

CASE NO. 89C092174
Dept. NO. VI

FILED 3

SEP 17 2012

DISTRICT COURT
CLARK COUNTY, NEVADA

John A. Lindeman
CLERK OF COURT

ROY D. MORAGA,
Petitioner,

- vs -

ROBERT LEGRAND, Warden,
Respondent.

89C092174
NOASC
Notice of Appeal (Criminal)
1981117

Electronically Filed
Sep 19 2012 03:25 p.m.
John A. Lindeman
Clerk of Supreme Court

NOTICE OF APPEAL

NOTICE IS GIVEN that Petitioner, Roy D. MORAGA, in Pro se, hereby Appeals to the Nevada Supreme Court the Findings of Fact & Conclusions of Law and Order denying/dismissing Petition for Writ of habeas Corpus, Motion for Reconsideration, which was Filed/entered on the 21st, 22th day of August 2012.

Dated this 10th day of September 2012.

Roy D. Moraga

Roy D. MORAGA #31584

Lovelock Correctional Center

1200 Prison Road

Lovelock, Nevada 89419

Petitioner In Pro Se

RECEIVED

SEP 17 2012

CLERK OF THE COURT

CERTIFICATE OF SERVICE

I do certify that I mailed a True and Correct Copy of the Foregoing NOTICE OF APPEAL to the below Address(es) on this 10th day of September 2012, by placing same in the U.S. MAIL VIA prison law library staff:

Steven D. Grierson,
County Clerk
200 Lewis Ave., 3rd Floor
LAS VEGAS, NV 89155-1160

Steven B. Wolfson
Clark County District Attorney
200 Lewis Ave.
LAS Vegas, NV 89155-2212

Roy J. Moraga #31584
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419

~~Roy J. Moraga~~
Roy J. Moraga #31584
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nev. 89419
Petitioner IN Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby Affirm that the preceding NOTICE OF APPEAL Filed in District Court Case NO. 89CO92174 does Not contain the Social Security Number of Any Person.
Dated this 10th day of September, 2012.

Roy D. Moraga

Roy D. MORAGA **31584

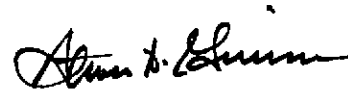
Petitioner IN Pro Se

ROY D. MORAGA #31584
Lovelock Correctional Center
1200 Prison Road
Lovelock, Nevada 89419



RECEIVED

SEP 10 2012



CLERK OF THE COURT

ASTA

**DISTRICT COURT
CLARK COUNTY, NEVADA**

STATE OF NEVADA,

Plaintiff(s),

vs.

ROY D. MORAGA,

Defendant(s).

Case No: 89C092174

Dept No: VI

CASE APPEAL STATEMENT

1. Appellant(s): Roy D. Moraga

2. Judge: Elissa Cadish

3. Appellant(s): Roy D. Moraga

Counsel:

Roy D. Moraga #31584
1200 Prison Rd.
Lovelock, NV 89419

4. Respondent: The State of Nevada

Counsel:

Steven B. Wolfson, District Attorney
200 Lewis Ave.
Las Vegas, NV 89101
(702) 671-2700

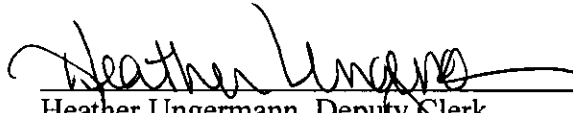
5. Respondent's Attorney Licensed in Nevada: Yes

6. Appellant Represented by Appointed Counsel In District Court: Yes

- 1 7. Appellant Represented by Appointed Counsel On Appeal: N/A
2 8. Appellant Granted Leave to Proceed in Forma Pauperis: Yes, September 9, 1993 &
3 January 23, 2006
4 9. Date Commenced in District Court: December 28, 1989
5 10. Brief Description of the Nature of the Action: Criminal
6 Type of Judgment or Order Being Appealed: Writ of Habeas Corpus
7 11. Previous Appeal: Yes
8 Supreme Court Docket Number(s): 21488, 22901, 29321, 32542, 33099, 42828, 44685,
9 49049
10 12. Child Custody or Visitation: N/A
11

12 Dated This 18 day of September 2012.

13 Steven D. Grierson, Clerk of the Court

14
15 
16 Heather Ungermann, Deputy Clerk
17 200 Lewis Ave
18 PO Box 551601
19 Las Vegas, Nevada 89155-1601
20 (702) 671-0512
21
22
23
24
25
26
27
28

DEPARTMENT 6
CASE SUMMARY
CASE NO. 89C092174

The State of Nevada vs Roy D Moraga

§	Location:	Department 6
§	Judicial Officer:	Cadish, Elissa F.
§	Filed on:	12/28/1989
§	Case Number History:	
§	Conversion Case Number:	C092174
§	Defendant's Scope ID #:	0938554
§	Lower Court Case Number:	89F07220

CASE INFORMATION

Offense	Deg	Date	Case Type: Felony/Gross Misdemeanor
1. BURGLARY.	F	01/01/1900	Case Flags: Appealed to Supreme Court
2. BURGLARY.	F	01/01/1900	
3. SEXUAL ASSAULT	F	01/01/1900	
4. SEXUAL ASSAULT	F	01/01/1900	
4. HABITUAL CRIMINAL	F	01/01/1900	

Statistical Closures

05/06/2007	USJR Reporting Statistical Closure
03/04/2007	USJR Reporting Statistical Closure
09/26/2004	USJR Reporting Statistical Closure
07/14/2004	USJR Reporting Statistical Closure
12/02/1999	USJR Reporting Statistical Closure
02/19/1996	USJR Reporting Statistical Closure
09/15/1993	USJR Reporting Statistical Closure
01/01/1992	USJR Reporting Statistical Closure
09/12/1991	USJR Reporting Statistical Closure
09/13/2007	USJR Reporting Statistical Closure
05/14/1998	USJR Reporting Statistical Closure
12/01/2005	USJR Reporting Statistical Closure
01/31/2005	USJR Reporting Statistical Closure
09/01/1998	USJR Reporting Statistical Closure

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	89C092174
Court	Department 6
Date Assigned	12/28/2008
Judicial Officer	Cadish, Elissa F.

PARTY INFORMATION

Defendant	Moraga, Roy D	<i>Lead Attorneys</i>
		Pro Se
Plaintiff	State of Nevada	Sandoval, Brian E.
		7024863420(W)

DATE

EVENTS & ORDERS OF THE COURT

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12/28/1989	 Hearing <i>INITIAL ARRAIGNMENT</i>	<i>89C0921740001.tif pages</i>
01/09/1990	 Information <i>INFORMATION</i>	<i>89C0921740013.tif pages</i>
01/11/1990	Initial Arraignment (9:00 AM)	


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CASE No. 89C092174

	Events: 12/28/1989 Hearing <i>INITIAL ARRAIGNMENT Heard By: Carl Christensen</i>	
01/24/1990	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF DEC 26, 1989 PRELIMINARY HEARING</i>	89C0921740128.tif pages
02/05/1990	 Information <i>MOTION AND NOTICE OF MOTION TO ENDORSE NAMES OF INFORMATION</i>	89C0921740129.tif pages
02/12/1990	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF JAN 11, 1990 ARRAIGNMENT</i>	89C0921740130.tif pages
02/15/1990	 Order <i>ORDER TO ENDORSE NAMES ON INFORMATION</i>	89C0921740131.tif pages
03/15/1990	 Instructions to the Jury <i>INSTRUCTIONS TO THE JURY</i>	89C0921740133.tif pages
03/15/1990	 Verdict <i>VERDICT COUNT I</i>	89C0921740134.tif pages
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06/13/1990	Sentencing (9:00 AM) Events: 06/06/1990 Conversion Case Event Type <i>SENTENCING Heard By: Michael Wendell</i>	
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06/13/1990	 Order <i>ORDER TO AMEND INFORMATION</i>	89C0921740139.tif pages
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06/27/1990	 Notice of Appeal <i>NOTICE OF APPEAL</i>	89C0921740141.tif pages
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01/09/1991	 Release <i>PETITION FOR RELEASE OF EVIDENCE</i>	89C0921740003.tif pages
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09/23/1991	Motion (9:00 AM) Events: 09/13/1991 Motion <i>REMAND FROM SUPREME COURT FOR RE-SENTENCING Court Clerk: DEBRA VINSON Reporter/Recorder: SHARLEEN NICHOLSON Heard By: LEHMAN, JACK</i>	
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CASE No. 89C092174

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10/09/1991	Petition (9:00 AM) Events: 10/03/1991 Petition <i>PROPER PERSON MOTION FOR WITHDRAWAL OF ATTORNEY OF RECORD AND TRANSFER OF Heard By: Jack Lehman</i>	
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10/14/1991	Motion (9:00 AM) <i>REMAND FROM SUPREME COURT FOR RE-SENTENCING Court Clerk: DEBRA VINSON Reporter/Recorder: SHARLEEN NICHOLSON Heard By: LEHMAN, JACK</i>	
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10/21/1991	Disposition (Judicial Officer: User, Conversion)	
10/21/1991	Disposition (Judicial Officer: User, Conversion) 2. BURGLARY. Guilty	
10/21/1991	Disposition (Judicial Officer: User, Conversion)	
10/21/1991	Disposition (Judicial Officer: User, Conversion) 3. SEXUAL ASSAULT Guilty	
10/21/1991	Disposition (Judicial Officer: User, Conversion)	
10/21/1991	Disposition (Judicial Officer: User, Conversion) 4. SEXUAL ASSAULT Guilty	
10/21/1991	Disposition (Judicial Officer: User, Conversion)	

DEPARTMENT 6
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CASE NO. 89C092174


10/21/1991 **Disposition** (Judicial Officer: User, Conversion)
4. HABITUAL CRIMINAL
Guilty

10/21/1991 **Sentence** (Judicial Officer: User, Conversion)
1. BURGLARY.
Adult Adjudication
Converted Disposition:
Sentence# 0001: LIFE WITHOUT POSSIBILITY OF PAROLE
Converted Disposition:
Sentence# 0002: ADMINISTRATION FEE
Amount: \$20.00
Converted Disposition:
Sentence# 0003: SENTENCE SET ASIDE
Converted Disposition:
Sentence# 0004:
Minimum 10 Years to Maximum 10 Years
Placement: NSP
Converted Disposition:
Sentence# 0005: CREDIT FOR TIME SERVED
Converted Disposition:
Sentence# 0006: ADMINISTRATION FEE
Amount: \$25.00
Converted Disposition:
Sentence# 0007: SENTENCE AMENDED
Converted Disposition:
Sentence# 0008: CREDIT FOR TIME SERVED
Minimum 180 Days to Maximum 180 Days

10/21/1991 **Sentence** (Judicial Officer: User, Conversion)
2. BURGLARY.
Adult Adjudication
Converted Disposition:
Sentence# 0001:
Minimum 10 Years to Maximum 10 Years
Placement: NSP
Cons/Conc: Consecutive
w/Charge Item: 0001
and Sentence#: 0004

10/21/1991 **Sentence** (Judicial Officer: User, Conversion)
3. SEXUAL ASSAULT
Adult Adjudication
Converted Disposition:
Sentence# 0001: LIFE WITH POSSIBILITY OF PAROLE
Cons/Conc: Consecutive
w/Charge Item: 0002
and Sentence#: 0001














10/21/1991 **Sentence** (Judicial Officer: User, Conversion)
4. SEXUAL ASSAULT
Adult Adjudication
Converted Disposition:
Sentence# 0001: LIFE WITHOUT POSSIBILITY OF PAROLE
Cons/Conc: Consecutive
w/Charge Item: 0003
and Sentence#: 0001

10/23/1991  Order

Filed By: Defendant Moraga, Roy D
ORDER FOR APPOINTMENT OF COUNSEL

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CASE SUMMARY
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01/29/1992	Motion for Confirmation of Counsel (9:00 AM) Events: 01/27/1992 Hearing <i>CONFIRMATION OF COUNSEL (BAILUS M) (CRM STNG SLP) Court Clerk: DEBRA VINSON Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman</i>	
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02/13/1992	 Notice of Appeal Filed By: Defendant Moraga, Roy D <i>DESIGNATION OF RECORD ON APPEAL</i>	89C0921740025.tif pages
02/20/1992	 Order <i>ORDER RE; PREPARATION OF TRANSCRIPTS TO R. SILVAGGIO, COURT REPORTER</i>	89C0921740026.tif pages
02/20/1992	 Ex Parte <i>EX PARTE APPLICATION FOR PREPARATION OF TRANSCRIPTS</i>	89C0921740027.tif pages
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02/20/1992	 Order <i>ORDER RE; PREPARATION OF TRANSCRIPTS TO RUSSELL GARCIA</i>	89C0921740029.tif pages
02/20/1992	 Order <i>ORDER RE; PREPARATION OF TRANSCRIPTS TO CONNIE SMITH</i>	89C0921740030.tif pages
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CASE SUMMARY
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02/20/1992	 Order <i>ORDER RE; PREPARATION OF TRANSCRIPTS TO SHARLEEN NICHOLSON, COURT REPORTER</i>	89C0921740032.tif pages
02/26/1992	 Receipt of Copy Filed by: Defendant Moraga, Roy D <i>RECEIPT OF COPY</i>	89C0921740033.tif pages
02/26/1992	 Receipt of Copy Filed by: Defendant Moraga, Roy D <i>RECEIPT OF COPY</i>	89C0921740034.tif pages
02/28/1992	 Receipt of Copy <i>RECEIPT OF COPY</i>	89C0921740035.tif pages
03/02/1992	 Receipt of Copy <i>RECEIPT OF COPY</i>	89C0921740036.tif pages
03/02/1992	 Receipt of Copy <i>RECEIPT OF COPY</i>	89C0921740037.tif pages
03/04/1992	 Reporters Transcript <i>REPORTER'S TRANSCRIPT REMAND FROM SUPREME COURT FOR RE SENTENCING</i>	89C0921740234.tif pages
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03/04/1992	 Reporters Transcript <i>REPORTER'S TRANSCRIPT DEFENDANTS MOTION TO TRANSFER SENTENCING BACK TO DEPARTMENT VIII DEFENDANTS PRO PER MOTION FOR WITHDRAWAL OF ATTORNEY OF RECORD AND TRANSFER OF RECORDS DEFENDANTS PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS DEPARTMENT VIII DEFENDANTS PRO PER MOTION FOR WITHDRAWAL OF ATTORNEY OF RECORD AND TRANSFER OF RECORDS DEFENDANTS PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS</i>	89C0921740244.tif pages
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DEPARTMENT 6
CASE SUMMARY
CASE No. 89C092174

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04/21/1992	Notice <i>NOTICE OF TRANSCRIPTS</i>	89C0921740038.tif pages
05/26/1992	 Request Filed by: Defendant Moraga, Roy D <i>REQUEST FOR RECORDS</i>	89C0921740039.tif pages
07/21/1992	 Petition <i>PRO PER MOTION FOR RETURNING SEIZED PROPERTY</i>	89C0921740040.tif pages
07/31/1992	 Answer <i>ANSWER IN OPPOSITON TO MOTION FOR RETURNING SEIZED PROPERTY</i>	89C0921740041.tif pages
08/03/1992	Petition (9:00 AM) Events: 07/21/1992 Petition <i>PRO PER MOTION FOR RETURNING SEIZED PROPERTY Court Clerk: DEBRA VINSON Reporter/Recorder: SHIRLEY PARRAGUIRRE Heard By: Addeliar Guy, III</i>	
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08/26/1993	 Motion <i>MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS</i>	89C0921740043.tif pages
08/27/1993	 Receipt of Copy Filed by: Defendant Moraga, Roy D <i>RECEIPT OF COPY</i>	89C0921740044.tif pages
09/08/1993	Motion (9:00 AM) Events: 08/26/1993 Motion <i>MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS Court Clerk: DEBRA VINSON Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman</i>	
09/08/1993	Hearing <i>STATUS CHECK RE: CREDIT FOR TIME SERVED</i>	89C0921740045.tif pages
09/15/1993	Status Check (9:00 AM) Events: 09/08/1993 Hearing <i>STATUS CHECK RE: CREDIT FOR TIME SERVED Court Clerk: DEBRA VINSON Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman</i>	
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DEPARTMENT 6
CASE SUMMARY
CASE No. 89C092174

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02/20/1996	Request Filed by: Defendant Moraga, Roy D <i>MOTION AND NOTICE OF MOTION TO COMPEL PRODUCTION OF SEMAN AND BLOOD</i>	89C0921740056.tif pages
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03/05/1996	 Motion <i>DEFT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS (VJ 03-06-96)</i>	89C0921740059.tif pages
03/05/1996	 Affidavit in Support <i>AFFIDAVIT IN SUPPORT OF MOTION FOR WITHDRAWAL OF ATTORNEY OF RECORD AND TRANSFER OF RECORDS TRANSFER OF RECORDS</i>	89C0921740060.tif pages
03/05/1996	 Notice Filed By: Defendant Moraga, Roy D <i>NOTICE OF MOTION MOTION FOR WITHDRAWAL OF ATTORNEY OF RECORD AND TRANSFER OF RECORDS OF RECORDS</i>	89C0921740061.tif pages
03/06/1996	Motion (9:00 AM) Events: 02/20/1996 Motion <i>DEFT'S PRO PER MOTION FOR FEES FOR EXPERT SERVICE Heard By: Jack Lehman</i>	
03/06/1996	Petition to Proceed in Forma Pauperis (9:00 AM) Events: 02/20/1996 Motion <i>DEFT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS Heard By: Jack Lehman</i>	
03/06/1996	Motion to Compel (9:00 AM) Events: 02/20/1996 Motion <i>DEFT'S PRO PER MOTION TO COMPEL PRODUCTION OF SEMAN/BLOOD Heard By: Jack Lehman</i>	








DEPARTMENT 6
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CASE No. 89C092174

03/06/1996	Petition for Writ of Habeas Corpus (9:00 AM) Events: 02/20/1996 Petition <i>DEFT'S PROPER PETITION FOR WRIT OF HABEAS CORPUS Heard By: Jack Lehman</i>	
03/06/1996	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS (3/06/96) Relief Clerk: LARRY SNYDER/LS Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman</i>	
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03/06/1996	Hearing <i>HEARING: SUPPLEMENTAL PLEADINGS</i>	89C0921740063.tif pages
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03/11/1996	 Affidavit in Support Filed By: Defendant Moraga, Roy D <i>AFFIDAVIT OF PETITIONER</i>	89C0921740066.tif pages
03/11/1996	 Affidavit in Support Filed By: Defendant Moraga, Roy D <i>AFFIDAVIT IN SUPPORT OF MOTION TO PROCEED IN FORMA PAUPERIS</i>	89C0921740067.tif pages
03/18/1996	CANCELED Motion to Withdraw as Counsel (9:00 AM) Events: 03/05/1996 Motion <i>Vacated</i>	
03/18/1996	CANCELED Petition to Proceed in Forma Pauperis (9:00 AM) Events: 03/05/1996 Motion <i>Vacated</i>	
04/01/1996	 Opposition <i>STATES OPPOSITION TO DEFENDANTS MOTION TO COMPEL PRODUCTION OF SEMEN AND BLOOD PETITION FOR WRIT OF HABEAS CORPUS POST- CONVICTION AND MOTION TO PROCEED IN FORMA PAUPERIS BLOOD PETITION FOR WRIT OF HABEAS CORPUS POST-CONVICTION AND MOTION TO PROCEED IN FORMA PAUPERIS</i>	89C0921740068.tif pages
04/09/1996	 Motion <i>MARK BAILUS' MOTION TO WITHDRAW AS COUNSEL</i>	89C0921740069.tif pages
04/09/1996	 Receipt of Copy Filed by: Defendant Moraga, Roy D <i>RECEIPT OF COPY AND CERTIFICATE OF MAILING</i>	89C0921740070.tif pages
04/11/1996	Motion <i>DEFT'S MOTION FOR EXTENSION OF TIME</i>	89C0921740071.tif pages
04/11/1996	 Request Filed by: Defendant Moraga, Roy D	89C0921740072.tif pages



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CASE No. 89C092174

	<i>MOTION FOR EXTENSION OF TIME TO FILE SUPPLEMENTAL POINTS AND AUTHORITIES</i>	
04/15/1996	 Receipt of Copy Filed by: Defendant Moraga, Roy D <i>RECEIPT OF COPY OF MOTION FOR EXTENSION OF TIME TO FILE SUPPLEMENTAL POINTS AND AUTHORITIES</i>	89C0921740073.tif pages
04/17/1996	Motion (9:00 AM) <i>DEFT'S PROPER MOTION FOR FEES FOR EXPERT SERVICE</i> Heard By: Jack Lehman	
04/17/1996	Petition to Proceed in Forma Pauperis (9:00 AM) <i>DEFT'S PROPER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS</i> Heard By: Jack Lehman	
04/17/1996	Motion to Compel (9:00 AM) <i>DEFT'S PROPER MOTION TO COMPEL PRODUCTION OF SEMAN/BLOOD</i> Heard By: Jack Lehman	
04/17/1996	Petition for Writ of Habeas Corpus (9:00 AM) <i>DEFT'S PROPER PETITION FOR WRIT OF HABEAS CORPUS</i> Court Clerk: NANCY NOBLE Reporter/Recorder: HELENE KARP Heard By: Jack Lehman	
04/17/1996	Hearing (9:00 AM) Events: 03/06/1996 Hearing <i>HEARING: SUPPLEMENTAL PLEADINGS</i> Heard By: Jack Lehman	
04/17/1996	Petition to Proceed in Forma Pauperis (9:00 AM) Events: 03/11/1996 Motion <i>DEFT'S PROPER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS</i> Heard By: Jack Lehman	
04/17/1996	Motion (9:00 AM) Events: 03/11/1996 Motion <i>DEFT'S PROPER MOTION FOR RETURNING SEIZED PROPERTY</i> Heard By: Jack Lehman	
04/17/1996	Motion to Withdraw as Counsel (9:00 AM) Events: 04/09/1996 Motion <i>MARK BAILUS' MOTION TO WITHDRAW AS COUNSEL</i> Heard By: Jack Lehman	
04/17/1996	Motion (9:00 AM) Events: 04/11/1996 Motion <i>DEFT'S MOTION FOR EXTENSION OF TIME</i> Heard By: Jack Lehman	
04/17/1996	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS (4/17/96)</i> Court Clerk: NANCY NOBLE Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman	
04/17/1996	Motion <i>ALL PENDING MOTIONS (4/17/96)</i>	89C0921740074.tif pages
04/17/1996	 Order Filed By: Defendant Moraga, Roy D <i>ORDER TO WITHDRAW AS ATTORNEY OF RECORD</i>	89C0921740075.tif pages
04/17/1996	 Notice Filed By: Defendant Moraga, Roy D <i>NOTICE OF ENTRY OF ORDER</i>	89C0921740076.tif pages

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05/20/1996	 Substitution of Attorney Filed by: Defendant Moraga, Roy D <i>SUBSTITUTION OF ATTORNEYS</i>	89C0921740077.tif pages
05/24/1996	Petition for Writ of Habeas Corpus (9:00 AM) <i>DEFT'S PROPER PETITION FOR WRIT OF HABEAS CORPUS Court Clerk: NANCY NOBLE Reporter/Recorder: HELENE KARP Heard By: Sally Loehrer</i>	
05/24/1996	Conversion Case Event Type <i>ARGUMENT AND DECISION</i>	89C0921740078.tif pages
06/13/1996	 Points and Authorities Filed by: Defendant Moraga, Roy D <i>SUPPLEMENTAL POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS CORPUS</i>	89C0921740079.tif pages
06/27/1996	 Supplement <i>STATES SUPPLEMENTAL OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS POST-CONVICTION POST-CONVICTION</i>	89C0921740080.tif pages
07/15/1996	Hearing (9:00 AM) Events: 05/24/1996 Conversion Case Event Type <i>ARGUMENT AND DECISION Court Clerk: CINDY LORY Reporter/Recorder: SHARLEEN NICHOLSON Heard By: LEHMAN, JACK</i>	
07/16/1996	 Reply Filed by: Defendant Moraga, Roy D <i>SUPPLEMENTAL REPLY AND OPPOSITION FOR WRIT OF HABEAS CORPUS</i>	89C0921740081.tif pages
07/19/1996	Hearing (9:00 AM) <i>ARGUMENT AND DECISION Court Clerk: CINDY LORY Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman</i>	
08/02/1996	 Motion <i>DAVID SCHIECK'S MOTION TO WITHDRAW AS COUNSEL</i>	89C0921740082.tif pages
08/05/1996	 Receipt of Copy Filed by: Defendant Moraga, Roy D <i>RECEIPT OF COPY OF MOTION TO WITHDRAW AS COUNSEL</i>	89C0921740083.tif pages
08/05/1996	 Certificate Filed By: Defendant Moraga, Roy D <i>CERTIFICATE OF MAILING OF MOTION TO WITHDRAW AS COUNSEL</i>	89C0921740084.tif pages
08/12/1996	Motion to Withdraw as Counsel (9:00 AM) Events: 08/02/1996 Motion <i>DAVID SCHIECK'S MOTION TO WITHDRAW AS COUNSEL Court Clerk: MELISSA DAVIS Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman</i>	
08/12/1996	Petition <i>APPOINTMENT OF COUNSEL</i>	89C0921740085.tif pages
08/12/1996	Hearing <i>STATUS CHECK: FINDINGS OF FACTS AND CONCLUSION</i>	89C0921740086.tif pages
08/21/1996	Motion for Appointment (9:00 AM)	












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	Events: 08/12/1996 Petition <i>APPOINTMENT OF COUNSEL</i>	
08/21/1996	Status Check (9:00 AM) Events: 08/12/1996 Hearing <i>STATUS CHECK: FINDINGS OF FACTS AND CONCLUSION Heard By: Jack Lehman</i>	
08/21/1996	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS (8/21/96) Court Clerk: NANCY NOBLE Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman</i>	
08/22/1996	Hearing <i>CONFIRMATION OF COUNSEL (JACKSON)</i>	89C0921740087.tif pages
08/22/1996	Motion <i>ALL PENDING MOTIONS (8/21/96)</i>	89C0921740088.tif pages
08/26/1996	Petition to Proceed in Forma Pauperis (9:00 AM) <i>DEFT'S PROPER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS Heard By: Jack Lehman</i>	
08/26/1996	Status Check (9:00 AM) <i>STATUS CHECK: FINDINGS OF FACTS AND CONCLUSION Heard By: Jack Lehman</i>	
08/26/1996	Motion for Confirmation of Counsel (9:00 AM) Events: 08/22/1996 Hearing <i>CONFIRMATION OF COUNSEL (JACKSON) Heard By: Jack Lehman</i>	
08/26/1996	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS (08-26-96) Court Clerk: CINDY LORY Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman</i>	
08/26/1996	Motion <i>ALL PENDING MOTIONS (08-26-96)</i>	89C0921740089.tif pages
08/27/1996	 Order <i>ORDER FOR TRANSCRIPT</i>	89C0921740090.tif pages
08/28/1996	Status Check (9:00 AM) <i>STATUS CHECK: FINDINGS OF FACTS AND CONCLUSION Heard By: Jack Lehman</i>	
08/28/1996	Motion for Confirmation of Counsel (9:00 AM) <i>CONFIRMATION OF COUNSEL (JACKSON) Heard By: Jack Lehman</i>	
08/28/1996	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS (08-28-96) Court Clerk: CINDY LORY Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman</i>	
08/28/1996	Motion <i>ALL PENDING MOTIONS (08-28-96)</i>	89C0921740094.tif pages
09/06/1996	 Judgment <i>FINDINGS OF FACTS, CONCLUSIONS OF LAW AND ORDER</i>	89C0921740091.tif pages
09/20/1996	 Notice <i>NOTICE OF ENTRY OF ORDER</i>	89C0921740092.tif pages
09/27/1996	 Notice Filed By: Defendant Moraga, Roy D	89C0921740093.tif pages

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	<i>NOTICE OF APPEAL</i>	
10/07/1996	 Notice of Appeal Filed By: Defendant Moraga, Roy D <i>DESIGNATION OF RECORD ON APPEAL</i>	89C0921740095.tif pages
10/28/1996	 Notice <i>NOTICE OF ENTRY OF ORDER</i>	89C0921740096.tif pages
10/29/1996	 Statement Filed by: Defendant Moraga, Roy D <i>CASE APPEAL STATEMENT</i>	89C0921740097.tif pages
01/13/1997	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE: DEFENDANT'S PRO PER PETITION FOR WRIT OF HABEASCORPUS DEFENDANT'S PRO PER MOTION FOR FEES FOR EXPERT SERVICE DEFENDANT'S PRO PER MOTION TO COMPEL PRODUCTION OF SEMEN/BLOOD DEFENDANT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS CORPUS DEFENDANT'S PRO PER MOTION FOR FEES FOR EXPERT SERVICE DEFENDANT'S PRO PER MOTION TO COMPEL PRODUCTION OF SEMEN/BLOOD DEFENDANT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS</i>	89C0921740098.tif pages
01/13/1997	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE: APPOINTMENT OF COUNSEL</i>	89C0921740099.tif pages
01/13/1997	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE: DEFENDANT'S PRO PER MOTION FOR FEES FOR EXPERTSERVICE DEFENDANT'S PRO PER PETITION FOR PETITION FOR WRIT OF HABEAS CORPUS DEFENDANT'S PRO PER MOTION TO COMPEL PRODUCTION SEMEN/BLOOD DEFENDANT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS SERVICE DEFENDANT'S PRO PER PETITION FOR PETITION FOR WRIT OF HABEAS CORPUS DEFENDANT'S PRO PER MOTION TO COMPEL PRODUCTION SEMEN/BLOOD DEFENDANT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS</i>	89C0921740100.tif pages
01/13/1997	 Reporters Transcript <i>REPORTER'S TRANSCRIPT ARGUMENT/DECISION</i>	89C0921740101.tif pages
01/13/1997	 Reporters Transcript <i>REPORTER'S TRANSCRIPT DAVID SCHIECK'S MOTION TO WITHDRAW AS COUNSEL</i>	89C0921740102.tif pages
01/13/1997	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE: ARGUMENT AND DECISION</i>	89C0921740103.tif pages
01/17/1997	 Certificate Filed By: Defendant Moraga, Roy D <i>CERTIFICATE OF MAILING</i>	89C0921740104.tif pages
04/30/1998	 Motion <i>DEFT'S PRO PER MOTION TO MODIFY OR CORRECT ILLEGAL SENTENCE</i>	89C0921740106.tif pages
04/30/1998	 Affidavit in Support Filed By: Defendant Moraga, Roy D <i>AFFIDAVIT OF ROY D MOREGA</i>	89C0921740107.tif pages

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05/08/1998	 Opposition <i>STATE'S OPPOSITION TO DEFENDANT'S MOTION TO MODIFY OR IN THE ALTERNATIVE CORRECT ILLEGAL SENTENCE CORRECT ILLEGAL SENTENCE</i>	89C0921740108.tif pages
05/11/1998	Motion to Modify Sentence (9:00 AM) Events: 04/30/1998 Motion <i>DEFT'S PRO PER MOTION TO MODIFY OR CORRECT ILLEGAL SENTENCE Court Clerk: DOROTHY KELLY Relief Clerk: NORMA CHATY/NC Reporter/Recorder: MARILYN WAGGONER Heard By: Don Chairez</i>	
05/28/1998	 Order <i>ORDER DENYING DEFENDANTS PRO PER MOTION TO MODIFY OR IN THE ALTERNATIVE TO CORRECT ILLEGAL SENTENCE CORRECT ILLEGAL SENTENCE</i>	89C0921740110.tif pages
05/29/1998	 Notice <i>NOTICE OF ENTRY OF ORDER</i>	89C0921740113.tif pages
06/01/1998	 Motion <i>DEFT'S PRO PER MOTION FOR ENLARGEMENT OF TIME</i>	89C0921740112.tif pages
06/13/1998	 Notice of Appeal Filed By: Defendant Moraga, Roy D <i>NOTICE OF APPEAL</i>	89C0921740114.tif pages
06/13/1998	 Notice of Appeal Filed By: Defendant Moraga, Roy D <i>DESIGNATION OF RECORD ON APPEAL</i>	89C0921740115.tif pages
06/15/1998	Motion (9:00 AM) Events: 06/01/1998 Motion <i>DEFT'S PRO PER MOTION FOR ENLARGEMENT OF TIME Heard By: Don Chairez</i>	
06/15/1998	 Statement <i>CASE APPEAL STATEMENT</i>	89C0921740116.tif pages
06/17/1998	Motion (9:00 AM) <i>DEFT'S PRO PER MOTION FOR ENLARGEMENT OF TIME Court Clerk: DOROTHY KELLY Relief Clerk: CYNTHIA NAVARRETTE-LORY/CNL Reporter/Recorder: SHAWN OTT Heard By: Mark Gibbons</i>	
06/30/1998	 Order <i>ORDER DENYING DEFENDANTS MOTION FOR ENLARGEMENT OF TIME</i>	89C0921740117.tif pages
07/07/1998	 Notice <i>NOTICE OF ENTRY OF ORDER</i>	89C0921740118.tif pages
08/06/1998	 Motion <i>DEFT'S PRO PER MOTION TO STRIKE</i>	89C0921740119.tif pages
08/17/1998	 Response <i>STATES RESPONSE TO DEFENDANTS MOTION TO STRIKE</i>	89C0921740120.tif pages
08/18/1998	Motion to Strike (9:00 AM) Events: 08/06/1998 Motion	

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DEFT'S PRO PER MOTION TO STRIKE Court Clerk: RITA LOPEZ Reporter/Recorder: YVONNE VALENTIN Heard By: Lee Gates

08/18/1998	Hearing <i>STATUS CHECK: ORDER</i>	89C0921740121.tif pages
08/27/1998	 Order <i>ORDER DENYING DEFENDANT'S PRO PER MOTION TO STRIKE</i>	89C0921740122.tif pages
09/01/1998	Status Check (9:00 AM) Events: 08/18/1998 Hearing <i>STATUS CHECK: ORDER Court Clerk: RITA LOPEZ Reporter/Recorder: YVONNE VALENTIN Heard By: Lee Gates</i>	
09/22/1998	 Notice of Appeal Filed By: Defendant Moraga, Roy D <i>NOTICE OF APPEAL</i>	89C0921740125.tif pages
09/22/1998	 Notice of Appeal Filed By: Defendant Moraga, Roy D <i>DESIGNATION OF RECORD ON APPEAL</i>	89C0921740126.tif pages
09/28/1998	 Statement <i>CASE APPEAL STATEMENT</i>	89C0921740127.tif pages
04/30/1999	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>NEVADA SUPREME COURT JUDGMENT / ORDERED APPEAL DISMISSED</i>	89C0921740148.tif pages
06/01/1999	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>NEVADA SUPREME COURT JUDGMENT / ORDERED APPEAL DISMISSED</i>	89C0921740149.tif pages
06/01/1999	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>NEVADA SUPREME COURT JUDGMENT / ORDERED APPEAL DISMISSED</i>	89C0921740150.tif pages
02/25/2002	 Motion <i>DEFT'S PRO PER MTN FOR LEAVE TO PROCEED IN FORMA PAUPERIS /38 VR 2/26/02</i>	89C0921740154.tif pages
02/25/2002	 Motion <i>DEFT'S PRO PER MTN TO PRESERVE EVID/ORD/39 VR 2-26-02</i>	89C0921740155.tif pages
02/25/2002	 Certificate Filed By: Defendant Moraga, Roy D <i>CERTIFICATE OF INMATES INSTITUTIONAL ACCOUNT</i>	89C0921740157.tif pages
02/26/2002	 Notice of Hearing <i>NOTICE OF HEARING-CRIMINAL FC</i>	89C0921740156.tif pages
03/11/2002	CANCELED Petition to Proceed in Forma Pauperis (9:00 AM) Events: 02/25/2002 Motion <i>Vacated</i>	
03/11/2002	CANCELED Motion (9:00 AM) Events: 02/25/2002 Motion <i>Vacated</i>	

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10/31/2002	 Motion <i>DEFT'S PROPER MTN TO VACATE AMEND JUDGMNT/40</i>	89C0921740158.tif pages
11/13/2002	Motion to Vacate (9:00 AM) Events: 10/31/2002 Motion <i>DEFT'S PROPER MTN TO VACATE AMEND JUDGMNT/40 Court Clerk: Sharon Coffman Reporter/Recorder: Sonja Riley-Bennett Heard By: Lee Gates</i>	
11/13/2002	Hearing <i>CONFIRMATION OF COUNSEL (HINDS)</i>	89C0921740159.tif pages
11/18/2002	Motion for Confirmation of Counsel (9:00 AM) Events: 11/13/2002 Hearing <i>CONFIRMATION OF COUNSEL (HINDS) Court Clerk: Sharon Coffman Reporter/Recorder: Sonja Riley-Bennett Heard By: Lee Gates</i>	
11/18/2002	Hearing <i>STATUS CHECK: PETITION</i>	89C0921740160.tif pages
11/21/2002	 Order Filed By: Defendant Moraga, Roy D <i>ORDER FOR APPOINTMENT OF COUNSEL FOR POST-CONVICTION RELIEF</i>	89C0921740161.tif pages
11/27/2002	 Opposition <i>STATES OPPOSITION TO DEFENDANTS MOTION TO VACATE AND/OR AMEND JUDGMENT</i>	89C0921740162.tif pages
12/02/2002	Status Check (9:00 AM) Events: 11/18/2002 Hearing <i>STATUS CHECK: PETITION Court Clerk: Sharon Coffman Heard By: Gates, Lee A</i>	
12/18/2002	Status Check (9:00 AM) <i>STATUS CHECK: PETITION Relief Clerk: April Watkins Reporter/Recorder: Sonia Riley-Bennett Heard By: Gates, Lee A</i>	
12/23/2002	Status Check (9:00 AM) <i>STATUS CHECK: PETITION Court Clerk: Sharon Coffman Reporter/Recorder: Sonia Riley-Bennett Heard By: Gates, Lee A</i>	
01/08/2003	Status Check (9:00 AM) <i>STATUS CHECK: PETITION Court Clerk: Sharon Coffman Reporter/Recorder: Sonia Riley-Bennett Heard By: Gates, Lee A</i>	
02/03/2003	Status Check (9:00 AM) <i>STATUS CHECK: PETITION Court Clerk: Sharon Coffman Reporter/Recorder: Sonia Riley-Bennett Heard By: Gates, Lee A</i>	
02/05/2003	Status Check (9:00 AM) <i>STATUS CHECK: PETITION Court Clerk: Sharon Coffman Reporter/Recorder: Sonia Riley-Bennett Heard By: Lee Gates</i>	
02/05/2003	Conversion Case Event Type <i>ARGUMENT: POST CONVICTION RELIEF VE 6/12</i>	89C0921740163.tif pages
06/11/2003	 Order Filed By: Defendant Moraga, Roy D <i>STIPULATION AND ORDER</i>	89C0921740164.tif pages

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07/23/2003	CANCELED Hearing (9:00 AM) Events: 02/05/2003 Conversion Case Event Type <i>Vacated</i>	
12/16/2003	 Motion <i>DEFT'S MTN FOR RELEASE OF DNA EVID UNDER NV OPEN RECORDS ACT/44</i>	89C0921740165.tif pages
12/17/2003	 Receipt of Copy Filed by: Defendant Moraga, Roy D <i>RECEIPT OF COPY</i>	89C0921740166.tif pages
12/26/2003	 Opposition <i>STATES OPPOSITION TO DEFENDANTS MOTION FOR RELEASE OF DNA EVIDENCE UNDER NEVADA OPEN RECORDS ACT NEVADA OPEN RECORDS ACT</i>	89C0921740167.tif pages
12/29/2003	Motion (9:00 AM) Events: 12/16/2003 Motion <i>DEFT'S MTN FOR RELEASE OF DNA EVID UNDER NV OPEN RECORDS ACT/44</i> <i>Court Clerk: Sharon Coffman Reporter/Recorder: Shawna Craig Heard By: Gates, Lee A</i>	
01/05/2004	Motion (9:00 AM) <i>DEFT'S MTN FOR RELEASE OF DNA EVID UNDER NV OPEN RECORDS ACT/44</i> <i>Court Clerk: Sharon Coffman Reporter/Recorder: Sonia Riley Heard By: Lee Gates</i>	
01/05/2004	 Reply Filed by: Defendant Moraga, Roy D <i>REPLY TO STATES OPPOSITION TO DEFENDANTS MOTION FOR RELEASE OF DNA EVIDENCE UNDER NEVADA OPEN RECORDS ACT EVIDENCE UNDER NEVADA OPEN RECORDS ACT</i>	89C0921740168.tif pages
01/07/2004	 Order <i>ORDER DENYING DEFENDANTS MOTION FOR RELEASE OF DNA EVIDENCE UNDER NEVADA OPEN RECORDS ACT NEVADA OPEN RECORDS ACT</i>	89C0921740169.tif pages
02/09/2004	 Request Filed by: Defendant Moraga, Roy D <i>EX PARTE MOTION FOR EXCESS FEES</i>	89C0921740170.tif pages
02/11/2004	 Order Filed By: Defendant Moraga, Roy D <i>ORDER FOR PAYMENT OF EXCESS FEES</i>	89C0921740171.tif pages
02/17/2004	 Notice of Appeal <i>NOTICE OF APPEAL</i>	89C0921740172.tif pages
02/17/2004	 Brief Filed By: Defendant Moraga, Roy D <i>SUPPLEMENTAL BRIEF TO STATES OPPOSITION TO DEFENDANTS MOTION FOR RELEASE OF DNA EVIDENCE UNDER NEVADA OPEN RECORDS ACT DNA EVIDENCE UNDER NEVADA OPEN RECORDS ACT</i>	89C0921740173.tif pages
02/18/2004	 Statement <i>CASE APPEAL STATEMENT</i>	89C0921740174.tif pages
05/04/2004	 Reporters Transcript <i>REPORTER'S TRANSCRIPT DEFTS PRO PER MOTION TO VACATE AND/OR AMEND</i>	89C0921740175.tif pages

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	<i>JUDGMENT</i>	
05/04/2004	 Reporters Transcript <i>REPORTER'S TRANSCRIPT DEFTS MOTION FOR RELEASE OF DNA EVIDENCE UNDER NEVADA PEN RECORDS ACT PEN RECORDS ACT</i>	89C0921740176.tif pages
05/14/2004	 Reporters Transcript <i>REPORTER'S TRANSCRIPT PROCEEDINGS RE DEFENDANTS PRO PER MOTION TO MODIFY OR CORRECT ILLEGAL SENTENCE CORRECT ILLEGAL SENTENCE</i>	89C0921740177.tif pages
09/27/2004	 Motion <i>DEFT'S PRO PER MTN FOR EXTRAORDINARY WRIT/45</i>	89C0921740180.tif pages
09/27/2004	 Affidavit <i>AFFIDAVIT OF ROY D MORAGA</i>	89C0921740182.tif pages
09/27/2004	 Supplement Filed by: Defendant Moraga, Roy D <i>SUPPLEMENT ACT</i>	89C0921740183.tif pages
10/13/2004	Motion (9:00 AM) Events: 09/27/2004 Motion <i>DEFT'S PRO PER MTN FOR EXTRAORDINARY WRIT/45 Court Clerk: Sharon Coffman Reporter/Recorder: Sonia Riley Heard By: Lee Gates</i>	
10/13/2004	Conversion Case Event Type <i>ARGUMENT: DEFT MTN FOR EXTRAORDINARY WRIT</i>	89C0921740184.tif pages
10/18/2004	 Motion <i>DEFT'S PRO PER MTN FOR ORDER FOR FAILURE TO PROSECUTE/REINSTATE MTN TO VACATE/47</i>	89C0921740185.tif pages
10/19/2004	Judgment <i>CLERKS CERTIFICATE JUDGMENT AFFIRMED</i>	89C0921740186.tif pages
10/19/2004	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>NEVADA SUPREME COURT CLERKS CERTIFICATE/ JUDGMENT - AFFIRMED</i>	89C0921740187.tif pages
11/01/2004	Motion (9:00 AM) Events: 10/18/2004 Motion <i>DEFT'S PRO PER MTN FOR ORDER FOR FAILURE TO PROSECUTE/REINSTATE MTN TO VACATE/47 Court Clerk: Sharon Coffman Relief Clerk: Michelle Jones/mj Reporter/Recorder: Sonia Riley Heard By: Gates, Lee A</i>	
12/15/2004	 Response Filed by: Defendant Moraga, Roy D <i>STATES RESPONSE TO EXTRAORDINARY WRIT OF MANDAMUS</i>	89C0921740188.tif pages
01/05/2005	 Reply Filed by: Defendant Moraga, Roy D <i>REPLY TO STATES RESPONSE TO EXTRAORDINARY WRIT OF MANDAMUS AND MOTION TO DISMISS MOTION TO DISMISS</i>	89C0921740189.tif pages
01/31/2005	Hearing (9:00 AM) Events: 10/13/2004 Conversion Case Event Type <i>ARGUMENT: DEFT MTN FOR EXTRAORDINARY WRIT Heard By: Lee Gates</i>	

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01/31/2005	Motion (9:00 AM) <i>DEFT'S PROPER MTN FOR ORDER FOR FAILURE TO PROSECUTE/REINSTATE MTN TO VACATE/47 Heard By: Lee Gates</i>	
01/31/2005	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS (1-31-05) Court Clerk: Sharon Coffman Reporter/Recorder: Sonia Riley Heard By: Lee Gates</i>	
01/31/2005	Motion <i>ALL PENDING MOTIONS (1-31-05)</i>	89C0921740190.tif pages
02/10/2005	 Statement <i>CASE APPEAL STATEMENT</i>	89C0921740192.tif pages
02/10/2005	 Notice of Appeal <i>NOTICE OF APPEAL</i>	89C0921740193.tif pages
02/10/2005	 Notice of Appeal Filed By: Defendant Moraga, Roy D <i>DESIGNATION OF RECORD ON APPEAL</i>	89C0921740194.tif pages
03/30/2005	 Order Filed By: Defendant Moraga, Roy D <i>ORDER</i>	89C0921740196.tif pages
04/08/2005	 Notice Filed By: Defendant Moraga, Roy D <i>NOTICE OF ENTRY OF ORDER</i>	89C0921740198.tif pages
05/02/2005	 Judgment <i>CLERK'S CERTIFICATE APPEAL DISMISSED</i>	89C0921740199.tif pages
01/10/2006	 Motion <i>DEFT'S PROPER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND FOR /49</i>	89C0921740202.tif pages
01/10/2006	 Petition Filed by: Defendant Moraga, Roy D <i>PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION</i>	89C0921740203.tif pages
01/10/2006	 Certificate Filed By: Defendant Moraga, Roy D <i>FINANCIAL CERTIFICATE</i>	89C0921740204.tif pages
01/10/2006	 Affidavit in Support Filed By: Defendant Moraga, Roy D <i>AFFIDAVIT IN SUPPORT OF MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND FOR APPOINTMENT OF COUNSEL</i>	89C0921740205.tif pages
01/10/2006	 Affidavit Filed By: Defendant Moraga, Roy D <i>AFFIDAVIT OF PETITIONER</i>	89C0921740206.tif pages
01/12/2006	 Petition <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /50</i>	89C0921740207.tif pages

DEPARTMENT 6
CASE SUMMARY
CASE No. 89C092174













01/19/2006	 Opposition <i>STATES OPPOSITION TO MOTION FOR APPOINTMENT OF COUNSEL</i>	89C0921740208.tif pages
01/23/2006	Petition to Proceed in Forma Pauperis (9:00 AM) Events: 01/10/2006 Motion <i>DEFT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND FOR /49 Court Clerk: Sharon Coffman Reporter/Recorder: Sonia Riley Heard By: Lee Gates</i>	
01/27/2006	 Order <i>ORDER GRANTING DEFENDANTS PRO PER MOTION FOR LEAVE TO PROCEED IN FORMAPAUPERIS AND ORDER DENYING DEFENDANTS PRO PER MOTION FOR APPOINTMENT OF COUNSEL PAUPERIS AND ORDER DENYING DEFENDANTS PRO PER MOTION FOR APPOINTMENT OF COUNSEL</i>	89C0921740210.tif pages
02/22/2006	 Motion <i>DEFT'S PRO PER MTN AND ORDER TO TRANSPORT AND PRODUCE INMATE FOR /51</i>	89C0921740211.tif pages
02/22/2006	 Notice Filed By: Defendant Moraga, Roy D <i>NOTICE OF CHANGE OF ADDRESS</i>	89C0921740212.tif pages
02/27/2006	 Opposition <i>STATES OPPOSITION TO DEFENDANTS MOTION FOR TRANSPORT</i>	89C0921740213.tif pages
02/27/2006	 Response <i>STATES RESPONSE AND MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION POST CONVICTION</i>	89C0921740214.tif pages
03/22/2006	Motion (9:00 AM) Events: 02/22/2006 Motion <i>DEFT'S PRO PER MTN AND ORDER TO TRANSPORT AND PRODUCE INMATE FOR /51 Court Clerk: Sharon Coffman Reporter/Recorder: Sonia Riley Heard By: Lee Gates</i>	
03/22/2006	Hearing <i>STATUS CHECK: PETITION HEARING / ORDER TO TRANSPORT</i>	89C0921740215.tif pages
03/29/2006	Petition for Writ of Habeas Corpus (9:00 AM) Events: 01/12/2006 Petition <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /50</i>	
04/19/2006	Status Check (9:00 AM) Events: 03/22/2006 Hearing <i>STATUS CHECK: PETITION HEARING / ORDER TO TRANSPORT Court Clerk: Sharon Coffman/sc Relief Clerk: Phyllis Irby Reporter/Recorder: Jackie Nelson Heard By: Bonaventure, Joseph T.</i>	
04/21/2006	 Order <i>ORDER FOR PRODUCTION OF INMATE</i>	89C0921740216.tif pages
04/26/2006	Petition for Writ of Habeas Corpus (9:00 AM) <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /50</i>	
05/01/2006	Status Check (9:00 AM) <i>STATUS CHECK: PETITION HEARING / ORDER TO TRANSPORT Court Clerk:</i>	

DEPARTMENT 6
CASE SUMMARY
CASE NO. 89C092174






Sharon Coffman/sc Relief Clerk: Phyllis Irby Reporter/Recorder: Sonia Riley Heard By: Gates, Lee A

05/05/2006	 Order <i>ORDER FOR PRODUCTION OF INMATE</i>	89C0921740217.tif pages
05/24/2006	 Reply Filed by: Defendant Moraga, Roy D <i>REPLY TO STATES RESPONSE AND OPPOSITION TO MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION</i>	89C0921740218.tif pages
05/31/2006	Status Check (9:00 AM) <i>STATUS CHECK: PETITION HEARING / ORDER TO TRANSPORT Court Clerk: Sharon Coffman/sc Relief Clerk: Phyllis Irby Reporter/Recorder: Sonia Riley Heard By: Lee Gates</i>	
05/31/2006	Conversion Case Event Type <i>ARGUMENT: PETITION FOR WRIT OF HABEAS CORPUS</i>	89C0921740219.tif pages
06/05/2006	 Order <i>ORDER FOR PRODUCTION OF INMATE ROY D MORAGA BAC# 31584</i>	89C0921740220.tif pages
06/26/2006	Hearing (9:00 AM) Events: 05/31/2006 Conversion Case Event Type <i>ARGUMENT: PETITION FOR WRIT OF HABEAS CORPUS Court Clerk: Sharon Coffman/sc Relief Clerk: Phyllis Irby Reporter/Recorder: Sonia Riley Heard By: Lee Gates</i>	
07/06/2006	Minute Order (9:00 AM) <i>MINUTE ORDER RE: PETITION FOR WRIT OF HABEAS CORPUS Court Clerk: Connie Gleason Relief Clerk: Phyllis Irby/pi Heard By: Lee Gates</i>	
07/06/2006	Hearing <i>MINUTE ORDER RE: PETITION FOR WRIT OF HABEAS CORPUS</i>	89C0921740221.tif pages
02/08/2007	 Judgment <i>FINDINGS OF FACTS AND CONCLUSIONS OF LAW</i>	89C0921740222.tif pages
02/13/2007	 Notice of Entry of Decision and Order <i>NOTICE OF ENTRY OF DECISION AND ORDER</i>	89C0921740223.tif pages
03/02/2007	 Notice of Appeal Filed By: Defendant Moraga, Roy D <i>NOTICE OF APPEAL (SC 49049)</i>	89C0921740224.tif pages
03/02/2007	 Statement Filed by: Defendant Moraga, Roy D <i>CASE APPEAL STATEMENT</i>	89C0921740228.tif pages
03/05/2007	 Statement <i>CASE APPEAL STATEMENT</i>	89C0921740225.tif pages
03/05/2007	 Motion <i>DEFT'S PROPER MTN FOR APPOINTMENT OF COUNSEL ON APPEAL/55</i>	89C0921740227.tif pages
		89C0921740229.tif pages

DEPARTMENT 6
CASE SUMMARY
CASE No. 89C092174

03/12/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT DEFTS PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND FOR APPOINTMENT OF COUNSEL PAUPERIS AND FOR APPOINTMENT OF COUNSEL</i>	
03/12/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF ARGUMENT PETITION FOR WRIT OF HABEAS CORPUS</i>	89C0921740230.tif pages
03/16/2007	 Opposition <i>STATES OPPOSITION TO DEFENDANTS MOTION FOR APPOINTMENT OF COUNSEL</i>	89C0921740231.tif pages
03/19/2007	Motion (9:00 AM) Events: 03/05/2007 Motion <i>DEFT'S PRO PER MTN FOR APPOINTMENT OF COUNSEL ON APPEAL/55 Court Clerk: Sharon Coffman Reporter/Recorder: Sonia Riley Heard By: Lee Gates</i>	
03/23/2007	 Order <i>ORDER DENYING DEFENDANTS MOTION FOR APPOINTMENT OF COUNSEL</i>	89C0921740232.tif pages
09/13/2007	 Judgment <i>CLERK'S CERTIFICATE JUDGMENT AFFIRMED</i>	89C0921740248.tif pages
04/25/2012	 Status Check (8:30 AM) (Judicial Officer: Cadish, Elissa F.) <i>Further Proceedings (Deft's Pro per Mtn for Judicial Action on Petition, Exparte Mtn for Appointment of Counsel filed in A640265)</i>	
05/16/2012	 Response Filed by: Plaintiff State of Nevada <i>Response and Motion to Dismiss Defendant's Petition for Writ of Habeas Corpus (Post- Conviction)</i>	
07/16/2012	Hearing (8:30 AM) (Judicial Officer: Cadish, Elissa F.) <i>HEARING: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS</i>	
07/16/2012	Motion (8:30 AM) (Judicial Officer: Cadish, Elissa F.) <i>DEFT'S EXPARTE MOTION FOR APPOINTMENT OF COUNSEL</i>	
07/16/2012	 All Pending Motions (8:30 AM) (Judicial Officer: Cadish, Elissa F.)	
08/06/2012	 Motion Filed By: Defendant Moraga, Roy D <i>Motion for Reconsideration</i>	
08/09/2012	 Opposition to Motion Filed By: Plaintiff State of Nevada <i>Opposition to Defendant's Motion to Reconsider</i>	
08/13/2012	 Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff State of Nevada	
08/21/2012	 Notice of Entry Filed By: Plaintiff State of Nevada <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>	

DEPARTMENT 6
CASE SUMMARY
CASE NO. 89C092174

08/27/2012	 Motion (8:30 AM) (Judicial Officer: Cadish, Elissa F.) Events: 08/06/2012 Motion <i>Motion for Reconsideration</i>
08/28/2012	 Reply to Opposition Filed by: Defendant Moraga, Roy D <i>Reply to State's Opposition to Petitioner's Motion for Reconsideration</i>
08/28/2012	 Request Filed by: Defendant Moraga, Roy D <i>Request to File Exhibit 1</i>
09/17/2012	 Notice of Appeal (criminal) Party: Defendant Moraga, Roy D
09/18/2012	 Case Appeal Statement Filed By: Defendant Moraga, Roy D <i>Case Appeal Statement</i>

DATE	FINANCIAL INFORMATION	
	Defendant Moraga, Roy D	
	Total Charges	8.00
	Total Payments and Credits	8.00
	Balance Due as of 9/19/2012	0.00

ORIGINAL

FILED

AUG 13 8 58 AM '12

Steven B. Wolfson
CLERK OF THE COURT

1 **ORDR**

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001516
5 JAMES R. SWEETIN
6 Deputy District Attorney
7 Nevada Bar #005144
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

10 THE STATE OF NEVADA,)
11 Plaintiff,)

12 -vs-

13 ROY D. MORAGA,
14 #0938554

15 Defendant.)

CASE NO: C-89-092174-1

DEPT NO: VI

16 **FINDINGS OF FACT, CONCLUSIONS OF**

17 **LAW AND ORDER**

18 DATE OF HEARING: July 16, 2012
19 TIME OF HEARING: 8:30 A.M.

20 THIS CAUSE having come on for hearing before the Honorable ELISSA F.
21 CADISH, District Judge, on the 16th day of July, 2012, the Petitioner not present, the
22 Respondent being represented by STEVEN B. WOLFSON, District Attorney, by and
23 through DENA RINETTI, Chief Deputy District Attorney, and the Court having considered
24 the matter, including briefs, and documents on file herein, without argument, now therefore,
25 the Court makes the following findings of fact and conclusions of law:

26 //
27 //
28 //

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Findings of Fact, Conclusions of Law and (
1930375



FINDINGS OF FACT

1. An Information was filed on January 9, 1990 charging Roy Moraga (hereinafter "Defendant") as follows: Counts 1 and 2: BURGLARY (Felony- NRS 205.060) and Counts 3 and 4: SEXUAL ASSAULT (Felony- NRS 200.364, 200.366).
2. On March 15, 1990, a jury found Defendant guilty as charged on all counts.
3. An Amended Information was filed on June 13, 1990 wherein the State sought punishment as a habitual criminal based on Defendant's three prior felony convictions.
4. In addition to a \$20 Administrative Assessment Fee, Defendant was sentenced on June 13, 1990 to Life without the Possibility of Parole. The Judgment of Conviction was filed on July 7, 1990.
5. Defendant filed a Notice of Appeal on June 27, 1990. The Nevada Supreme Court filed its Order of Remand for Re-sentencing on August 27, 1991. Remittitur issued on September 17, 1991.
6. On October 21, 1991, Defendant was re-sentenced as follows: \$25 Administrative Assessment Fee; Count 1: ten (10) years in the Nevada Department of Prisons (NDP); Count 2: ten (10) years in NDP to run consecutive with count 1; Count 3: Life with the Possibility of Parole after five (5) years in NDP to run consecutive to count 2; and Count 4: habitual criminal treatment under NRS 207.010(2) to Life without the Possibility of Parole to run consecutive to count 3.
7. The Amended Judgment of Conviction was filed on November 13, 1991. Defendant was later given one hundred and eighty (180) days credit for time served.
8. Defendant filed a Notice of Appeal from the Amended Judgment of Conviction on October 30, 1991. The Nevada Supreme Court filed its Order Dismissing the Appeal on October 4, 1995. Remittitur issued on October 24, 1995.
9. On February 20, 1996, Defendant filed a Pro Per Petition for Writ of Habeas Corpus. The State filed its Opposition on April 1, 1996. Defendant filed a Supplemental Petition on June 13, 1996. The State filed its Opposition to the Supplement on June

1 27, 1996. Defendant filed a Reply on July 16, 1996. The district court filed its
2 Findings of Fact and Conclusions of Law Denying the Petition on September 6, 1996.
3 Defendant filed a Notice of Appeal on September 27, 1996.

4 10. Defendant filed a Motion to Modify Sentence or Correct Illegal Sentence on April 30,
5 1998. The State filed its Opposition on May 8, 1998. The district court filed its Order
6 Denying the Motion on May 28, 1998. Defendant filed a Notice of Appeal on June
7 13, 1998.

8 11. The Nevada Supreme Court filed its combined Order of Affirmance of both the
9 Petition for Writ of Habeas Corpus and the Motion to Modify Sentence on April 20,
10 1999. Remittitur issued on May 18, 1999.

11 12. Defendant filed a Second Petition for Writ of Habeas Corpus on January 10, 2006.
12 The State filed its Response and Motion to Dismiss on February 27, 2006. Defendant
13 filed a Reply on May 24, 2006. The district court filed its Findings of Fact and
14 Conclusions of Law denying the Petition on February 8, 2007. Defendant filed a
15 Notice of Appeal on March 2, 2007. The Nevada Supreme Court filed its Order of
16 Affirmance on August 16, 2007. Remittitur issued on September 11, 2007.

17 13. Defendant filed a Third Petition for Writ of Habeas Corpus on November 4, 2011.
18 The State filed its Response and Motion to Dismiss on May 16, 2012.

19 14. A hearing on the Petition was held on July 16, 2012.

20 15. The Petition is time barred.

21 16. Defendant filed his Petition outside of the one year time frame.

22 17. The Nevada Supreme Court issued Remittitur on Defendant's direct appeal on
23 September 17, 1991. Defendant's instant Petition was not filed until November 11,
24 2011.

25 18. The Petition is successive.

26 19. Defendant has filed two previous Petitions for Writ of Habeas Corpus.

27 20. Defendant has failed to establish good cause for the late filing of a successive
28 Petition.

1 21. Defendant's claim of actual innocence is not good cause to overcome the procedural
2 bars.

3 22. Defendant is not entitled to appointment of counsel.

4 23. The State has pled laches and Defendant has not overcome the statutory presumption
5 that the lengthy delay in filing the instant petition has prejudiced the State.

6 CONCLUSIONS OF LAW

7 1. NRS 34.726(1) provides:

8 1. Unless there is good cause shown for delay, a petition that
9 challenges the validity of a judgment or sentence must be filed
10 *within 1 year after entry of the judgment of conviction* or, if an
11 appeal has been taken from the judgment, within 1 year after the
12 Supreme Court issues its remittitur. For the purposes of this
13 subsection, good cause for delay exists if the petitioner
14 demonstrates to the satisfaction of the court:

15 (a) That the delay is not the fault of the petitioner; and

16 (b) That dismissal of the petition as untimely will unduly
17 prejudice the petitioner . . .

18 (Emphasis added).

19 2. NRS 34.810 states:

20 2. A second or successive petition must be dismissed if the judge
21 or justice determines that it fails to allege new or different
22 grounds for relief and that the prior determination was on the
23 merits or, if new and different grounds are alleged, the judge or
24 justice finds that the failure of the Defendant to assert those
25 grounds in a prior petition constituted an abuse of the writ.

26 3. Pursuant to subsections 1 and 2, the petitioner has the burden
27 of pleading and proving specific facts that demonstrate:

28 (a) Good cause for the petitioner's failure to present the claim or
for presenting the claim again; and

(b) Actual prejudice to the petitioner.

4. To avoid procedural default under NRS 34.810, Defendant has the burden of
pleading and proving specific facts that demonstrate both good cause for his failure
to present his claim in earlier proceedings and actual prejudice. NRS 34.810(3);
Hogan v. Warden, 109 Nev. 952, 959-60, 860 P.2d 710, 715-16 (1993); Phelps v.
Director, 104 Nev. 656, 659, 764 P.2d 1303, 1305 (1988).

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- 1 5. “In order to demonstrate good cause, a petitioner must show that an impediment
2 external to the defense prevented him or her from complying with the state
3 procedural default rules.” Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506
4 (2003); citing Pellegrini v. State, 117 Nev. 860, 886-87, 34 P.3d 519, 537 (2001);
5 Lozada v. State, 110 Nev. 349, 353, 871 P.2d 944, 946 (1994); Passanisi v.
6 Director, 105 Nev. 63, 769 P.2d 72 (1989).
- 7 6. Such an external impediment could be “that the factual or legal basis for a claim
8 was not reasonably available to counsel, or that ‘some interference by officials’
9 made compliance impracticable.” Hathaway v. State, 119 Nev. 248, 252, 71 P.3d ,
10 503, 506 (2003); *quoting* Murray v. Carrier, 477 U.S. 478, 488, 106 S.Ct. 2639,
11 2645 (1986).
- 12 7. To find good cause there must be a “substantial reason; one that affords a legal
13 excuse.” Hathaway, 119 Nev. at 252, 71 P.3d at 506; *citing* Colley v. State, 105
14 Nev. 235, 236, 773 P.2d 1229, 1230 (1989).
- 15 8. In the absence of good cause, a Petitioner may only defeat the procedural bars by
16 showing a “fundamental miscarriage of justice.” Pellegrini v. State, 117 Nev. 860,
17 887, 34 P.3d 519, 537 (2001).
- 18 9. In order to establish a claim of actual innocence, Defendant must submit new
19 evidence in his habeas proceeding in light of which no reasonable juror would have
20 convicted him. Calderon v. Thompson, 523 U.S. 538, 559 (1998).
- 21 10. In McKague v. Warden, 112 Nev. 159, 912 P.2d 255 (1996), the Nevada Supreme
22 Court observed that “[t]he Nevada Constitution...does not guarantee a right to
23 counsel in post-conviction proceedings, as we interpret the Nevada Constitution’s
24 right to counsel provision as being coextensive with the Sixth Amendment to the
25 United States Constitution.”
- 26 11. NRS 34.750 provides, in pertinent part:
27 [a] petition may allege that the Defendant is unable to pay the
28 costs of the proceedings or employ counsel. If the court is
 satisfied that the allegation of indigency is true and the petition *is*
 not dismissed summarily, the court may appoint counsel at the

time the court orders the filing of an answer and a return. In making its determination, the court may consider whether:

- (a) The issues are difficult;
- (b) The Defendant is unable to comprehend the proceedings; or
- (c) Counsel is necessary to proceed with discovery.

(Emphasis added).

12. The Nevada Supreme Court has observed that a petitioner "must show that the requested review is not frivolous before he may have an attorney appointed." Peterson v. Warden, Nevada State Prison, 87 Nev. 134, 483 P.2d 204 (1971) (citing former statute NRS 177.345(2)).

13. The relevant portions of NRS 34.800 provide:

(1) A petition may be dismissed if delay in the filing of the petition:

(b) Prejudices the State of Nevada in its ability to conduct a retrial of the petitioner, unless the petitioner demonstrates that a fundamental miscarriage of justice has occurred in the proceedings resulting in the judgment of conviction or sentence...

(2) A period exceeding five years between the filing of a judgment of conviction...and the filing of a petition challenging the validity of the judgment of conviction creates a rebuttable presumption of prejudice to the State.

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DATED this 9 day of August, 2012.

Elin F. Golik
DISTRICT JUDGE

BY *[Signature]* for
DENA RINETTI
 Chief Deputy District Attorney
 Nevada Bar #009897

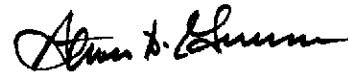
I, HOWARD CONRAD, hereby certify that the State forwarded a copy of these FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER on the 2nd day of AUGUST, 2012, to:

ROY MORAGA, BAC#31584
LOVELOCK CORRECTIONAL CENTER
1200 PRISON ROAD
LOVELOCK, NV 89419

Secretary for the District Attorney's Office

hjc/SVU

1 NEO



CLERK OF THE COURT

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

4
5 ROY D. MORAGA,

6 Petitioner,

7 vs.

8 THE STATE OF NEVADA,

9 Respondent,

Case No: 89C092174

Dept No: VI

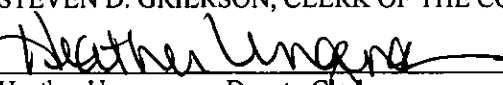
10 **NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW AND
ORDER**

11 **PLEASE TAKE NOTICE** that on August 13, 2012, the court entered a decision or order in this matter, a
12 true and correct copy of which is attached to this notice.

13 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you
14 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is
15 mailed to you. This notice was mailed on August 21, 2012.

16 STEVEN D. GRIERSON, CLERK OF THE COURT

17 By:

18 
Heather Ungermann, Deputy Clerk

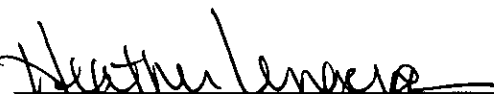
19 **CERTIFICATE OF MAILING**

20 I hereby certify that on this 21 day of August 2012, I placed a copy of this Notice of Entry of Decision and
21 Order in:

22 The bin(s) located in the Office of the District Court Clerk of:
23 Clark County District Attorney's Office
Attorney General's Office – Appellate Division

24 ☒ The United States mail addressed as follows:

25 Roy D. Moraga # 31584
1200 Prison Rd.
26 Lovelock, NV 89419

27 
28 Heather Ungermann, Deputy Clerk

ORIGINAL

FILED

AUG 13 8 58 AM '12

Ann L. Quinn
CLERK OF THE COURT

1 **ORDR**

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001516
5 JAMES R. SWEETIN
6 Deputy District Attorney
7 Nevada Bar #005144
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

12 **DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 THE STATE OF NEVADA,
15 Plaintiff,

16 -VS-

17 ROY D. MORAGA,
18 #0938554

19 Defendant.

CASE NO: C-89-092174-1

DEPT NO: VI

20 **FINDINGS OF FACT, CONCLUSIONS OF**

21 **LAW AND ORDER**

22 DATE OF HEARING: July 16, 2012
23 TIME OF HEARING: 8:30 A.M.

24 THIS CAUSE having come on for hearing before the Honorable ELISSA F.
25 CADISH, District Judge, on the 16th day of July, 2012, the Petitioner not present, the
26 Respondent being represented by STEVEN B. WOLFSON, District Attorney, by and
27 through DENA RINETTI, Chief Deputy District Attorney, and the Court having considered
28 the matter, including briefs, and documents on file herein, without argument, now therefore,
29 the Court makes the following findings of fact and conclusions of law:

30 //
31 //
32 //

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Findings of Fact, Conclusions of Law and (1930375



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CLERK OF THE COURT

AUG 03 2012

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FINDINGS OF FACT

1. An Information was filed on January 9, 1990 charging Roy Moraga (hereinafter "Defendant") as follows: Counts 1 and 2: BURGLARY (Felony- NRS 205.060) and Counts 3 and 4: SEXUAL ASSAULT (Felony- NRS 200.364, 200.366).
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4. In addition to a \$20 Administrative Assessment Fee, Defendant was sentenced on June 13, 1990 to Life without the Possibility of Parole. The Judgment of Conviction was filed on July 7, 1990.
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2 Findings of Fact and Conclusions of Law Denying the Petition on September 6, 1996.
3 Defendant filed a Notice of Appeal on September 27, 1996.
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15 Notice of Appeal on March 2, 2007. The Nevada Supreme Court filed its Order of
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18 The State filed its Response and Motion to Dismiss on May 16, 2012.
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20 15. The Petition is time barred.
21 16. Defendant filed his Petition outside of the one year time frame.
22 17. The Nevada Supreme Court issued Remittitur on Defendant's direct appeal on
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5 that the lengthy delay in filing the instant petition has prejudiced the State.

6 CONCLUSIONS OF LAW

7 1. NRS 34.726(1) provides:

8 1. Unless there is good cause shown for delay, a petition that
9 challenges the validity of a judgment or sentence must be filed
10 *within 1 year after entry of the judgment of conviction* or, if an
11 appeal has been taken from the judgment, within 1 year after the
12 Supreme Court issues its remittitur. For the purposes of this
13 subsection, good cause for delay exists if the petitioner
14 demonstrates to the satisfaction of the court:

- 15 (a) That the delay is not the fault of the petitioner; and
16 (b) That dismissal of the petition as untimely will unduly
17 prejudice the petitioner . . .

18 (Emphasis added).

19 2. NRS 34.810 states:

20 2. A second or successive petition must be dismissed if the judge
21 or justice determines that it fails to allege new or different
22 grounds for relief and that the prior determination was on the
23 merits or, if new and different grounds are alleged, the judge or
24 justice finds that the failure of the Defendant to assert those
25 grounds in a prior petition constituted an abuse of the writ.

26 3. Pursuant to subsections 1 and 2, the petitioner has the burden
27 of pleading and proving specific facts that demonstrate:

- 28 (a) Good cause for the petitioner's failure to present the claim or
for presenting the claim again; and
(b) Actual prejudice to the petitioner.

1 To avoid procedural default under NRS 34.810, Defendant has the burden of
2 pleading and proving specific facts that demonstrate both good cause for his failure
3 to present his claim in earlier proceedings and actual prejudice. NRS 34.810(3);
4 Hogan v. Warden, 109 Nev. 952, 959-60, 860 P.2d 710, 715-16 (1993); Phelps v.
5 Director, 104 Nev. 656, 659, 764 P.2d 1303, 1305 (1988).

6 //

- 1 5. "In order to demonstrate good cause, a petitioner must show that an impediment
2 external to the defense prevented him or her from complying with the state
3 procedural default rules." Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506
4 (2003); citing Pellegrini v. State, 117 Nev. 860, 886-87, 34 P.3d 519, 537 (2001);
5 Lozada v. State, 110 Nev. 349, 353, 871 P.2d 944, 946 (1994); Passanisi v.
6 Director, 105 Nev. 63, 769 P.2d 72 (1989).
- 7 6. Such an external impediment could be "that the factual or legal basis for a claim
8 was not reasonably available to counsel, or that 'some interference by officials'
9 made compliance impracticable." Hathaway v. State, 119 Nev. 248, 252, 71 P.3d ,
10 503, 506 (2003); *quoting* Murray v. Carrier, 477 U.S. 478, 488, 106 S.Ct. 2639,
11 2645 (1986).
- 12 7. To find good cause there must be a "substantial reason; one that affords a legal
13 excuse." Hathaway, 119 Nev. at 252, 71 P.3d at 506; *citing* Colley v. State, 105
14 Nev. 235, 236, 773 P.2d 1229, 1230 (1989).
- 15 8. In the absence of good cause, a Petitioner may only defeat the procedural bars by
16 showing a "fundamental miscarriage of justice." Pellegrini v. State, 117 Nev. 860,
17 887, 34 P.3d 519, 537 (2001).
- 18 9. In order to establish a claim of actual innocence, Defendant must submit new
19 evidence in his habeas proceeding in light of which no reasonable juror would have
20 convicted him. Calderon v. Thompson, 523 U.S. 538, 559 (1998).
- 21 10. In McKague v. Warden, 112 Nev. 159, 912 P.2d 255 (1996), the Nevada Supreme
22 Court observed that "[t]he Nevada Constitution...does not guarantee a right to
23 counsel in post-conviction proceedings, as we interpret the Nevada Constitution's
24 right to counsel provision as being coextensive with the Sixth Amendment to the
25 United States Constitution."
- 26 11. NRS 34.750 provides, in pertinent part:
27 [a] petition may allege that the Defendant is unable to pay the
28 costs of the proceedings or employ counsel. If the court is
satisfied that the allegation of indigency is true and the petition is
not dismissed summarily, the court may appoint counsel at the

time the court orders the filing of an answer and a return. In making its determination, the court may consider whether:

- (a) The issues are difficult;
- (b) The Defendant is unable to comprehend the proceedings; or
- (c) Counsel is necessary to proceed with discovery.

(Emphasis added).

12. The Nevada Supreme Court has observed that a petitioner "must show that the requested review is not frivolous before he may have an attorney appointed." Peterson v. Warden, Nevada State Prison, 87 Nev. 134, 483 P.2d 204 (1971) (citing former statute NRS 177.345(2)).

13. The relevant portions of NRS 34.800 provide:

(1) A petition may be dismissed if delay in the filing of the petition:

(b) Prejudices the State of Nevada in its ability to conduct a retrial of the petitioner, unless the petitioner demonstrates that a fundamental miscarriage of justice has occurred in the proceedings resulting in the judgment of conviction or sentence...

(2) A period exceeding five years between the filing of a judgment of conviction...and the filing of a petition challenging the validity of the judgment of conviction creates a rebuttable presumption of prejudice to the State.

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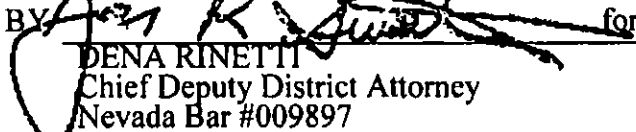
1 **ORDER**

2 THEREFORE, IT IS HEREBY ORDERED that the Petition for Writ of Habeas
3 Corpus (Post-Conviction) shall be, and is, dismissed.

4 DATED this 9 day of August, 2012.

5 
6 DISTRICT JUDGE

7 STEVEN B. WOLFSON
8 DISTRICT ATTORNEY
9 Nevada Bar #001565

10 BY  for
11 DENA RINETTI
12 Chief Deputy District Attorney
13 Nevada Bar #009897

14
15
16 **NOTICE OF SERVICE**

17 I, HOWARD CONRAD, hereby certify that the State forwarded a copy of these
18 FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER on the 2nd day of
19 AUGUST, 2012, to:

20 ROY MORAGA, BAC#31584
21 LOVELOCK CORRECTIONAL CENTER
22 1200 PRISON ROAD
23 LOVELOCK, NV 89419

24 
25 Secretary for the District Attorney's Office

26
27
28 hjc/SVU

THE SEALED PORTION
OF THESE MINUTES
WILL FOLLOW VIA
U.S. MAIL.

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****April 25, 2012**

89C092174

The State of Nevada vs Roy D Moraga

April 25, 2012**8:30 AM****Status Check****HEARD BY:** Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Keith Reed**RECORDER:** Jessica Kirkpatrick**REPORTER:****PARTIES****PRESENT:**Ferreira, Amy L.
State of NevadaAttorney
Plaintiff**JOURNAL ENTRIES**

- Court stated findings noting after the change of venue the Deft's case was calendared in Department V on a civil calendar in error, and was then recalendared in Department VI and ORDERED, Deft's Pro Per Motion for Judicial action GRANTED; matter set for hearing regarding the Deft's Petition For Writ Of Habeas Corpus; state's response to be filed by June 13th; Deft's Motion For Appointment Of Counsel CONTINUED.

NDC

7-16-12 HEARING: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS...DEFT'S EXPARTE MOTION FOR APPOINTMENT OF COUNSEL

CLERK'S NOTE: The above minute order has been distributed to: Roy D. Moraga #31584, Love Lock Correctional Center, 1200 Prison Road, Love Lock NV. 89419

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****July 16, 2012**

89C092174

The State of Nevada vs Roy D Moraga

July 16, 2012**8:30 AM****All Pending Motions****HEARD BY:** Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Keith Reed**RECORDER:** Jessica Kirkpatrick**REPORTER:****PARTIES****PRESENT:**Rinetti, Dena I.
State of NevadaAttorney
Plaintiff**JOURNAL ENTRIES**

- HEARING: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS...DEFT'S EXPARTE MOTION FOR APPOINTMENT OF COUNSEL

In the absence of the Deft., Court advised there will not be any argument. Court stated findings and ORDERED, Deft's Petition For Writ of Habeas Corpus and Exparte Motion For Appointment of counsel DENIED.

NDC

CLERK'S NOTE: The above minute order has been distributed to: Roy D. Moraga #31584, Ely State Prison, POB 1989, Ely Nv., 89301

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 27, 2012

89C092174

The State of Nevada vs Roy D Moraga

August 27, 2012

8:30 AM

Motion

HEARD BY: Cadish, Elissa F.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT:

Rinetti, Dena I.
State of Nevada

Attorney
Plaintiff

JOURNAL ENTRIES

- In the absence of the Deft., Court noted there will not be any argument. Court stated findings noting the Deft. is seeking reconsideration of the ruling of July 16th due to his absence and ORDERED, Deft's Pro Se Motion For Reconsideration DENIED; there was no argument in the Deft's absence, and no basis for reconsideration.

NDC

CLERK'S NOTE: The above minute order has been distributed to: Roy D. Moraga #31584. Love Lock Correctional Center, 1200 Prison Road, Love Lock Nv. 89419

Certification of Copy

State of Nevada }
County of Clark } SS:

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

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

STATE OF NEVADA,

Plaintiff(s),

vs.

ROY D. MORAGA,

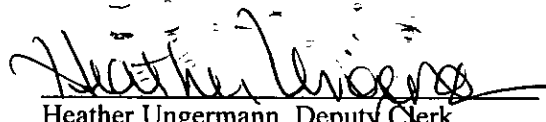
Defendant(s).

Case No: C092174
Dept No: VI

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 19 day of September 2012.

Steven D. Grierson, Clerk of the Court


Heather Ungermann, Deputy Clerk