that Mr. Seaton will be prosecutor and Mr. Harmon will summarize the testimony of four or five witnesses and they object to having this done. Argument by Harmon. COURT ORDERED, this motion CONTINUED until Thursday morning and instructed Counsel to get together and stipulate to witnesses' testimony being summarized or else they would be reading testimony from transcripts. Wall asked to table this until Thursday. Court advised if Counsel are not able to stipulate, Court sees no other way but to read the trial testimony and extricate the

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CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 013

unnecessary garbage; but that is time consuming. Harmon stated he did not feel the parties would be able to work out a stipulation. Court stated they could let him know Thursday morning.

As to DEFENDANT FLANAGAN'S MOTION IN LIMINE TO PROHIBIT EVIDENCE OF DEVIL WORSHIP, Schieck joined in the motion, Wall argued that the Coven was never involved in any way in the decision to commit the crime and is used as character evidence; and is not proper character evidence. He further argued the Defendants have been involved in Christian activities and Bible study classes since then. Harmon stated he did not intend to introduce this in their case in chief, but does not want State's hands tied. Court read his findings into the record and ORDERED motion DENIED WITHOUT PREJUDICE. Wall requested they revisit this motion on Thursday and COURT GRANTED the REQUEST.

The last motion, DEFT MOORE'S MOTION TO STRIKE DEATH PENALTY is a duplicate and already ruled upon.

Mr. Schieck presented a Joinder in Motions of Co-Defendant Flanagan to the Court. COURT ORDERED, motion GRANTED, and it was FILED IN OPEN COURT. Mr. Wall requested transcripts of today's proceedings by tomorrow. Request GRANTED and Court Recorder stated they would be ready. Counsel advised unfinished business consists of unavailability of witnesses and Devil worship in rebuttal.

NDP (BOTH)

6-8-95 9:00 AM DEFT FLANAGAN'S MOTION TO PROHIBIT TESTIMONY OF DISTRICT ATTORNEY TO SUMMARIZE WITNESS' PRIOR TESTIMONY OR IN THE ALTERNATIVE TO DISQUALIFY DISTRICT ATTORNEY'S OFFICE

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 014

06/08/95 09:00 AM 00 ALL PENDING MOTIONS 6-8-95

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: JOYCE BROWN, Court Clerk
ANITA SPRINGS-WALKER, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
002473	Seaton, Daniel M.	Y
001 D1	Flanagan, Dale E	Y
PUBDEF	Public Defender	Y
004065	Blaskey, Rebecca A.	Y
000556	Kohn, Philip J.	Y
002 D	Moore, Randolph	Y
000824	Schieck, David M.	Y
000460	Wolfbrandt, William L.	Y

DEFT. FLANAGAN'S MOTION TO PROHIBIT TESTIMONY OF DISTRICT ATTORNEY TO SUMMARIZE WITNESS' PRIOR TESTIMONY OR IN THE ALTERNATIVE TO DISQUALIFY DISTRICT ATTORNEY'S OFFICE...CALENDAR CALL

Ms. Mounts advised that Mr. Wall is in Supreme Court this morning. Mr. Seaton advised Mr. Harmon is not connected with the case. Court advised he met with Counsel in Chambers yesterday and assumes everyone is ready to go to trial. Mr. Seaton announced State is ready, and Court advised unless the Supreme Court rules otherwise, this case will go to trial. Court advised he will permit the Devil Worship issue by State in rebuttal if the transcript of Corine Lopez is read or she takes the stand. Ms. Mounts argued this will eliminate three-fourths of defense witnesses. Court read a portion of the Lopez testimony. Argument by Schieck. Court advised he will hear what they plan to present outside the presence of the Jury. Mr. Seaton advised he would like to suggest how unavailable witnesses are going to be put on; there are about five lay witness people who knew the Defendants and testified in the penalty hearing. He further advised they had found four of them; but have not found Akers, and plan to put on the ones they do have in the same fashion as in the last penalty hearing. Mr. Seaton suggested they strike "Mr. Harmon" and make no reference to Devil Worship and have it read to the Jury by someone else; that way the Jury would not know it was a prosecutor's testimony. Court advised anything Defense can agree to, in 90% of the time the Court will go along with. Mr. Seaton stated credible hearsay can be used in death penalty cases and they would remove everything not germane here. Court advised if Counsel cannot agree on Mr. Harmon's testimony, then witnesses' testimony in the guilt phase will be used. Mr. Seaton advised they would work together and may put in Aker's testimony. COURT ORDERED, use of prior testimony GRANTED and Deft. Flanagan's Motion To Prohibit Testimony of District Attorney to Summarize Witness' Prior Testimony Or In The Alternative to Disqualify District Attorney's Office is CONTINUED until Monday morning. Mr. Schieck requested an additional table

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CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

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for Counsel and Court stated he would see what he could do.

NDP (BOTH)

6-12-95 9:00 AM DEFT. FLANAGAN'S MOTION TO PROHIBIT TESTIMONY OF DISTRICT ATTORNEY TO SAUMMARIZE WITNESS' PRIOR TESTIMONY OR IN THE ALTERNATIVE TO DISQUALIFY DISTRICT ATTORNEY'S OFFICE

06/12/95 09:00 AM 00 ALL PENDING MOTIONS - PENALTY HEARING

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: TINA HURD, Court Clerk
ANITA SPRINGS-WALKER, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
002473	Seaton, Daniel M.	Y
001 D1	Flanagan, Dale E.	Y
PUBDEF	Public Defender	Y
002805	Wall, David T.	Y
004065	Blaskey, Rebecca A.	Y
002 D	Moore, Randolph	Y
000824	Schieck, David M.	Y
000460	Wolfbrandt, William L.	Y

Court advised defts. filed a Writ which was denied; defts. then filed a Writ of Mandamus last week and the Supreme Court denied that. Court read from the Writ of Mandamus. Court stated he understands a Notice of Appeal was filed on Friday with the Supreme Court on the Writs of Habeas Corpus as they are independently appealable. Counsel have indicated today that this Court no longer has jurisdiction based upon Robertson. Court stated it was decided some time ago that a Writ of Habeas Corpus is appealable but not until the end of a case. The State may file an immediate appeal if a Writ is granted as the case is then out of Court and the State would suffer irreparable harm. Court read NRS 34.575.1 and advised this matter is before the Court on a penalty hearing and no judgment has been entered. There is no written motion but the Court does have an oral motion before it. Mr. Schieck concurred. Mr. Wall advised deft. Flanagan has no oral motion and contends the filing of the Notice of Appeal divests jurisdiction. Court FINDS the notice is defective. Court advised he has nothing from the Supreme Court. In the meantime, this Court has a phone call into the Supreme Court and, if they wish to stay this matter, this Court has no problem with that. Mr. Schieck argued the convictions in the other charges are final and the Writ went as to all charges in the case in the guilt phase. Court advised, unless this Court is ordered to stay by the Supreme Court, we will proceed. Mr. Wall advised the Writ of Mandamus was filed on June 8 and the opinion that came down that afternoon stated, in essence, that the Writ of Mandamus

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CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 016

was improper. This Court has said NRS 34.575.1 does not apply and four days ago the Supreme Court advised it did and directed us to file a Notice of Appeal. Court advised that statute states "if there is no criminal action pending". Mr. Wall stated the Supreme Court advised an appeal on the Writs of Habeas Corpus is proper instead of an extraordinary Writ. Mr. Wall quoted from the Robertson case. Court advised counsel have made their record and, if counsel wish, they may call the Supreme Court and advise them that this Court intends to proceed despite the notice that has been filed. State agreed with the Court and stated there are no judgments as there are no sentences on these charges and the State believes both of those provisions are applicable. Court stated, if everything was stayed on a Notice of Appeal of a Writ, it would happen everyday. COURT ORDERED, counsel have until 10:30 a.m. to get a stay. Court adjourned at 9:30 a.m.

LATER: Court advised, due to the process with the Supreme Court, COURT ORDERED, this matter will reconvene at 1:45 p.m.

2:22 P.M.--Clerk called roll of the jury panel. COURT ORDERED, Order to Show Cause to issue for badge numbers 495 and 547 who were not present. Court advised there are some minor technicalities that the Supreme Court partially took care of last week and they are, unfortunately, hearing oral arguments today and we are waiting to hear from them on other matters. Court advised the jury will be excused for the afternoon and will reconvene at 9:00 a.m. tomorrow morning. Court advised he will take no legal actions today as the defts. are not present at this time and they must be present for all proceedings. Jury excused for the day at 2:31 p.m. OUTSIDE THE PRESENCE OF THE JURY PANEL, colloquy between Court and juror 540 reference a hardship. Outside the presence of this juror, counsel advised they have no objection to excusing this juror and would waive any defect in the defts. not being present. Juror 540 present and COURT ORDERED, juror 540 EXCUSED. State's Motion to Use Reported Testimony FILED IN OPEN COURT. Court adjourned at 2:37 p.m.

CUSTODY (BOTH)

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA vs Flanagan, Dale E

CONTINUED FROM PAGE: 017

06/13/95 09:00 AM 00 ALL PENDING MOTIONS - PENALTY HEARING

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: TINA HURD, Court Clerk
ANITA SPRINGS-WALKER, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
002473	Seaton, Daniel M.	Y
001 D1	Flanagan, Dale E	Y
PUBDEF	Public Defender	Y
002805	Wall, David T.	Y
004065	Blaskey, Rebecca A.	Y
002 D	Moore, Randolph	Y
000824	Schieck, David M.	Y
000460	Wolfbrandt, William L.	Y

9:30 A.M.--Pursuant to a conference in chambers between the Court and counsel, defts. Flanagan and Moore taken back to the jail to shower and shave.

10:03 A.M.--Mr. Wall stated he believes the Court has received notice from the Nevada Supreme Court denying the Writs of Prohibition and request for stay. Secondly, there is an issue that has come up with Rusty Havens, one of the State's witnesses, who has acquired a new case and apparently absconded and was arrested last week. Mr. Wall advised it appears the Public Defender's office represented Mr. Havens before he absconded and it further appears the Public Defender's office has, to some extent, negotiated a deal for him on his new charges. Mr. Wall advised Mr. Havens case is on this morning before Judge Huffaker on the bench warrant return and he has left word with that deputy that he is a witness for the State and we should withdraw this morning. Mr. Wall advised, when he became aware Mr. Havens was a Public Defender client, he did not review the file and did not represent Mr. Havens in Justice Court and further believes Ms. Mounts also did not represent him. Mr. Wall advised he wanted to bring the Court's attention to the conflict and advised he does not know what we need to do to preserve the record. State concurred and advised he had not yet spoken with Mr. Havens and has not spoken with any of the deputies in his office reference the case. State advised he was informed this morning by Ms. Robinson that a deal had been struck by Ms. Maxson but he believes that deal has fallen through. State advised he has seen this sort of conflict arise before and it has always been resolved by the Public Defender getting off the case and he believes that should be done this morning. State advised he has no problem with Mr. Wall cross-examining Mr. Havens. COURT ORDERED, Rusty Havens to be brought over at 8:45 a.m. tomorrow morning and requested the State prepare a written order during the lunch hour. Arguments by counsel as to Deft. Flanagan's Motion to Prohibit Testimony of District Attorney to Summarize Witness' Prior Testimony or in the Alternative to

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CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 018

Disqualify District Attorney's Office. Mr. Wall stated he believes this has already been determined. State advised he believes the Court has informally indicated he was going to take testimony from prior witnesses in prior penalty hearings and the State has sanitized the transcript and believes counsel have agreed to what can be used. Ms. Mounts concurred and stated it was her understanding that the Court has ruled he was going to accept that testimony and we wanted to preserve our record. Ms. Mounts advised they object to Mr. Harmon's testimony being read and advised they have confrontation rights to those witnesses. Court advised what he ruled is that the testimony of the witnesses Mr. Harmon summarized would be used if defense counsel make those objections; if it cannot be agreed upon, we will use those testimonies where there was cross-examination. Mr. Schieck joined in Ms. Mounts objections and advised it is more acceptable to use what they have agreed upon. Court stated he understands defense counsel object to Mr. Harmon's testimony and the Court has no problem with that and will sustain that objection and will use the whole testimonies of those witnesses. Mr. Schieck advised counsel have agreed to use the testimony of Mr. Harmon with Mr. Harmon's name withdrawn. Colloquy between Mr. Wall, Ms. Mounts and deft. Flanagan. Court advised he received a fax from the Supreme Court on June 12 and read the decision into the record. Ms. Mounts advised, after conferring with their client, they too will agree to use the prior testimony of Mr. Harmon that we have agreed upon, with Mr. Seaton withdrawing Mr. Harmon's name and will withdraw the objection to that testimony. Mr. Schieck advised they will also withdraw their objection. As to State's Motion to Use Reported Testimony, Court advised both sides have some people they cannot locate and, if there are no objections, the Court will grant the motions for both sides. No objections by counsel. COURT ORDERED, motion GRANTED for the State and the defense. Mr. Wall stated, apparently, the jail is under the impression that these defts. are under a sentence of death and are housed in a section that does not allow them to shower and shave. The jail has indicated if they knew from some authority that these defts. are not under a sentence of death, they would house defts. accordingly. Mr. Wall requested the Court order the jail to allow these defts. to shower and shave and be presentable for Court. Court directed the Court Services officers to advise the officials at the jail that the Supreme Court has reversed the prior sentence of death and that is why we are here, to determine their sentences and they are to shower and shave and be presentable for Court. State requested to be allowed to expand his introduction to the jury slightly so if anything triggers the jury, they will be able to answer appropriately during voir dire. State advised he will not mention the death phase, only that these defts. have been found guilty by a prior jury. 10:31 a.m.--Clerk called roll of the jury panel. Court again directed the bailiff to speak with the Jury Commissioner and have an Order to Show Cause issue as to jurors 495 and 547 who were not present when called and were not present yesterday either. Introductions by counsel. Jury selection proceeded. OUTSIDE THE PRESENCE OF THE JURY PANEL, colloquy between Court and Mr. Wall as to the question asked by Mr. Wall as to whether a juror had an opinion of the criminal justice system and why the Court stopped that line of questioning. Court adjourned for lunch at 12:22 p.m. 1:48 p.m.--Clerk called roll of the jury panel. Jury selection

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CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 019

continued. Court admonished the panel not to talk during proceedings. Jury admonished and excused for the evening at 4:18 p.m. to reconvene at 9:00 a.m. tomorrow morning. OUTSIDE THE PRESENCE OF THE JURY, Court advised counsel not to ask the same questions the Court does, however, sometimes counsel hears something in a voice the Court does not hear and that may be pursued but do not go down the same list of questions. Colloquy between Court and counsel as to jury instructions. Court advised he wants jury instructions on Thursday morning. Court advised counsel to be here at 8:45 a.m. on the Havens issue. Court adjourned at 4:20 p.m.

CUSTODY (BOTH)

06/14/95 09:00 AM 00 ALL PENDING MOTIONS - PENALTY HEARING

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: TINA HURD, Court Clerk
ANITA SPRINGS-WALKER, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
002473	Seaton, Daniel M.	Y
001 D1	Flanagan, Dale E	Y
PUBDEF	Public Defender	Y
002805	Wall, David T.	Y
004065	Blaskey, Rebecca A.	Y
002 D	Moore, Randolph	Y
000824	Schieck, David M.	Y
000460	Wolfbrandt, William L.	Y

Court convened at 9:05 a.m. OUTSIDE THE PRESENCE OF THE JURY, witness Rusty Havens present in custody with a District Attorney investigator. Mr. Wall advised they were aware Mr. Havens was going to testify and gave a chronology of events. Mr. Wall advised the Public Defender had represented Mr. Havens before the bench warrant was issued in Dept. IX. The Public Defender negotiated the case and Mr. Havens was scheduled to plead guilty when he failed to appear and a bench warrant was issued. Mr. Havens was in Dept. IX on a bench warrant return earlier this week and Mr. Wall advised he had instructed the Deputy Public Defender to withdraw from the case and he believes they did withdraw yesterday and Mike Davidson was appointed. Mr. Wall advised there could be the appearance of a conflict of interest and one of the areas of cross-examination would be the benefits of his testimony. Mr. Wall advised he was not present when the case was negotiated and does not know the underlying facts of the case. Upon Court's inquiry, Mr. Wall advised, to his knowledge, there is nothing in this case that has anything to do with the case before Judge Huffaker and he believes they are fairly recent charges. Court advised he does not see any conflict, however, COURT ORDERED, matter CONTINUED to tomorrow morning at 8:45 a.m. and Mr. Havens to

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CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 020

be present with his attorney, Mike Davidson, and we will take up any conflict issues at that time. State advised there was a motion brought by the defense asking the State to divulge any favorable treatment any witnesses have received and, as to this witness, State would concur with what Mr. Wall stated. State advised he learned about Mr. Havens' arrest late last week and, prior to that time, he had never spoken to Mr. Havens or any deputy in his office reference that case. State further advised he believes a deal was struck down in Justice Court and no deputy was aware of Mr. Havens' preparedness to testify in this matter as he was not subpoenaed yet. State advised he has instructed the other deputies, whether Mr. Havens adheres to this deal or the case is redealt, they are not to take this case into consideration and, if this witness makes himself unavailable, the State will use his transcript testimony. Court requested the DA's investigator contact Mr. Davidson as to the hearing tomorrow. Investigator acknowledged. Juror 496-Pearlstein met with the Court prior to the other panelists being brought in and was excused for cause. 9:22 a.m.--Clerk called roll of the jury panel; counsel stipulated to the presence thereof. Jury selection continued. Court reconvened after the lunch hour at 1:58 p.m. Clerk called roll of the jury panel; Court advised juror 520 is excused due to illness. Counsel stipulated to the presence of the jury panel. Jury selection continued. Court admonished the jury panel and excused them for the evening at 3:52 p.m. to reconvene at 9:00 a.m. tomorrow morning. OUTSIDE THE PRESENCE OF THE JURY, Mr. Schieck renewed his challenge of juror 432-Jacintho and advised he wanted the Court to be clear on his position, especially now that we have the transcript of exactly what he said. Colloquy between Court and Court Recorder reference a typographical error in the transcript. Mr. Schieck directed the Court to the portion of the transcript in question and stated his position is that the juror's answers to his questions are unequivocal and advised he did not have time to get into all the questions the State asked to rehabilitate this juror. COURT ORDERED, Court will meet with counsel at 8:45 a.m. to go over this and that will give the State and the Court time to review it.

CUSTODY (BOTH)

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 021

06/15/95 08:45 AM 00 ALL PENDING MOTIONS - PENALTY HEARING

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: TINA HURD, Court Clerk
ANITA SPRINGS-WALKER, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
002473	Seaton, Daniel M.	Y
001 D1	Flanagan, Dale E	Y
PUBDEF	Public Defender	Y
002805	Wall, David T.	Y
004065	Blaskey, Rebecca A.	Y
002 D	Moore, Randolph	Y
000824	Schieck, David M.	Y
000460	Wolfbrandt, William L.	Y

Court convened at 8:48 a.m. OUTSIDE THE PRESENCE OF THE JURY. Witness Rusty Havens present in custody with Mike Davidson, ESQ. Court advised he received case law from Ms. Mounts this morning which the Court has read. Mr. Davidson advised he has not confirmed as counsel yet as he just received a call yesterday from Judge Huffaker advising he was appointed and he has not had time to speak with Mr. Havens. Court advised Mr. Havens has testified in the past and the Court wishes to make the record clear of any possible conflict. Upon Court's inquiry, Mr. Davidson advised he can confirm as counsel. Mr. Wall again advised of the circumstances causing the Public Defender to withdraw and, because a possible conflict may appear in the record, he does not know if deft. Flanagan needs to waive any defect. Mr. Davidson advised he has not discussed with Mr. Havens whether he wants to claim a conflict because the Public Defender represented him in the past, however, he does not see a prospective problem. Court advised Mr. Davidson to take some time this morning and discuss it with Mr. Havens. If Mr. Havens does not want to take the stand, the Court needs to know as soon as possible. Court advised Mr. Davidson to inform the Court tomorrow morning; the State has already advised yesterday that there are no deals concerning this case. Mr. Wall stated that is only as to Mr. Seaton's knowledge. Court advised Mr. Wall can ask his people if there were any negotiations concerning this case which requires a yes or no answer and that is not a conflict of interest; you cannot make an intelligent decision in a vacuum. State advised he learned this morning from Kim Maxson, DDA, that she is probably going to offer Mr. Havens the same deal she offered before which is an Attempt Burglary and State will make no recommendation. State advised he instructed her again that no negotiations should be made concerning this case. Conference at the bench. Mr. Davidson left to speak with Mr. Havens in the hall. Court advised he had a renewed motion as to the juror in seat #2, Jacintho, after reading the transcript of what he said. Mr. Schieck read parts of the transcript into the record. Mr. Wall and Ms. Mounts joined in Mr. Schieck's challenge. Court advised he has read some of that

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CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 022

transcript and, there being no objections, COURT ORDERED, Juror 432-Jacintho excused for cause. 9:09 a.m.--Clerk called roll of the jury panel. Jury selection continued. 11:37 a.m.--OUTSIDE THE PRESENCE OF THE JURY, Mr. Davidson appeared and advised Mr. Havens is prepared to testify. Upon Court's inquiry, Mr. Davidson advised he does not know of any negotiations involving this case. Mr. Wall inquired if it is the Court's ruling that there is not a significant conflict in representing deft. Flanagan and cross-examining a former client of the Public Defender's office. Court advised that is his ruling. Mr. Wall advised it has come to his attention that juror 434-Guerra has an outstanding bench warrant right now for contempt of court and he does not have any idea what the facts are. Court directed the State to check into the bench warrant during the lunch hour. Mr. Davidson advised he has spoken with the State as he is concerned with anything his client testifies to being used against him and the State advised they will not be using anything against him and are willing to make that statement on the record. State concurred. Colloquy between Court and counsel as to when Mr. Havens will testify. Court advised he will have the State call when Mr. Havens is up to testify. Court read from the Supreme Court opinion submitted by Ms. Mounts. Court convened after the lunch hour at 1:44 p.m. OUTSIDE THE PRESENCE OF THE JURY. Court advised when we stopped this morning we had information that one of our jurors has a bench warrant outstanding. State advised juror 434-Guerra had a 1982 failure to appear bench warrant that is no longer active and there is nothing in the system for him at this time. Matter submitted by counsel. Court stated, based on what the State informs him, it is a moot question now. 1:50 p.m.--Clerk called roll of the jury panel. Jury selection continued. Court admonished the jury and excused them for the evening at 4:21 p.m. to reconvene at 9:00 a.m. tomorrow morning. OUTSIDE THE PRESENCE OF THE JURY, Mr. Schieck advised, in reviewing the questionnaires, they know that juror 526-Chase belongs to an organization that advocates abolishing the death penalty and the State will probably exercise a challenge for cause. After that is juror 527-Gardner who has advised he spoke with his father who was a juror on the original trial and has the appearance of impropriety. Mr. Schieck stated he believes we are asking for error if he sits on the jury as he has already violated the admonition of the Court not to discuss the case with anyone and his father heard alot of evidence that is improper in this trial and he has also heard the prosecutorial misconduct that has been condemned by the Supreme Court. Mr. Schieck moved the Court to reconsider the challenge of juror 527. Mr. Wall joined in the motion. State advised it is the Court's prerogative, however, he will join in the form of a stipulation. Court stated he believes this case was discussed after the verdict was in when juror 527 was 15 years of age and the Court is sure this juror knows they received the death penalty then and knows it now. Court advised he has no problem with Mr. Schieck's motion. State advised perhaps the Court could also excuse juror 526 who advocates abolishing the death penalty. Mr. Schieck advised he will not stipulate to that as he wants to make sure she has not changed. Colloquy between Court and counsel as to jury instructions. Court adjourned at 4:29 p.m.

CUSTODY (BOTH)

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA vs Flanagan, Dale E

CONTINUED FROM PAGE: 023

06/16/95 09:00 AM 00 ALL PENDING MOTIONS - PENALTY HEARING

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: TINA HURD, Court Clerk
ANITA SPRINGS-WALKER, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
002473	Seaton, Daniel M.	Y
001 D1	Flanagan, Dale E	Y
PUBDEF	Public Defender	Y
002805	Wall, David T.	Y
004065	Blaskey, Rebecca A.	Y
002 D	Moore, Randolph	Y
000824	Schieck, David M.	Y
000460	Wolfbrandt, William L.	Y

Court convened at 9:08 a.m. OUTSIDE THE PRESENCE OF THE JURY. Mr. Schieck inquired how many alternates there will be and how many peremptory challenges they will get and requested each deft. get a challenge. Court advised there will be two alternates and each side will get one peremptory challenge. Mr. Wall joined in Mr. Schieck's motion. State advised statute provides for the defense to get one when there are only two alternates and these defts. should share their challenge. COURT ORDERED, Mr. Schieck's motion is DENIED. Court advised, as to Juror 527, he will be left on the panel until he is called and the Court will inform him that because of his previous voir dire he is going to be excused. Mr. Schieck requested a break be taken after jury selection and prior to witnesses as the evidence is not down here yet and they need to organize it. State advised he received from Mr. Wall this morning a report from Dr. Etcoff and has not had a chance to read much but would note the interview took place as late in the proceedings as last Friday. State advised Mr. Wall has been informing the State what is going on but we did not get a report until today and the State may need to do something in response to this in the form of another medical person. State advised his desire would be to simply cross-examine the psychologist and leave it at that. State advised he needs to know how this will hurt the State's position and will let the Court know Monday morning. Court advised the State to let the Court know today as it would delay the trial 2-3 days if the State needs a medical person to examine deft. Flanagan. State advised he will do his best to work around the problem. COURT ORDERED, based on what the Court just heard, there will be four alternates and each side will get two peremptory challenges. Conference at the bench. 9:16 a.m.--Clerk called roll of the jury panel. Jury selection continued. Jury and alternates sworn. Preliminary instructions given by the Court. Opening statements by counsel. Testimony and exhibits presented. (See worksheets.) Court admonished the jury and excused them for the day at 12:50 p.m. to reconvene at 10:00 a.m. Monday morning. OUTSIDE THE PRESENCE OF THE JURY, Court advised he has been given what purports to be jury instructions and

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CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 024

returned them to the State to hold until they are needed. State addressed the psychiatric report and advised he has been able to read only about half and one of the problems with this is no questions were asked of the jury as to training in psychiatry that would usually be asked in a defense of insanity. Court advised we will address this issue on Monday morning. Court advised, for the record, new markings will be used on the evidence for this hearing. Court adjourned at 12:54 p.m.

CUSTODY (BOTH)

CONTINUED TO: 6-19-95 10:00 AM

06/19/95 10:00 AM 00 ALL PENDING MOTIONS - PENALTY HEARING

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: TINA HURD, Court Clerk
ANITA SPRINGS-WALKER, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
002473	Seaton, Daniel M.	Y
001 D1	Flanagan, Dale E	Y
PUBDEF	Public Defender	Y
002805	Wall, David T.	Y
004065	Blaskey, Rebecca A.	Y
002 D	Moore, Randolph	Y
000824	Schieck, David M.	Y
000460	Wolfbrandt, William L.	Y

Court convened at 10:10 a.m. OUTSIDE THE PRESENCE OF THE JURY. State advised, at the end of last week, the Court suggested he take the weekend to study Dr. Etcoff's report and be ready to discuss the difficulties. State advised there are some difficulties, however, he believes they are resolvable and he has been made aware that the best thing the State could have is the raw data that came from Dr. Etcoff's examination of deft. Flanagan. Flanagan was given several tests and the State needs the answer sheets to these and also needs the raw data. In essence, the State needs the whole case file including the doctor's notes. State moved the Public Defender obtain that information and turn it over to the District Attorney's office as soon as possible, hopefully by the end of the work day today, and, if he receives this data, the State can go forward. State further advised if there have been any prior examinations from 1984 on, the State needs those to compare and contest. State advised he has been prejudiced greatly by this and believes, if he can obtain this information, the prejudice will be lessened to a degree where the State can go forward. Court advised the allegation of prejudice is the timeliness of it, waiting until the 9th of June, on the verge of trial. Mr. Wall advised it would have been almost

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CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 025

impossible to have the psychiatrist of choice travel to Ely or to have the deft. travel here for an examination. Further, Mr. Wall advised they have never seen another psychiatric examination, however, deft. Flanagan indicates there may have been a general competency examination done in 1985. As to the raw data, Mr. Wall advised that is not in their possession, however, they can contact Dr. Etcoff over the lunch hour. Court strongly urged the State to serve Dr. Etcoff a subpoena duces tecum to have those records produced by the end of the day. State advised Dr. Etcoff may be hard to get ahold of and requested the Court also order the Public Defender to contact Dr. Etcoff over the noon hour. COURT ORDERED, the Public Defender to call Dr. Etcoff and advise him the Court wants that information. Court also suggested the State have a law clerk, if they have one, go through the Court's file as there may be a report in there if one was ordered. Mr. Schieck advised in the Saturday Review-Journal newspaper there was an article written by Carrie Geer that makes reference to the fact these defts. were sentenced to the death penalty and to the reversal. Mr. Schieck requested the Court inquire of the jurors if they saw the article. Court stated the record will reflect, the Court has a copy of the Saturday, June 17, Review-Journal and appearing on page 9B is the article. Court directed the bailiff to make copies of the article for counsel. Court further advised for the record, the Court did receive a copy of Dr. Etcoff's evaluation that appears to have been dated 6-13-95. 10:31 a.m.--Clerk called roll of the jury; counsel stipulated to the presence thereof. State advised he is going to put on Dr. Green's testimony today and he is out of the jurisdiction. State advised he has brought in two persons from the District Attorney's office to read Dr. Green's testimony from the last hearing and he will show the pictures to the jury that Dr. Green showed during his prior testimony. Further testimony and exhibits presented. Jury admonished and excused for lunch at 11:59 a.m. OUTSIDE THE PRESENCE OF THE JURY, Court advised witness John Lucas to return at 2:00 p.m. and he was excused. Mr. Wolfbrandt advised this witness has advised he had to spend the last seven months he was in prison in lock down because of having a snitch jacket for testifying in this matter and Mr. Wolfbrandt wants to explore this witness's prior convictions as they include lewdness with a minor for which his probation was revoked for soliciting a minor for acts against nature. Ms. Mounts joined in the motion. State argued defense counsel just want to prejudice this witness more than he already is. If they inquire if he had to go into protective custody for any other reason than this case and the answer is no, that is the end of the line of questioning. Ms. Mounts advised this witness did receive a benefit from his testimony in this case, he received probation on a felony offense. COURT ORDERED, the question Mr. Seaton suggested will be allowed. Mr. Wolfbrandt advised the witness advised he had to go into closed custody because of threats. Court advised he will allow a certain latitude. State advised Mr. Davidson is here and Court Services has brought over Mr. Havens and he is the next witness. Mr. Davidson advised he will rearrange his appointments to be here at 2:00 p.m. Court adjourned at 12:08 p.m. for lunch. 2:12 p.m.--Counsel stipulated to the presence of the jury. Further testimony and exhibits. Court admonished the jury and excused them for the day at 3:53 p.m. to reconvene at 10:00 a.m. tomorrow morning. OUTSIDE THE PRESENCE OF

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CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 026

THE JURY, witness John Lucas not being present when called to testify after lunch, Court directed the State to have their investigator attempt to find Mr. Lucas tonight and, if he is not found, the Court expects to have a bench warrant awaiting his signature. Court adjourned at 3:55 p.m.

CUSTODY (BOTH)

CONTINUED TO: 6-20-95 10:00 AM

06/20/95 10:00 AM 00 ALL PENDING MOTIONS - PENALTY HEARING

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: TINA HURD, Court Clerk
ANITA SPRINGS-WALKER, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
002473	Seaton, Daniel M.	Y
001 D1	Flanagan, Dale E	Y
PUBDEF	Public Defender	Y
002805	Wall, David T.	Y
004065	Blaskey, Rebecca A.	Y
002 D	Moore, Randolph	Y
000824	Schieck, David M.	Y
000460	Wolfbrandt, William L.	Y

Court convened at 10:21 a.m. Clerk called roll of the jury; counsel stipulated to the presence thereof. Further testimony and exhibits. Jury admonished and excused for lunch at 11:49 a.m. OUTSIDE THE PRESENCE OF THE JURY, colloquy between Court and counsel as to the reading of certain testimony into the record and the remaining witnesses. 1:53 p.m.--Counsel stipulated to the presence of the jury. Pursuant to prior discussions with the Court, State read the sentencings into the record from the Judgments of Conviction of co-defts. Lockett, Ray and Walsh resulting from the 1985 trial. State rested. Mr. Schieck advised some of the defense witnesses are joint witnesses and pertain to both defts. Court advised counsel to inform the Court if they are a joint or singular witness. State invoked the exclusionary rule. Further testimony and exhibits. Court admonished the jury and excused them for the day at 3:49 p.m. to reconvene at 11:00 a.m. tomorrow morning. OUTSIDE THE PRESENCE OF THE JURY, Court advised counsel the only evidence that will go back to the jury is evidence admitted in this hearing and NOT everything from the trial. State advised he has been operating under the assumption that all the evidence would go back as that happened at the last hearing, however, he will move to admit it all tomorrow in front of the jury. Further, State advised he has provided the Court with Homick and Guy relating to allocution and the State wants counsel to be aware that the law is radically different than it was the last time. State

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CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 027

moved the Court address the defts. and how they are limited pursuant to Homick. Court advised he will do that tomorrow morning after reading Homick and Guy. Mr. Schieck advised his position will probably be that these cases do not apply as they happened after this case. Court advised he will hear from counsel tomorrow after he has read these cases. Court adjourned at 3:53 p.m.

CUSTODY (BOTH)

CONTINUED TO: 6-21-95 11:00 AM

06/21/95 11:00 AM 00 ALL PENDING MOTIONS - PENALTY HEARING

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: TINA HURD, Court Clerk
ANITA SPRINGS-WALKER, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
002473	Seaton, Daniel M.	Y
001 D1	Flanagan, Dale E	Y
PUBDEF	Public Defender	Y
002805	Wall, David T.	Y
004065	Blaskey, Rebecca A.	Y
002 D	Moore, Randolph	Y
000824	Schieck, David M.	Y
000460	Wolfbrandt, William L.	Y

Court convened at 11:23 a.m. OUTSIDE THE PRESENCE OF THE JURY. Court stated we left last night with a question concerning allocution and as soon as the jury is excused for lunch today we will argue that point. Court further advised he has read Guy and Homick. 11:26 a.m.--Clerk called roll of the jury; counsel stipulated to the presence thereof. Further testimony and exhibits. Jury admonished and excused for lunch at 12:24 p.m. OUTSIDE THE PRESENCE OF THE JURY, Court advised counsel and defts. to be back at 1:30 p.m. to argue the allocution. Colloquy between Court and counsel as to when closing arguments will be. Court adjourned for lunch at 12:27 p.m. Court reconvened at 1:41 p.m. OUTSIDE THE PRESENCE OF THE JURY. Mr. Schieck advised his position is the right of allocution as it existed at the time of the original trial is the law in this case. The Homick and Guy decisions were rendered after the trial and after the second penalty hearing. Mr. Schieck argued it would be a violation of due process to allow the State to benefit from the change in the law. Upon Court's inquiry, both defense counsel advised they do not have any case law. Mr. Wall joined in Mr. Schieck's argument. State argued he believes defts' position is misplaced and the Court should follow the law as it is today. Court read from Homick and Guy decisions into the record. Court advised defts. Flanagan and Moore

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CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 028

of their right to make a sworn or unsworn statement and advised an unsworn statement may be made as to mercy and other matters that do not attempt to contradict the evidence in the case. Mr. Schieck advised he wishes to make a record as to what deft. Moore would have said if the Court had not ruled in accordance with Homick and would like to do so after deft. has made his statement. Court advised counsel may do that. Upon Court's inquiry, State provided jury instructions to the Court. Court advised there is one instruction objected to. Court read the instruction and advised he does not intend to give that instruction at this time. Mr. Schieck made a record as to why he wanted that instruction. Ms. Mounts joined in with Mr. Schieck. State advised the law in this state is the verdict cannot be influence by sympathy or public opinion; the jury can use its powers of mercy if they want but not sympathy. Court advised he is not going to give that instruction as proffered by the defense. Mr. Wall brought to the Court's attention the instruction that states the jury will receive all the evidence from the trial. Colloquy between Court and State. State advised he had contemplated last night moving to admit all the evidence introduced in this hearing, however, if we move to admit ALL the evidence, we would have to go through it very carefully so as not to introduce evidence that caused the reversal in this case. Mr. Wall suggested the language as to the evidence from the trial be taken out. State argued the jury has heard about all the evidence and he believes they are entitled to all the evidence. Court advised that would mean this case would not go to the jury today and counsel would have to very carefully go through the evidence. State advised he will have one short rebuttal witness, Chaplain Al Fry, from the prison and he will make this witness available to opposing counsel this evening. Further, State advised back in 1984 or 1985 there was no such thing as a victim impact statement and he was not in touch with anyone. In going through the file there was a name, Patricia Campbell, who is deft. Flanagan's aunt, his mother's sister and the victims' daughter, and she is coming from Florida ready to testify and State moved to re-open his case-in-chief. Court reserved ruling on that motion until after defense counsel's case-in-chief.

2:10 p.m.--Counsel stipulated to the presence of the jury. Further testimony and exhibits. OUTSIDE THE PRESENCE OF THE JURY, Court advised the State has suggested he wants to use the mother's sister for a victim impact statement. Court advised counsel to reread Homick from pages 135-136. Court advised he will not hear anything on it today, however, prior to the jury coming back tomorrow, we will revisit this issue. 3:28 p.m.--Counsel stipulated to the presence of the jury. Further testimony by Dr. Etcoff. Court admonished the jury and excused them for the evening at 4:59 p.m. to reconvene at 10:15 tomorrow morning. OUTSIDE THE PRESENCE OF THE JURY, Court stated he has advised Mr. Schieck he would not allow his client to testify to anything that is not within Homick and Guy. Court advised he will allow Mr. Schieck to put deft. Moore on the stand and say what he would say if the Court let him say whatever he wants. Colloquy between Court and deft. Moore for clarification. Court advised, under Homick, deft. can express remorse and plead for mercy but he cannot attempt to contradict the evidence presented in the case. Mr. Schieck advised the only area of concern is the truthfulness of Wayne Wittig which is contained in the allocution from 1989. Other than that, deft. Moore will only talk about

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CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 029

mitigation and rehabilitation. Statement by deft. Moore as to what he intends to say in his allocution. Colloquy between Court and deft. Moore. Statement by deft. Moore as to what he would have said about Wayne Wittig and actually catching Wittig in bed with his wife and that the incident with the truck Wittig testified to is made up. COURT ORDERED, this will not be submitted to the jury. Colloquy between Court and Mr. Schieck as to the law on allocution. Mr. Schieck advised he is satisfied with the record. Mr. Wall advised in his discussions on allocution with deft. Flanagan they in no way violate Guy or Homick. Court adjourned at 5:11 p.m.

CUSTODY (BOTH)

CONTINUED TO: 6-22-95 10:15 AM

06/22/95 10:15 AM 00 ALL PENDING MOTIONS - PENALTY HEARING

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: TINA HURD, Court Clerk
ANITA SPRINGS-WALKER, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
002473	Seaton, Daniel M.	Y
001 D1	Flanagan, Dale E	Y
PUBDEF	Public Defender	Y
002805	Wall, David T.	Y
004065	Blaskey, Rebecca A.	Y
002 D	Moore, Randolph	Y
000824	Schieck, David M.	Y
000460	Wolfbrandt, William L.	Y

Court convened at 10:47 a.m. OUTSIDE THE PRESENCE OF THE JURY. Mr. Wolfbrandt advised he intends to make a motion at the end of the trial and the case still has rebuttal. Mr. Wall inquired if the Court wishes to rule this morning on whether the State can re-open its case to introduce victim impact testimony. Court advised he would hear from counsel. State advised this particular witness was not learned about or able to be in town until after the close of the State's case. This witness is the daughter of the couple that was killed and the aunt of deft. Flanagan. State argued he believes this witness has some very cogent things about the family the jury needs to hear. State advised her testimony has rebuttal value as she can comment and expand on the family life of the Gordons and the defense has had plenty of time to find out about her. State advised he has made this witness and Chaplain Fry available to the defense and, whether on the grounds of rebuttal or letting the State re-open its case, the State would request the Court allow this witness to testify. Mr. Wall advised they became aware of this witness at 1:00 p.m. yesterday and do not believe the

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CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 030

State should be allowed to re-open for a victim impact statement, however, if it is rebuttal, he has no problem with it. Mr. Wall advised, as a victim impact statement, he believes Payne overruled Booth and, because it is new law and prior hearings were reversed because of prosecutorial misconduct and because Judge Mosley allowed improper evidence to come in, Mr. Wall stated he believes this is not admissible now as it was not admissible then. Mr. Schieck joined in Mr. Wall's argument and provided case law in Amunds to the Court. State advised Mr. Wall has disparaged his character and claimed he withheld a powerful witness to the end and advised the circumstances of finding this witness who was reluctant to come. State referred back to the circumstances under which Mr. Wall called Dr. Etcoff who did not examine deft. Flanagan until June 9 and the State did not receive a report until Friday. Court advised he will not permit counsel to make personal comments about each other in his court and advised counsel, if they believe a lawyer is that bad, they should file a complaint with the Bar and get rid of him. Court advised counsel to stick to the law and be professional or get out of the business. COURT ORDERED, State's motion to re-open for a victim impact statement is DENIED as the State is required to give notice. Court advised the State had another motion to re-open to admit all the evidence in light of one of the jury instructions and ORDERED, that will be allowed. Court reminded counsel the exclusionary rule is still in effect and requested counsel police the courtroom for their witnesses. Colloquy between Court and counsel as to jury instructions. 11:18 a.m.--Clerk called roll of the jury; counsel stipulated to the presence thereof. Deft. Randolph Moore made an unsworn statement. Mr. Schieck rested. Deft. Dale Flanagan made an unsworn statement. Mr. Wall rested. State moved to admit all of the evidence that was admitted during the trial stage of this case. Conference at the bench. There being no objections, COURT ORDERED, motion GRANTED. State advised he has copies of the verdicts from the original trial indicating these defts. were found guilty of the various crimes they were charged with and moved for their admission. There being no objections, COURT ORDERED, GRANTED. State rested. OUTSIDE THE PRESENCE OF THE JURY, Jury Instructions settled on the record. 12:12 p.m.--Clerk called roll of the jury; counsel stipulated to the presence thereof. Court read instructions to the jury. Closing arguments by counsel. At the hour of 2:28 p.m. this date, jury retired to deliberate. OUTSIDE THE PRESENCE OF THE JURY, Mr. Wall advised the Court had already ruled on the admissibility of the prior sentences of the other defts. and believes of that he did not object when the State raised them in closing arguments but would reserve a contemporaneous objection. Court inquired of defts. Flanagan and Moore if they are satisfied with the services of counsel to which both defts. responded in the affirmative.

LATER: On the record, defts. and counsel not present. Court advised it is now 5 minutes of 8:00 and the jury has not reached a verdict so we will stop for the day. Court admonished the jury and excused them for the evening at 7:55 p.m. to reconvene at 8:45 a.m. tomorrow morning.

CUSTODY (BOTH)

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CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 031

CONTINUED TO: 6-23-95 8:45 AM

06/23/95 08:45 AM 00 ALL PENDING MOTIONS - PENALTY HEARING

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: TINA HURD, Court Clerk
DEBRA WINN, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
000281	Koot, William T.	Y
001 D1	Flanagan, Dale E	Y
PUBDEF	Public Defender	Y
002805	Wall, David T.	Y
004065	Blaskey, Rebecca A.	Y
002 D	Moore, Randolph	Y
000824	Schieck, David M.	Y
000460	Wolfbrandt, William L.	Y

10:46 A.M.--Clerk called roll of the jury; counsel stipulated to the presence thereof. At the hour of 10:46 a.m. this date, jury returned with VERDICTS OF DEATH FOR COUNT VI and DEATH FOR COUNT VII AS TO BOTH DEFTS. FLANAGAN and MOORE. Jury polled at request of the Court. Court thanked and excused the jury at 11:06 a.m. Colloquy between Court and counsel as to a sentencing date. Court advised the State to advise P&P this will only be an update as there are PSI reports on file and defts. have been in prison.

CUSTODY (BOTH)

7-11-95 9:00 AM SENTENCING (BOTH)

CRIMINAL COURT MINUTES

85-C-069269-C

STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 032

07/11/95 09:00 AM 00 ALL PENDING MOTIONS 7-11-95

HEARD BY: Addeliar D Guy, III, Judge; Dept. 11

OFFICERS: TINA HURD, Court Clerk
ANITA SPRINGS-WALKER, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
002473	Seaton, Daniel M.	Y
001 D1	Flanagan, Dale E	Y
PUBDEF	Public Defender	Y
002805	Wall, David T.	Y
004065	Blaskey, Rebecca A.	Y
002 D	Moore, Randolph	Y
000824	Schieck, David M.	Y
000460	Wolfbrandt, William L.	Y

SENTENCING - COUNTS VI & VII (DEFTS. FLANAGAN & MOORE)

John Delvillan of the Division of Parole & Probation present. Court advised he received a call yesterday from Ms. Mounts advising the Court she has not received a PSI report. Ms. Mounts concurred and stated she believes the file was never referred to P&P. Court read from a Supreme Court case that states a supplemental report is not required on a re-sentencing. Court further advised the jury has decided and a PSI report is not required. Mr. Wall advised P&P usually calculates the credit for time served. Court advised these defts. have been in prison for at least ten years and the Court will be happy to give them whatever time they have coming. Court read the Judgment of Conviction and Order of Execution for deft. Flanagan into the record. Mr. Wall advised he has an Order to stay the execution. Court advised he does not usually stay executions, he leaves that to the Supreme Court, however, in this case, the Court will sign it. Stay of Execution for deft. Flanagan signed in open court. COURT ORDERED, matter CONTINUED to August 15 to see if the appeal has been perfected and for the calculation of credit for time served. Court advised defts. need not be present. Deft. Flanagan waived his right to be present for the status check. Ms. Mounts stated she wishes to bring to the Court's attention that they spoke with a number of the jurors and they expressed a distaste that the defts. did not show any remorse. Ms. Mounts advised the defts. have not had a chance to pursue post-conviction relief and they could do little else. Court finding errors in the orders brought to the Court for this hearing, COURT ORDERED, this hearing continued to 11:00 a.m. as to both defts, there being errors in deft. Flanagan's orders also. Court directed the State to contact Mr. Wall and Ms. Mounts and have them back as well.

11:15 A.M.--Matter recalled with all present as before except Mr. Wall. Court advised there were typographical errors in the paperwork stating the convictions were reversed, which they were not, only the penalty was

CONTINUED ON PAGE: 034

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 033

reversed and remanded. Court read into the record only the part of the order that was corrected and advised the Warrant of Execution is correct. Ms. Mounts had no objections and waived the reading of the documents over again. Court read the Judgment of Conviction, Order of Execution and Warrant of Execution for deft. Moore into the record. Mr. Schieck advised he will submit a stay of execution this afternoon and moved to be appointed as counsel on appeal. COURT SO ORDERED. Mr. Schieck inquired if the Court needs to rule on concurrent or consecutive time in case a later jury gives them Life. State advised they believe everything should be consecutive. Court advised that has already been determined by prior judges, however, as to these two counts, COURT ORDERED, Counts VI and VII will be CONSECUTIVE. Deft. Flanagan's counsel not being present at this point, State advised this ruling should be the same for deft. Flanagan and perhaps his counsel can raise it on the 15th. Both defts. waived their presence for the hearing on August 15. Judgments of Conviction, Orders of Execution and Warrants of Execution as to both defts. signed and FILED IN OPEN COURT.

NDP (BOTH)

8-15-95 9:00 AM STATUS CHECK: CREDIT FOR TIME SERVED AND PERFECTION OF
APPEAL (BOTH)

CRIMINAL COURT MINUTES

85-C-069269-C

STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 034

08/15/95 09:00 AM 00 ALL PENDING MOTIONS 8-15-95

HEARD BY: James Brennan, Visiting Judge; Dept. VJ6

OFFICERS: JOYCE BROWN, Court Clerk
DEBBIE WINN, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
002473	Seaton, Daniel M.	Y
004352	Owens, Steven S.	Y
001 D1	Flanagan, Dale E	N
PUBDEF	Public Defender	Y
002805	Wall, David T.	Y
002 D	Moore, Randolph	N
000824	Schieck, David M.	Y

STATUS CHECK: CREDIT FOR TIME SERVED...PERFECTION OF APPEAL (BOTH)

AS TO DEFENDANT FLANAGAN: Mr. Wall advised appearance of Defendant waived, both Defendants were sentenced to the death penalty on July 11, and execution set for the week of August 27. He further advised the notice of appeal was filed on August 9, the stay has been served, and he received a FAX that they had received the order for stay. Mr. Wall calculated the credit for time served as of July 11, to be 3,866 days that Defendant was in custody. Mr. Owens advised he had not tried to compute the days as he thought the Division of Parole and Probation would do that, and Mr. Seaton advised he would want P & P to do it.

AS TO DEFENDANT MOORE: Mr. Schieck advised he also thought P & P would do the calculating on credit for time served, and Mr. Moore would have thirty days less than Mr. Flanagan. Court read from the minutes that Defense was to figure the Credit For Time Served. Mr. Schieck stated it was his mistake and advised that the stay and appeal have been perfected. COURT ORDERED, matter CONTINUED and Counsel to have correct time calculated.

NCP (BOTH)

CONTINUED TO: 8-17-95 9:00 AM

CRIMINAL COURT MINUTES

85-C-069269-C

STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 035

08/17/95 09:00 AM 00 ALL PENDING MOTIONS 8-17-95

HEARD BY: James Brennan, Visiting Judge; Dept. VJ6

OFFICERS: JOYCE BROWN, Court Clerk
ANITA SPRINGS-WALKER, Reporter/RecorderPARTIES: STATE OF NEVADA
004352 Owens, Steven S.

001 D1 Flanagan, Dale E
PUBDEF Public Defender
004065 Blaskey, Rebecca A.

Y

Y

N

Y

Y

STATUS CHECK: CREDIT FOR TIME SERVED AND PERFECTION OF APPEAL (FLANAGAN)...
STATUS CHECK: CREDIT FOR TIME SERVED AND PERFECTION OF APPEAL (MOORE)

AS TO DEFENDANT FLANAGAN: Ms. Mounts advised the perfection of appeal was taken care of at the last court date for both Defendants and the Credit For Time Served in the amount of 3,866 DAYS given by Mr. Wall was correct. State concurred. COURT SO ORDERED.

AS TO DEFENDANT MOORE: Mr. Owens stated they were in agreement with the number of days calculated and provided by Mr. Schieck, which is 3,853 DAYS. COURT SO ORDERED.

Presence of Defendants waived as they are in the Nevada Department of Prisons.

NDP

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA vs Flanagan, Dale E

CONTINUED FROM PAGE: 036

06/04/98 09:00 AM 00 ALL PENDING MOTIONS 6-4-98

HEARD BY: Myron E. Leavitt, Judge; Dept. 12

OFFICERS: JOYCE BROWN, Court Clerk
SUZY NICHOLS, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
003813	Silver, Abbi	Y
001 D1	Flanagan, Dale E	N
001988	Potter, III, Cal J.	Y
002 D	Moore, Randolph	N
000824	Schieck, David M.	Y

DEFT FLANAGAN'S REQUEST FOR APPOINTMENT OF COUNSEL FOR POST-CONVICTION
RELIEF...DEFT MOORE'S PETITION FOR WRIT OF HABEAS CORPUSMr. Potter advised he had substituted into the case for Defendant Flanagan.
COURT ORDERED matter CONTINUED for Judge Douglas.

NDP (BOTH)

CONTINUED TO: 6-11-98 9:00 AM

CRIMINAL COURT MINUTES

85-C-069269-C

STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 037

06/11/98 09:00 AM 00 ALL PENDING MOTIONS (06-11-98)

HEARD BY: Michael L Douglas, Judge; Dept. 11

OFFICERS: SUSAN BURDETTE/sb, Court Clerk
DEBRA WINN, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005927	De La Garza, Melisa	Y
001 D1	Flanagan, Dale E	N
001988	Potter, III, Cal J.	Y
000836	Miller, Michael L.	Y
002 D	Moore, Randolph	N
000824	Schieck, David M.	Y

DEFT FLANAGAN'S REQUEST FOR APPOINTMENT OF COUNSEL FOR POST-CONVICTION
RELIEF ... DEFT MOORE'S PETITION FOR WRIT OF HABEAS CORPUS

AS TO DEFT. FLANAGAN'S REQUEST FOR APPOINTMENT OF COUNSEL FOR
POST-CONVICTION RELIEF: Deft. not present. David Newell, Esq., present.
Mr. Potter stated Mr. Miller was previously counsel for Deft.; he was
approached by Mr. Miller pursuant to an ABA Program to get involved in this
case and noted David Newell from Oregon will be coming in. He further noted
the guilt phase has never been challenged; there are about 25 boxes that
counsel will need to go through; he requested six (6) months to review the
boxes and file any necessary Petitions. Mr. Miller stated the Motion was
filed May 25, and should be in the file. Upon Court's inquiry, Mr. Potter
stated his request is only as to Deft. Flanagan. COURT ORDERED, Mr. Potter
APPOINTED as COUNSEL for Deft. Flanagan based on representations there would
not be a conflict; Mr. Miller RELIEVED as COUNSEL.

AS TO DEFT. MOORE: Mr. Schieck stated he has represented Deft. Moore since
1968; there have been three (3) penalty hearings in this case and three (3)
adjudications of death in those penalty hearings; noted Deft. Moore is not
concerned with challenging the penalty phase but what happened in the trial,
and wishes for him to continue representing him. He further stated that six
(6) months is not enough time to review and file Supplemental Petitions.
Court found that based on the representations and number of times this
matter has gone to the Supreme Court, ORDERED, matter set for STATUS CHECK
as to all matters.

NDP (BOTH)

11-25-98 9:00 AM STATUS CHECK: SUPPLEMENTAL MOTIONS/PETITIONS ... DEFT
FLANAGAN'S PETITION FOR WRIT OF HABEAS CORPUS ... DEFT MOORE'S PETITION
FOR WRIT OF HABEAS CORPUS

CONTINUED ON PAGE: 039

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA vs Flanagan, Dale E

CONTINUED FROM PAGE: 038

11/25/98 09:00 AM 00 ALL PENDING MOTIONS (11-25-98)

HEARD BY: Michael L Douglas, Judge; Dept. 11

OFFICERS: JOYCE BROWN, Court Clerk
CATHY NELSON, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
006056	McDonald, Elizabeth B.	Y
001 D1	Flanagan, Dale E	N
001988	Potter, III, Cal J.	Y
002 D	Moore, Randolph	N
000824	Schieck, David M.	Y

DEFT FLANAGAN'S REQUEST FOR APPOINTMENT OF COUNSEL FOR POST-CONVICTION RELIEF...DEFT MOORE'S PETITION FOR WRIT OF HABEAS CORPUS...DEFT FLANAGAN'S REQUEST FOR ASSOCIATION OF COUNSEL...DEFT MOORE'S REQUEST FOR ASSOCIATION OF COUNSEL...STATUS CHECK: SUPPLEMENTAL MOTIONS/PETITIONS (BOTH)

Court advised there were a number of things pending; Court did not have a response from State; as to issues before the Court, the primary motion as to appointment of Counsel, Mr. Potter had advised there was no opposition and COURT ORDERED motion GRANTED; Deft Flanagan's Request for Association of Counsel GRANTED. Order signed in open Court. Mr. Potter requested an additional six months as they were trying to get additional information from Juvenile.

As to Deft Moore's Request for association of Counsel, Mr. Schieck advised there was no motion pending. COURT ORDERED matter OFF CALENDAR.

As to Defts' Flanagan and Moore's Petition For Writ of Habeas Corpus, time was needed to file whatever supplemental points were needed. These to be filed by May 26, 1999, and COURT ORDERED matter set for Defts' Submission of Supplemental Points on Writ of Habeas Corpus on May 27, 1999, and they would set a date at that time for the State to respond.

NDP (BOTH)

5-27-99 9:00 AM DEFTS' SUBMISSION OF SUPPLEMENTAL POINTS ON WRIT OF HABEAS CORPUS...DEFT MOORE'S PETITION FOR WRIT OF HABEAS CORPUS...DEFT FLANAGAN'S PETITION FOR WRIT OF HABEAS CORPUS

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 039

05/17/99 09:00 AM 00 ALL PENDING MOTIONS (05-17-99)

HEARD BY: Michael L Douglas, Judge; Dept. 11

OFFICERS: SUSAN BURDETTE/sb, Court Clerk
CATHY NELSON, Reporter/RecorderPARTIES: 001 D1 Flanagan, Dale E
001988 Potter, III, Cal J.N
Y

HEARING: DEFT'S EX PARTE MOTION FOR CORONER'S RECORDS ... HEARING: DEFT'S EX
PARTE MOTION FOR REIMBURSEMENT AND WAIVER OF COUNTY RECORDS CHARGES ...
HEARING: DEFT'S EX PARTE MOTION FOR SOCIAL HISTORIAN INVESTIGATION FUNDS ...
HEARING: DEFT'S EX PARTE MOTION FOR PRISON ACCESS ... HEARING: DEFT'S EX
PARTE MOTION FOR NEUROPSYCHOLOGICAL EXAMINATION FUNDS ... HEARING: DEFT'S EX
PARTE MOTION RELEASE OF JUVENILE RECORDS

Deft. not present. Court noted the nature of these matters and what is
being asked for.

AS TO DEFT'S EX PARTE MOTION FOR CORONER'S RECORDS: COURT ORDERED, Motion
GRANTED with the exception of the negatives; if that becomes an issue, the
Court will reconsider and order the negatives be available for review if
determined appropriate by counsel; ALL OTHER INFORMATION, REPORTS AND BENCH
NOTES as well as RAW DATA to be AVAILABLE.

AS TO DEFT'S EX PARTE MOTION FOR REIMBURSEMENT AND WAIVER OF COUNTY RECORDS
CHARGES: COURT ORDERED GRANTED for REIMBURSEMENT noting the estimated amount
of \$6,500.00 -- expenditures and search fees of \$780.00 and copy fees of
\$639.00, and for additional copies, the Court will approve an amount NOT TO
EXCEED \$6,500.00 at this time.

AS TO DEFT'S EX PARTE MOTION FOR SOCIAL HISTORIAN INVESTIGATION FUNDS: COURT
ORDERED, Motion GRANTED in an amount NOT TO EXCEED \$17,550.00.

AS TO DEFT'S EX PARTE MOTION FOR PRISON ACCESS: COURT ORDERED, Motion
GRANTED subject to rules of the prison and if there is a difficulty, the
Attorney General's office to be notified; as to UNMONITORED CONTACT BY
COUNSEL, the Court found it is appropriate subject to normal security in
prison; if there is a problem, counsel to put this back on calendar.

AS TO DEFT'S EX PARTE MOTION FOR NEUROPSYCHOLOGICAL EXAMINATION FUNDS: COURT
ORDERED, Motion GRANTED, not to exceed \$7,500.00.

AS TO DEFT'S EX PARTE MOTION FOR RELEASE OF JUVENILE RECORDS: COURT ORDERED,
Motion GRANTED.

NDP

05-27-99 9:00 AM DEFT'S SUBMISSION OF SUPPLEMENTAL POINTS ON WRIT OF HABEAS

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 040

CORPUS

05/27/99 09:00 AM 00 ALL PENDING MOTIONS (5-27-99)

HEARD BY: Michael L Douglas, Judge; Dept. 11

OFFICERS: JOYCE BROWN, Court Clerk
CATHY NELSON, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
003649	Kephart, William D.	Y
001 D1	Flanagan, Dale E	N
001988	Potter, III, Cal J.	Y
002 D	Moore, Randolph	N
000824	Schieck, David M.	Y

DEFT FLANAGAN'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS...DEFT FLANAGAN'S SUBMISSION OF SUPPLEMENTAL POINTS ON WRIT OF HABEAS CORPUS... DEFT MOORE'S PETITION FOR WRIT OF HABEAS CORPUS...DEFT MOORE'S SUBMISSION OF SUPPLEMENTAL POINTS ON WRIT OF HABEAS CORPUS

Court noted a number of orders had been filed as to Defendant Flanagan. Mr. Potter asked for an additional six months to conclude investigations and file a supplemental. He also needed to go through Discovery. Mr. Schieck advised a continuance would be fine with his client. Mr. Kephart advised State was agreeable to a continuance also. COURT ORDERED matter CONTINUED as requested.

NDP (BOTH

CONTINUED TO: 11-30-99 9:00 AM

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 041

09/08/99 09:00 AM 00 ALL PENDING MOTIONS (09-08-99)

HEARD BY: Michael L Douglas, Judge; Dept. 11

OFFICERS: SUSAN BURDETTE/sb, Court Clerk
CATHY NELSON, Reporter/RecorderPARTIES: STATE OF NEVADA
005056 Luzaich, Elissa
001 D1 Flanagan, Dale E
001988 Potter, III, Cal J.Y
Y
N
YDEFT FLANAGAN'S MOTION TO ASSOCIATE COUNSEL ... DEFT MOORE'S MOTION TO
ASSOCIATE COUNSEL

Neither Deft. Flanagan nor Deft. Moore present. Mr. Potter stated he has submitted the Motion to the State Bar and there is no opposition. There being no opposition, COURT ORDERED, Deft Flanagan and Deft Moore's Motion to Associate Counsel Patricia Lynn McGuire GRANTED. Upon Ms. Luzaich's inquiry, Court stated the Motion is both Deft. Flanagan and Moore. Order signed in Open Court.

NDP (BOTH)

11-30-99 9:00 AM DEFT FLANAGAN'S PRO PER PETITION FOR WRIT OF HABEAS
CORPUS ... DEFT FLANAGAN'S SUBMISSION OF SUPPLEMENTAL POINTS ON WRIT OF
HABEAS CORPUS ... DEFT MOORE'S PETITION FOR WRIT OF HABEAS CORPUS ...
DEFT MOORE'S SUBMISSION OF SUPPLEMENTAL POINTS ON WRIT OF HABEAS CORPUS

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 042

11/30/99 09:00 AM 00 ALL PENDING MOTIONS 11/30/99

HEARD BY: Michael L Douglas, Judge; Dept. 11

OFFICERS: AMBER FARLEY, Relief Clerk
CATHY NELSON, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
001 D1	Flanagan, Dale E	N
001988	Potter, III, Cal J.	Y
002 D	Moore, Randolph	N
000824	Schieck, David M.	Y

DEFT FLANAGAN'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS...DEFT FLANAGAN'S
SUBMISSION OF SUPPLEMENTAL POINTS ON WRIT OF HABEAS CORPUS...DEFT MORRE'S
PETITION FOR WRIT OF HABEAS CORPUS...DEFT MOORE'S SUBMISSION OF SUPPLEMENTAL
POINTS ON WRIT OF HABEAS CORPUS

Mr. Schieck stated he needs more time to finish his petition. COURT
ORDERED, matter set for status check.

NDP (FLANAGAN, MOORE)

12/20/99 9:00 AM STATUS CHECK: BRIEFING SCHEDULE

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 043

12/20/99 09:00 AM 00 STATUS CHECK: BRIEFING SCHEDULE

HEARD BY: Michael L Douglas, Judge; Dept. 11

OFFICERS: JOYCE BROWN/JB, Court Clerk
KATHY STAITE, Relief Clerk
CATHY NELSON, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
005056	Luzaich, Elissa	Y
001 D1	Flanagan, Dale E	N
001988	Potter, III, Cal J.	Y
002 D	Moore, Randolph	N
000824	Schieck, David M.	Y

AS TO DEFENDANT FLANAGAN, Mr. Potter had filed a supplemental petition and requested a briefing schedule. COURT ORDERED briefing schedule as follows:

01-24-2000 State's Response
02-24-2000 Defendant's Reply
03-09-2000 Argument

Mr. Potter advised he was entitled to written Discovery. Court advised it was a matter of what was being looked at and whether or not an Evidentiary hearing was necessary.

AS TO DEFENDANT MOORE, Mr. Schieck advised he met with Defendant Moore at Ely State Prison and went over in detail the Writ filed by Mr. Flanagan; advised he represented Mr. Flanagan at the Preliminary Hearing; he is convinced he will be a witness in the Flanagan case and can not continue on the case because of this; he had just met with Mr. Moore on Thursday so had not had a chance to inform the Court; he did talk to Jo Nell Thomas; she does not want to take any more of these cases, but agreed to to take it if the Court appointed her. He further advised she was familiar with the case. COURT ORDERED Mr. Schieck relieved; Ms. Thomas appointed; and matter CONTINUED for Confirmation of Counsel and a Status Check. At Counsel's inquiry, Court advised this was not a case this Court would be keeping.

NDP (BOTH)

12-22-99 9:00 AM CONFIRMATION OF COUNSEL (J THOMAS)...STATUS CHECK (MOORE)

03-09-2000 9:00 AM ARGUMENT: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS
(FLANAGAN)

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 044

01/19/00 09:00 AM 00 STATE'S REQUEST FOR EXTENSION OF TIME
TO FILE WRIT/RESPONSE

HEARD BY: Kathy Hardcastle, Judge; Dept. 4

OFFICERS: DOROTHY KELLY, Court Clerk
TINA SMITH, Reporter/Recorder

PARTIES: STATE OF NEVADA

001 D1 Flanagan, Dale E

001988 Potter, III, Cal J.

Y

N

Y

Mark Karris, Deputy District Attorney, stated a 60-Day continuance was agreed upon for filing Writ response. COURT ORDERED, Filing due by March 22nd, Response due by May 17th, matter set for argument. Date of March 9th, previously set for argument, vacated.

NDP

05-31-00 9:00 A.M. ARGUMENT: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS

01/31/00 09:00 AM 00 ALL PENDING MOTIONS 01-31-00

HEARD BY: Kathy Hardcastle, Judge; Dept. 4

OFFICERS: DOROTHY KELLY, Court Clerk
TINA SMITH, Reporter/Recorder

PARTIES: STATE OF NEVADA

004739 Rutledge, Brian

001 D1 Flanagan, Dale E

001988 Potter, III, Cal J.

Y

Y

N

Y

002 D Moore, Randolph

000824 Schieck, David M.

N

Y

DEFT FLANAGAN'S MOTION FOR SEVERANCE...DAVID SCHIEK'S MOTION FOR ATTORNEY'S FEES IN EXCESS OF STATUTORY ALLOWANCE AND FOR EXPENSES

Mr. Rutledge stated this is post-conviction; only Deft Flanagan has filed a Writ; he requested the Motion for Severance be denied as moot. He further stated he does not understand the Motion to Sever. Mr. Potter stated it is his motion; the State has not responded. COURT ORDERED, Deft Flanagan's Motion for Severance is DENIED as MOOT. COURT FURTHER ORDERED, David Schieck's Motion for Attorney's Fees in Excess of Statutory Allowance and for Expenses is GRANTED; Order signed in Open Court. Court instructed that these two defendants not be placed on calendar together.

CONTINUED ON PAGE: 046

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 045

NDP (BOTH)

05/31/00 09:00 AM 00 ALL PENDING MOTIONS FOR 5/31/00

HEARD BY: Kathy Hardcastle, Judge; Dept. 4

OFFICERS: BILLIE JO CRAIG, Relief Clerk
TINA SMITH, Reporter/Recorder

PARTIES: STATE OF NEVADA

000411 Simon, H. L.

007043 Karris, Mark S.

001 D1 Flanagan, Dale E

005632 Ence, Matthew D.

Y

Y

Y

N

Y

ARGUMENT: DEFENDANT FLANAGAN'S PETITION FOR WRIT OF HABEAS
CORPUS...DEFENDANT'S MOTION FOR DISCOVERY...DEFENDANT'S MOTION FOR
EVIDENTIARY HEARING

Robert Newell, Associate Counsel for Mr. Potter, appearing representing defendant. Arguments regarding effectiveness of counsel at third penalty phase and whether David Wall as a witness will be a conflict of interest. COURT ORDERED, matter CONTINUED for counsel to brief matter. Arguments regarding Motion for Discovery and for Evidentiary Hearing. COURT ORDERED, matter CONTINUED for counsel to file any Motion to Disqualify the District Attorney's Office. Counsel requested a briefing schedule. The Court advised at next Court date it would decide if more time needed.

NDP

6/8/00 9:00 AM ARGUMENT: DEFENDANT'S FLANAGAN'S PETITION FOR WRIT
OF HABEAS CORPUS...DEFENDANT'S MOTION FOR DISCOVERY...DEFENDANT'S
MOTION FOR EVIDENTIARY HEARING

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 046

06/06/00 09:00 AM 00 MINUTE ORDER RE: DISQUALIFICATION OF
JUDGE

HEARD BY: Kathy Hardcastle, Judge; Dept. 4

OFFICERS: DOROTHY KELLY, Court Clerk

PARTIES: NO PARTIES PRESENT

Having reviewed the Petition for Disqualification of Judge, Court disputes having personal knowledge of the case arising out of prior employment. The Court previously disclosed to current counsel employment in the Public Defender's Office at the time of the third penalty hearing in this case and conversations with prior counsel regarding prior counsel's opinions on the imposition of the death penalty in general. The Court holds the highest regard for the legal abilities of all of the prior counsel but had previously expressed the opinion that the affidavit filed in this case lacked factual foundation and was based almost entirely upon prior counsel's opinions and conclusions. Despite this deficiency, the Court had agreed to grant a limited evidentiary hearing to allow current counsel the chance to lay a factual foundation for the affidavit. Current counsel has now raised an issue based on the disclosed prior conversations and employment regarding whether the Court should decide the ineffective assistance of counsel claims being raised in this case. As this is a very serious case, in order to avoid any issues which could be raised in future proceedings and in the interest of justice, the Court does hereby recuse from this case and ORDERS, this matter be REASSIGNED at random.

NDP

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 047

06/13/00 04:00 PM 00 MINUTE ORDER RE: RECUSAL VI

HEARD BY: Joseph T. Bonaventure, Judge; Dept. 6

OFFICERS: NORA PENA, Court Clerk

PARTIES: NO PARTIES PRESENT

Having reviewed the entire file relating to State of Nevada v Dale Flanagan, the Court feels it cannot properly hear the case due to its prior relationship with the Clark County Public Defender's Office, upon which a majority of the allegations contained within the case concern. Additionally, the Court is of the belief that its relationship to the central witness in the case who is a party in the litigation is of significance.

David Wall is an attorney which this Court has had an ongoing relationship for the last ten months during the pendency of the State of Nevada v. Tabish/Murphy trial. This Court has had numerous conversations with David Wall concerning the death penalty in the Tabish/Murphy case as well as hearing motions concerning his personal integrity. Additionally, this Court is to hear a Motion for New Trial which this Court believes will carry allegations of impunity on the character of Mr. Wall. The present record involves questions of fact upon which much testimony will be presented regarding both Mr. Wall and the Clark County Public Defender's Office. It may develop that the right determination of those questions is so close, the reasons set forth could be an appearance that could impact upon the Court's opinion. Therefore in the interest of justice the Court does hereby recuse from this case and ORDERS, this matter be reaassigned at random.

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 048

06/22/00 09:00 AM 00 ALL PENDING MOTIONS 6/22/00

HEARD BY: Kathy Hardcastle, Judge; Dept. 4

OFFICERS: AMBER FARLEY, Court Clerk
TINA SMITH, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
006612	Cram, Roger	Y
001 D1	Flanagan, Dale E	N
001988	Potter, III, Cal J.	Y

ARGUMENT: DEFT FLANAGAN'S PETITION FOR WRIT OF HABEAS CORPUS...DEFT'S MOTION FOR DISCOVERY...DEFT'S MOTION FOR EVIDENTIARY HEARING...STATE'S MOTION FOR WAIVER OF ATTORNEY-CLIENT PRIVILEGE

Court indicated counsel have agreed to continue matter to next week. COURT ORDERED, matter CONTINUED.

MATTER RECALLED: Mr. Cram advised parties had agreed to continue the matter until after 8/14 and requested the date be reset. COURT SO ORDERED. Mr. Cram stated he would notify all parties.

NDP

ABOVE MOTIONS CONTINUED TO:
8/16/00 9:00 AM

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 049

08/16/00 09:00 AM 00 ALL PENDING MOTIONS 8-16-00

HEARD BY: Mark Gibbons, Judge; Dept. 7

OFFICERS: CHERYL CASE, Relief Clerk
RENE SILVAGGIO, Reporter/RecorderPARTIES: STATE OF NEVADA
000411 Simon, H. L.
001 D1 Flanagan, Dale E
001988 Potter, III, Cal J.

N

Y

N

Y

ARGUMENT: DEFT FLANAGAN'S PETITION FOR WRIT OF HABEAS CORPUS...DEFT'S MOTION FOR DISCOVERY...DEFT'S MOTION FOR EVIDENTIARY HEARING...STATE'S MOTION FOR WAIVER OF ATTORNEY-CLIENT PRIVILEGE

Bob Newell, out-of-state co-counsel for Defendant, also present. Upon Court's inquiry, Mr. Simon stated a Motion to Disqualify has not been filed. Arguments by Mr. Simon and Mr. Newell regarding disqualification of District Attorney's office, conflict of interest, and Mr. Wall's prior representation of Defendant. Court noted there is no Motion to Disqualify calendared for decision.

Argument by Mr. Newell regarding ineffective assistance of counsel and history of this case. Court noted the Supreme Court has made numerous rulings in this case. Further argument by Mr. Newell regarding statement by Robert Ramirez, evidence withheld from the defense, Brady violations, and prosecutorial misconduct.

Mr. Newell argued prior Supreme Court rulings are irrelevant as the issue of ineffective assistance of counsel has been raised. Argument by Mr. Potter regarding irregular procedures in Judge Mosley's Court and depositions that should be taken. Argument by Mr. Simon regarding statement by Mr. Ramirez, Supreme Court rulings, and overbroad request for discovery. Further argument by Mr. Simon regarding waiver of attorney-client privilege. Argument by Mr. Newell regarding statements admitted through trial, per se violations, Strickland issue, and ineffectiveness of Mr. Pike.

COURT ORDERED, Motion for Waiver DENIED WITHOUT PREJUDICE. Court noted information can be acquired and questions can be tailored. Court will reconsider its ruling in the event Defendant opens the door at the Evidentiary Hearing. FURTHER, COURT ORDERED, Motion for Evidentiary Hearing GRANTED as to the issue of Ms. Blaskey and conduct of Mr. Wall; Motion is DENIED as to remaining issues.

COURT ORDERED, Motion for Discovery DENIED WITHOUT PREJUDICE at this time pending the Evidentiary Hearing. Court noted discovery request is overbroad.

CONTINUED ON PAGE: 051

CRIMINAL COURT MINUTES

85-C-069269-C STATE OF NEVADA

vs Flanagan, Dale E

CONTINUED FROM PAGE: 050

Court noted thirty claims were raised in Defendant's Petition. COURT ORDERED, RULING DEFERRED on claims pertaining to assertions by Ms. Blaskey regarding conduct of Mr. Wall. COURT ORDERED, remaining claims DENIED. COURT FINDS representation by Mr. Pike was not ineffective. COURT FURTHER FINDS bare allegations on the issues of failure to disclose exculpatory evidence; issue of prosecutorial misconduct by Mr. Seaton was ruled on by the Supreme Court; there were bare allegation regarding remaining issues and those issues are barred by the law of the case through previous appeals to the Nevada Supreme Court.

Colloquy regarding Evidentiary Hearing and discovery issues. COURT ORDERED, matter CONTINUED for Status Check; Mr. Newell's presence at next Court date WAIVED. Court directed parties to determine discovery issues. Mr. Simon advised State will prepare an Order to Transport Defendant Flanagan for the Evidentiary Hearing. Mr. Newell stated parties will not depose Ms. Blaskey; she will be a witness. Mr. Newell further stated Judge Mosley did not preside over the third penalty hearing. COURT ORDERED, allegations pertaining to Judge Mosley DENIED in that they were subject to direct appeal.

NDP

9/13/00 9:00 AM STATUS CHECK: EVIDENTIARY HEARING

09/13/00 09:00 AM 00 STATUS CHECK: EVIDENTIARY HEARING

HEARD BY: Mark Gibbons, Judge; Dept. 7

OFFICERS: AMBER FARLEY, Court Clerk
RENEE SILVAGGIO, Reporter/Recorder

PARTIES: STATE OF NEVADA
000411 Simon, H. L.
001 D1 Flanagan, Dale E
001988 Potter, III, Cal J.

Y

Y

N

Y

Mr. Simon stated the deposition of Dave Wall is scheduled for 11/9; further, Defendant's lead counsel out of Portland is available for the hearing the weeks of either 1/15 or 1/22. COURT ORDERED, matter set for evidentiary hearing on the remaining issues on the Writ.

NDP

1/26/01 10:00 AM EVIDENTIARY HEARING

State v. Dale Edward Flanagan Randolph Moore aka
Smith, Johnny Ray Suckett & Roy M. Dowell
PLAINTIFF'S EXHIBITS 1985 CASE NO. C69269

		OFFERED	ADMITTED
1.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30/85
2.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
3.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
4.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
5.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
6.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
7.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
8.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
9.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
10.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
11.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
12.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
13.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
14.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
15.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
16.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
17.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
18.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
19.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
20.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
21.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
22.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
23.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
24.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30
25.	Photo	<input checked="" type="checkbox"/> No obj.	<input checked="" type="checkbox"/> 9/30

State of Alabama, Edward Ilana, Randolph Moore aka
Smith, Johnny Ray Lockett, et al. vs. McCall

PLAINTIFF'S EXHIBITS

1985

CASE NO. C69269

OFFERED ADMITTED

26.	Photo	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 9/30/8
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30.	Photo	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 9/30
31.	Photo	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 9/30
32.	Photo	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 9/30
33.	Photo	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 9/30
34.	Photo	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 9/30
35.	Photo	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 9/30
36.	Photo	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 9/30
37.	Photo	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 9/30
38.	Photo	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 9/30
39.	Photo	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 9/30
40.	Photo	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 9/30
41.	Photo	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 9/30
42.	Photo	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 9/30
43.	Photo	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 9/30
44.	Photo	<input checked="" type="checkbox"/> obj.	<input checked="" type="checkbox"/> 10/0.
45.	Photo	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 9/30
46.	Photo	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 9/30
47.	Photo	<input checked="" type="checkbox"/> obj.	<input checked="" type="checkbox"/> 10/01
48.	Photo	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 9/30
49.	Photo	<input checked="" type="checkbox"/> obj.	<input checked="" type="checkbox"/> 10/01
50.	Photo	<input checked="" type="checkbox"/> obj.	<input type="checkbox"/>

withdrawn

State of Nevada vs. Dale Edward Lanagan, Randolph
Moore aka Smith; Johnny Ray Lockett & Roy McSowell
PLAINTIFF'S EXHIBITS 1985 CASE NO. C69269

	OFFERED	ADMITTED
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152. Photo	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 9/30
153. Photo	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 9/30
154. Photo	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 9/30
155. Photo	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 9/30
156. Photo	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 9/30
157. Photo ————— withdrawn —————	<input checked="" type="checkbox"/> obj	<input type="checkbox"/>
158. Photo	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 9/30
159. Photo	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 9/30
160. Photo	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 9/30
161. Photo	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 9/30
162. Photo	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 9/30
163. Photo	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 9/30
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165. Photo	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 9/30
166. Photo	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 9/30
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168. Photo	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 9/30
169. Photo	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 9/30
170. Photo	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 9/30
171. Photo	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 9/30
172. Photo	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 9/30
173. Photo	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 9/30
174. Photo	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 9/30
175. Photo	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 9/30

The State of Nevada vs Dale Edward Flanagan, Randolph
 Moore aka Smith, Johnny Ray Lockett & Roy Mc Dowell
 PLAINTIFF'S EXHIBITS 1985 CASE NO. C69269

	OFFERED	ADMITTED
176. Photo	<input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 10/03/85
177. Photo	<input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 10/03
178. Photo	<input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 9/30
179. Photo	<input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 9/30
180. Photo	<input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 9/30
181. Mug Shot - Thomas Akers	<input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 10/03
182. Mug Shot - Dale Flanagan	7/13/89 <input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 7/13/89
183. Mug Shot - Roy Mc Dowell	7/13/89 <input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 7/13/89
184. Mug Shot - Johnny Ray Lockett	7/13/89 <input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 7/13/89
185. Mug Shot - Michael Walsh	<input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 10/03
186. Mug Shot - Randolph Moore	7/13/89 <input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 7/13/89
187. Diagram - Crime Scene	<input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 9/30
188. Manila Evidence Envelope & Contents	<input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 10/03
188A. Cartridge case in plastic bag	<input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 10/03
188B. Cartridge case in plastic bag	<input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 10/03
188C. Cartridge case in plastic bag	<input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 10/03
188D. Cartridge case in plastic bag	<input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 10/03
188E. Bullet in plastic bag	<input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 10/03
189. Manila Evidence Envelope & Contents	<input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 10/03
189A. Cartridge case in plastic bag	<input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 10/03
190. Manila Evidence Envelope & Contents	<input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 10/03
190A. Bullet in plastic bag	<input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 10/03
190B. Bullet in plastic bag	<input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 10/03
191. Manila Evidence Envelope & Contents	<input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 10/03
191A. Knife	<input checked="" type="checkbox"/> Noobj	<input checked="" type="checkbox"/> 10/03

	OFFERED	ADMITTED
92. Manila Evidence Envelope; paper-wrapped package & contents	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 10/03
92A Window screen	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 10/03
93. Evidence Bag & Contents	<input type="checkbox"/>	<input type="checkbox"/>
93A. Purse & Contents	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 10/03
94. Manila Evidence Envelope & Contents - 2 plastic vials - bullets	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 10/03
95. Manila Evidence Envelope & Contents - 4 plastic vials - cotton & bullet fragments	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 10/03
96. Pole wrapped with black tape	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 10/03
97. Sawed-off 22 caliber rifle	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 10/03
98. Rifle - 22 caliber semi-automatic	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 10/03
99. Poem & drawing - (Offered by defense - Handwritten)	<input checked="" type="checkbox"/> Sustained	<input checked="" type="checkbox"/> 10/03
100. Photo - Autopsy - Colleen Gordon	<input checked="" type="checkbox"/> obj.	<input checked="" type="checkbox"/> 10/03
101. Photo - Autopsy - Colleen Gordon	<input checked="" type="checkbox"/> obj.	<input checked="" type="checkbox"/> 10/03
102. Photo - Autopsy - Colleen Gordon	<input checked="" type="checkbox"/> obj.	<input checked="" type="checkbox"/> 10/03
103. Photo - Autopsy - Colleen Gordon	<input checked="" type="checkbox"/> obj.	<input checked="" type="checkbox"/> 10/03
104. Photo - Autopsy - Carl Gordon	<input checked="" type="checkbox"/> obj.	<input checked="" type="checkbox"/> 10/03
105. Photo - Autopsy - Carl Gordon	<input type="checkbox"/> not allowed	<input type="checkbox"/>
106. Photo - Autopsy - Carl Gordon	<input checked="" type="checkbox"/> obj.	<input checked="" type="checkbox"/> 10/03
107. Photo - Autopsy - Carl Gordon	<input checked="" type="checkbox"/> obj.	<input checked="" type="checkbox"/> 10/03
108. Photo - Autopsy - Carl Gordon	<input checked="" type="checkbox"/> obj.	<input checked="" type="checkbox"/> 10/03
109. Photo - Autopsy - Carl Gordon	<input checked="" type="checkbox"/> obj.	<input checked="" type="checkbox"/> 10/03
110. Photo - Autopsy - Carl Gordon	<input checked="" type="checkbox"/> obj.	<input checked="" type="checkbox"/> 10/03
111. Photo - Autopsy - Carl Gordon	<input checked="" type="checkbox"/> obj.	<input checked="" type="checkbox"/> 10/03
112. Photo - Autopsy - Carl Gordon	<input checked="" type="checkbox"/> obj.	<input checked="" type="checkbox"/> 10/03
113. Death Certificates - Colleen Gordon	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 10/01
114. Death Certificates - Carl Gordon	<input checked="" type="checkbox"/> no obj.	<input checked="" type="checkbox"/> 10/01

The State of Nevada vs Dale Edward Flanagan, Randy Moore aka Smith, Johnny Ray Luckett, Roy McDowell

DEFENDANT'S EXHIBITS:

1985

CASE NO. C69269

	OFFERED	ADMITTED
A. Letter - Poem to Leah Moore	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 1/9
B. Letter - Poem - "Live to Die & Die to Live"	<input checked="" type="checkbox"/> obj	<input checked="" type="checkbox"/> 1/10
C. Letter from Scott Sloane to Johnny Ray Luckett	<input checked="" type="checkbox"/> obj	<input checked="" type="checkbox"/> 1/10
D. Requested copy of Letter from Scott Sloane to Johnny Ray	<input checked="" type="checkbox"/> obj	<input checked="" type="checkbox"/> 1/11
DI. Original Letter from Scott Sloane to Johnny Ray Luckett	<input checked="" type="checkbox"/> obj	<input checked="" type="checkbox"/> 1/11
E. Envelope - postmarked 9/9/85	<input checked="" type="checkbox"/> obj	<input checked="" type="checkbox"/> 1/11
F. Handwriting Exemplar - Scott Sloane	<input type="checkbox"/>	<input type="checkbox"/> 1/11
^{Penalty Phase} G. Certificate - School - Student Scholarship - Randy	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 1/11
H. Certificate - School - Scholarship & Citizenship - Randy	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 1/11
I. Appreciation Award - Randy Moore	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 1/11
J. Las Vegas Arabian Horse Assoc. Award - Randy	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 1/11
K. Reward check - Fabulous Forty Apartments - Randy	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 1/11
^{2nd Penalty Phase} L. Certificates - Religious Studies - Dale Flanagan 7/13/89	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 7/11
M. Article; "Hosanna" by Randy Moore 7/13/89	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 7/11
N. Articles; "The House" etc; by Dale Flanagan 7/13/89	<input checked="" type="checkbox"/> no obj	<input checked="" type="checkbox"/> 7/11
O. _____	<input type="checkbox"/>	<input type="checkbox"/>
P. _____	<input type="checkbox"/>	<input type="checkbox"/>
Q. _____	<input type="checkbox"/>	<input type="checkbox"/>
R. _____	<input type="checkbox"/>	<input type="checkbox"/>
S. _____	<input type="checkbox"/>	<input type="checkbox"/>
T. _____	<input type="checkbox"/>	<input type="checkbox"/>
U. _____	<input type="checkbox"/>	<input type="checkbox"/>
V. _____	<input type="checkbox"/>	<input type="checkbox"/>
W. _____	<input type="checkbox"/>	<input type="checkbox"/>
X. _____	<input type="checkbox"/>	<input type="checkbox"/>
Y. _____	<input type="checkbox"/>	<input type="checkbox"/>
Z. _____	<input type="checkbox"/>	<input type="checkbox"/>

Certification of Copy

**STATE OF NEVADA,
COUNTY OF CLARK,**

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

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES; EXHIBIT LISTS;

STATE OF NEVADA,

Plaintiff(s),

vs.

JOHN R. LUCKETT

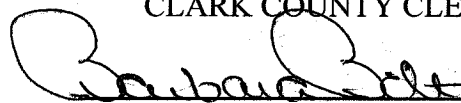
Defendant(s).

**D.C. CASE C69269
Department VII**

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto set my hand and Affixed the seal of the Court at my office, Las Vegas, Nevada, this 31th day of October, 2000 .

**SHIRLEY B. PARRAGUIRRE
CLARK COUNTY CLERK**



Barbara Belt

Deputy Clerk

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

JOHN R. LUCKETT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 36945
District Court Case No. C69269

RECEIPT FOR DOCUMENTS

TO: Attorney General
Clark County District Attorney
John R. Lockett #21832
Shirley Parraguirre, Clark Co. Clerk

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

11/03/00 Filing Fee Waived: Criminal.

11/03/00 Filed Certified Copy of proper person Notice of Appeal.
Appeal docketed in the Supreme Court this day.

DATE: November 03, 2000

Janette M. Bloom, Clerk of Court

By: _____
Deputy Clerk