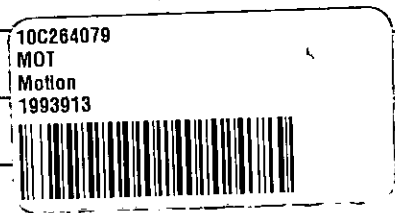


Kevin GIPSON
#1082776
ELY State Prison
P.O. Box 1989
ELY, Nevada 89301
IN THE 8th Judicial District Court of
the State of Nevada



FILED

NOV 05 2012

Electronically Filed
Nov 08 2012 02:48 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

Kevin GIPSON
Petitioner

VS.

The State of Nevada
Respondent

Case NO: C264079
DEPT NO: XVIII
Docket NO: 1082776
Hearing Date: 11-26-12 @ 8:15AM

MEMORANDUM OF POINTS AND AUTHORITIES
FACTS OF THE CASE

Appellant was convicted of First Degree Murder February 10th, 2012 in the 8th Judicial District Court of the State of Nevada, by Plea of guilty.

Appellant contends that he has a right to a direct appeal as a matter of law; that he was never informed by the court of his right to appeal; that he was not appointed counsel for purposes of effecting an appeal; and that he did not waive his right to a direct appeal or appellate counsel.

Appellant now requests the court allow him to file an (out of time) appeal, and all papers relevant thereto.

RECEIVED
NOV 05 2012
CLERK OF THE COURT

Memorandum of Points and Authorities

Facts of the Case

Appellant was convicted of First Degree murder February 10th, 2012 in the 8th Judicial District Court of the State of Nevada, by plea of guilty.

Appellant contends that he ~~has~~ has a right to a direct appeal as a matter of law; that he was never informed by the court of his right to appeal; that he was not appointed counsel for purposes of effecting an appeal; and that he did not waive his right to a direct appeal or appellate counsel.

Appellant now requests the court allow him to file an (out of time) appeal, and all papers relevant thereto.

ARGUMENT

I. Appellant has a right to direct appeal as a matter of law.

Present federal law has made an appeal from a judgment of conviction in a criminal case a matter of right. See *Coppedge v. U.S.*, 82 S.Ct 917, 918 (1962). If a state has created appellate courts as an integral part of the system for finally adjudicating the guilt or innocence of a defendant, the procedures used in deciding appeals must comport with the demands of the Due Process and Equal Protection clauses of the U.S. Constitution. *Evitts v. Lucey*, 105 S.Ct 830, 834 (1985).

The State of Nevada has further provided defendants convicted by guilty plea, a right to direct appeal by statute. NRS 177.015(3) designates that it is the defendant only who may appeal from a final judgment or verdict in a criminal case, and NRS 177.015(4) states, in pertinent part, that,

the defendant in a criminal case shall not appeal a final judgment or verdict resulting from a plea of guilty but mentally ill, or nolo contendere that the defendant has entered into voluntarily and with a full understanding of the nature of the charge and the consequences of the plea, unless the appeal is based upon reasonable constitutional, jurisdictional, or other grounds that challenge the legality of the proceedings...

Appellant submits that since he is protected by both the Federal Constitution, as well as the provisions of Nevada Statutory law, his right to a direct appeal challenging his judgment of conviction by way of guilty plea, is well established.

II. Appellant was never informed by the court of his right to appeal.

Appellant submits that the district court never informed him that he had a right to direct appeal, and that the court had a duty to so inform, by way of guilty plea canvass. If a plea of guilty, or guilty but mentally ill is made orally, the court shall not accept such a plea, or a plea of nolo contendere without first addressing the defendant personally, and determining that the plea is made voluntarily, with the understanding of the nature of the charge and the consequences of the plea. NRS 174.035; Bryant v. State, 721 P.2d 364 (1986). The loss of the right to challenge certain aspects of the case that may have occurred prior to entering the guilty plea must certainly fall under the "Consequences of the Plea" category and would indicate that the court advise of the right to direct appeal, in order to advise what issues on appeal would be lost as a result of a guilty plea.

Federal courts have also held that the district court has an obligation to inform a criminal defendant of his right to appeal a sentence imposed after the defendant pleaded guilty, and a failure to inform a defendant of such, automatically entitles the defendant to relief. Gaeta v. U.S., 921 F.Supp. 864 (D. Mass. 1996.)

III. Appellant was not Appointed Appellant Counsel.

Appellant was not provided with appellate counsel to perfect his appeal. The Fourteenth Amendment to the Federal Constitution guarantees a criminal appellant pursuing a first appeal as of right certain minimal safeguards necessary to make that appeal "adequate and effective". See Griffin v. Illinois, 351 U.S. 51, 76 S.Ct 585. Just as a transcript may by rule or custom be a prerequisite to appellate review, the services of a lawyer will for virtually every layman be necessary to present an appeal in a form suitable for appellate consideration on the merits. Evitts, supra at 833. And Equal Protection requires that such be provided to every criminal defendant, regardless of financial abilities. Douglas v. California, 372 U.S. 814. Accordingly, Appellant should have been provided with appellate counsel, and such counsel should have been provided at state expense if appellant was found to be indigent. Denial of counsel was a clear violation of both the Sixth Amendment's right to counsel, and the 14th Amendment's equal protection clauses.

IV. Appellant never waived his right
to direct appeal or counsel.

Appellant contends that he has never waived his right to direct appeal or appellate counsel. Since he was never informed of his right to appeal, and never knew he had such a right, it would be impossible for him to have waived such a right. It is well established that a criminal defendant can never stipulate to a waiver, and no waiver can be implied by guilty plea. All waivers must be affirmative, and must be made clear for the record that they are made knowingly, intelligently, voluntarily. This is true of both waivers of appeals and waivers of appellate counsel. A defendant can waive his right to counsel and conduct his appeal pro se; but to be valid, the waiver must be voluntary, knowing, and intelligently. Baker v. Kaiser, 929 F.2d 1495. Appellant contends that he made no such waiver.

Conclusion

Appellant has shown that he has a right to a direct appeal as matter of law; that he was never informed by the Court of his right to appeal; that he was not appointed appellate counsel to perfect an appeal; and that he never waived his right to a direct appeal or appellate counsel. Appellant now requests that he be allowed to file all papers and documents relevant thereto.

Appellant further requests that if the Court finds that It cannot or will not allow appellant's to take an appeal, that It issue an ORDER directing appellant's immediate release from the custody of the judgment of conviction in the case at bar.

DATED this 15th day of October, 2012

Respectfully submitted,

Kerwin M. Gipson

Appellant in Pro Per

Ely State Prison

Ely, Nevada 89301

CERTIFICATE OF SERVICE

I hereby certify pursuant to N.R.C.P. 5 (b) that I am the Petitioner/ Plaintiff in the foregoing Motion for Consideration of Direct Appeal, or in the Alternative, Release from Custody, and that on this 15th day of October, 2012, I did serve a true and correct copy of the above mentioned document, by giving it to a prison official at the Ely State Prison to deposit in the U.S. Mail, sealed in an envelope, postage pre-paid, and addressed as follows:

E.S.P	Regional Justice center
P.O. Box 1989	200 Lewis Ave.
Ely, Nevada, 89301	Las Vegas, NV 89101

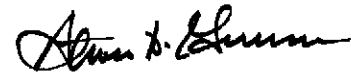
Dated this 15th day of October, 2012

Kevin M. Lipson
Petitioner/Plaintiff

ELY STATE PRISON

OCT 30 2012

U7



CLERK OF THE COURT

ASTA

**DISTRICT COURT
CLARK COUNTY, NEVADA**

STATE OF NEVADA,

Plaintiff(s),

vs.

KEVIN M. GIPSON,

Defendant(s).

Case No: 10C264079

Dept No: XVIII

CASE APPEAL STATEMENT

1. Appellant(s): Kevin Gipson

2. Judge: David Barker

3. Appellant(s): Kevin Gipson

Counsel:

Kevin Gipson #1082776
P.O. Box 1989
Ely, NV 89301

4. Respondent: The State of Nevada

Counsel:

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

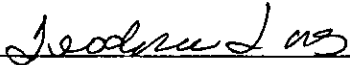
5. Respondent's Attorney Licensed in Nevada: Yes

6. Appellant Represented by Appointed Counsel In District Court: No

- 1 7. Appellant Represented by Appointed Counsel On Appeal: N/A
2 8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A
3 9. Date Commenced in District Court: April 28, 2010
4 10. Brief Description of the Nature of the Action: Criminal
5 Type of Judgment or Order Being Appealed: Judgment of Conviction
6 11. Previous Appeal: No
7 Supreme Court Docket Number(s):
8 12. Child Custody or Visitation: N/A
9

10 Dated This 8 day of November 2012.

11 Steven D. Grierson, Clerk of the Court
12

13 
14 Teodora Jones, Deputy Clerk
15 200 Lewis Ave
16 PO Box 551601
17 Las Vegas, Nevada 89155-1601
18 (702) 671-0512
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DEPARTMENT 18
CASE SUMMARY
CASE No. 10C264079

The State of Nevada vs Kevin M Gipson

§
§
§
§
§
§
§

Location: **Department 18**
Judicial Officer: **Barker, David**
Filed on: **04/28/2010**
Conversion Case Number: **C264079**
Defendant's Scope ID #: **1582343**
Lower Court Case Number: **09GJ00167**

CASE INFORMATION

Offense	Deg	Date	Case Type:
1. MURDER.	F	01/01/1900	Felony/Gross Misdemeanor
1. DEGREES OF MURDER	F	01/01/1900	Case Flags: Custody Status - In Custody
1. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	F	01/01/1900	

Statistical Closures

02/21/2012 Guilty Plea with Sentence (before trial)

Warrants

Bench Warrant - Gipson, Kevin M (Judicial Officer: Barker, David)

05/04/2010 Quashed

04/28/2010 Issued

Fine: \$0 Bond: \$0

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	10C264079
Court	Department 18
Date Assigned	04/28/2010
Judicial Officer	Barker, David

PARTY INFORMATION

Defendant **Gipson, Kevin M**



Plaintiff **State of Nevada**

Wolfson, Steven B
702-671-2700(W)








DATE

EVENTS & ORDERS OF THE COURT








INDEX

04/28/2010	Grand Jury Indictment (11:45 AM) <i>GRAND JURY INDICTMENT Court Clerk: Tina Hurd Reporter/Recorder: Renee Vincent Heard By: Linda Bell</i>	
04/28/2010	 Indictment <i>(GRAND JURY) INDICTMENT Fee \$0.00</i>	<i>10C2640790001.tif pages</i>
04/28/2010	Hearing <i>GRAND JURY INDICTMENT</i>	<i>10C2640790002.tif pages</i>
04/28/2010	Hearing <i>INITIAL ARRAIGNMENT</i>	<i>10C2640790003.tif pages</i>
04/28/2010	 Conversion Case Event Type <i>INDICTMENT WARRANT</i>	<i>10C2640790008.tif pages</i>

DEPARTMENT 18
CASE SUMMARY
CASE No. 10C264079

04/30/2010	 Bench Warrant <i>INDICTMENT WARRANT RETURN/03</i>	<i>10C2640790005.tif pages</i>
04/30/2010	Bench Warrant <i>NO BAIL BENCH WARRANT ISSUED</i>	<i>10C2640790006.tif pages</i>
04/30/2010	Order <i>ORDER OF INTENT TO FORFEIT</i>	<i>10C2640790007.tif pages</i>
05/04/2010	 Media Request and Order <i>MEDIA REQUEST AND ORDER FOR CAMERA ACCESS TO COURT PROCEEDINGS</i>	<i>10C2640790010.tif pages</i>
05/05/2010	Initial Arraignment (8:15 AM) Events: 04/28/2010 Hearing <i>INITIAL ARRAIGNMENT</i>	
05/05/2010	Bench Warrant Return (8:15 AM) Events: 04/30/2010 Bench Warrant <i>INDICTMENT WARRANT RETURN/03</i>	
05/05/2010	All Pending Motions (8:15 AM) <i>ALL PENDING MOTIONS (5/5/10) Court Clerk: Sharon Chun Reporter/Recorder: Richard Kangas Heard By: David Barker</i>	
05/05/2010	Motion <i>ALL PENDING MOTIONS (5/5/10)</i>	<i>10C2640790011.tif pages</i>
05/05/2010	Hearing <i>STATUS CHECK: STATE'S REQUEST RE DEATH PENALTY</i>	<i>10C2640790012.tif pages</i>
05/13/2010	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - GRAND JURY HEARING 4/27/10</i>	<i>10C2640790015.tif pages</i>
05/18/2010	 Receipt <i>RECEIPT OF GRAND JURY TRANSCRIPTS</i>	<i>10C2640790016.tif pages</i>
05/21/2010	Status Check (8:15 AM) Events: 05/05/2010 Hearing <i>STATUS CHECK: STATE'S REQUEST RE DEATH PENALTY Relief Clerk: Tia Everett/te Reporter/Recorder: Richard Kangas Heard By: David Barker</i>	
05/25/2010	 Media Request and Order <i>MEDIA REQUEST AND ORDER FOR CAMERA ACCESS TO COURT PROCEEDINGS</i>	<i>10C2640790018.tif pages</i>
06/04/2010	 Order Filed By: Defendant Gipson, Kevin M <i>ORDER</i>	<i>10C2640790019.tif pages</i>
09/15/2010	 Calendar Call (8:15 AM) (Judicial Officer: Barker, David)	
09/20/2010	CANCELED Jury Trial (10:00 AM) <i>Vacated - per Judge</i> <i>Vacated At Request of Defense</i>	
11/19/2010	Further Proceedings (8:15 AM) (Judicial Officer: Barker, David) <i>Further Proceedings: Reset Trial/Case Dismissal</i>	








DEPARTMENT 18
CASE SUMMARY
CASE NO. 10C264079

01/02/2011	 Motion Filed By: Defendant Gipson, Kevin M <i>Pro Per Motion Seeking Dismissal of Court Appointed Counsel Where Attorney Has Been in Non-Compliance With ADKT 4-1, 4-7, 4-8(a); Nor The Nevada Rules of Professional Conduct Rule 1.4. (3), 3.2 (a) Rendering Counsel In Effective:</i>
01/19/2011	 Motion (8:15 AM) (Judicial Officer: Barker, David) Events: 01/02/2011 Motion <i>Pro Per Motion Seeking Dismissal of Court Appointed Counsel Where Attorney Has Been in Non-Compliance With ADKT 4-1, 4-7, 4-8(a); Nor The Nevada Rules of Professional Conduct Rule 1.4. (3), 3.2 (a) Rendering Counsel In Effective:</i>
04/13/2011	 Motion to Compel Filed By: Defendant Gipson, Kevin M <i>Motion to Compel Discovery</i>
04/13/2011	 Motion to Suppress Filed By: Defendant Gipson, Kevin M <i>Motion to Suppress or in the Alternative A Jackson V Demmo</i>
04/15/2011	 Notice of Expert Witnesses Filed By: Defendant Gipson, Kevin M <i>Defendant's Notice of Expert Witnesses, Pursuant to NRS 174.234(2)</i>
04/19/2011	 Motion in Limine <i>State's Notice of Motion and Motion in Limine to Admit Bad Acts and Other Acts of the Defendant Against the Victim</i>
04/19/2011	 Notice of Witnesses and/or Expert Witnesses <i>Notice of Expert Witnesses</i>
04/19/2011	 Filed Under Seal <i>Request To File Order Under Seal</i>
04/19/2011	 Order Filed By: Defendant Gipson, Kevin M <i>Request to File Ex Parte Order Under Seal</i>
04/19/2011	 Filed Under Seal Filed By: Defendant Gipson, Kevin M <i>Ex Parte Order</i>
04/19/2011	 Filed Under Seal Filed By: Defendant Gipson, Kevin M <i>Order</i>
04/21/2011	 Motion <i>State's Motion In Limine Regarding The Defendant's Expert Witnesses And Request For Discovery</i>
04/22/2011	 Notice of Expert Witnesses Filed By: Defendant Gipson, Kevin M















DEPARTMENT 18
CASE SUMMARY
CASE NO. 10C264079

04/25/2011	Motion to Compel (8:15 AM) (Judicial Officer: Barker, David) 04/25/2011, 05/02/2011 Events: 04/13/2011 Motion to Compel <i>Motion to Compel Discovery</i>
04/25/2011	Motion to Suppress (8:15 AM) (Judicial Officer: Barker, David) 04/25/2011, 05/02/2011, 05/04/2011 Events: 04/13/2011 Motion to Suppress <i>Motion to Suppress or in the Alternative A Jackson V Denno</i>
04/25/2011	 All Pending Motions (8:15 AM) (Judicial Officer: Barker, David) <i>DEFT'S MOTION TO COMPEL DISCOVERY...DEFT'S MOTION TO SUPPRESS OR IN THE ALTERNATIVE A JACKSON V DENNO.</i>
04/26/2011	 Notice of Witnesses and/or Expert Witnesses <i>Supplemental Notice of Expert Witnesses</i>
04/27/2011	 Opposition <i>State's Opposition To Defendant's Motion To Suppress</i>
04/27/2011	 Supplement <i>Supplement to Opposition To Defendant's Motion To Suppress</i>
04/28/2011	 Notice of Witnesses and/or Expert Witnesses <i>Notice of Witnesses</i>
04/29/2011	 Notice of Witnesses and/or Expert Witnesses <i>Supplemental Notice of Witnesses</i>
04/29/2011	 Notice of Witnesses <i>Defendant's Notice of Witnesses, Pursuant To NRS 174.234</i>
05/02/2011	Motion in Limine (8:15 AM) (Judicial Officer: Barker, David) 05/02/2011, 05/04/2011, 10/07/2011, 10/24/2011, 11/09/2011, 11/16/2011 Events: 04/19/2011 Motion in Limine <i>Motion in Limine to Admit Bad Acts and Other Acts of the Defendant Against the Victim</i>
05/02/2011	Motion in Limine (8:15 AM) (Judicial Officer: Barker, David) 05/02/2011, 05/04/2011, 10/07/2011, 10/24/2011, 12/07/2011 Events: 04/21/2011 Motion <i>State's Motion In Limine Regarding The Defendant's Expert Witnesses And Request For Discovery</i>
05/02/2011	 All Pending Motions (8:15 AM) (Judicial Officer: Barker, David)
05/02/2011	 Reply Filed by: Attorney Public Defender <i>Defense Reply to State's Motion in Limine to Admit Prior Bad Acts</i>
05/03/2011	 Notice of Witnesses and/or Expert Witnesses <i>Second Supplemental Notice of Witnesses</i>
05/03/2011	 Reply to Motion Filed By: Defendant Gipson, Kevin M <i>Defendant's Reply to State's Motion in Limine Regarding Defendant's Expert Witness</i>















DEPARTMENT 18
CASE SUMMARY
CASE NO. 10C264079

05/03/2011	 Motion in Limine Filed By: Defendant Gipson, Kevin M <i>Motion in Limine to Bar the Admission of Cumulative Victim Impact Evidence in Violation of the Due Process Clause</i>
05/03/2011	 Motion in Limine Filed By: Defendant Gipson, Kevin M <i>Motion in Limine to Preclude the State from Moving to Admit into Evidence Photographs Prejudicial to Kevin Gipson</i>
05/04/2011	Calendar Call (8:15 AM) (Judicial Officer: Barker, David)
05/04/2011	 All Pending Motions (8:15 AM) (Judicial Officer: Barker, David) <i>CALENDAR CALL...DEFT'S MOTION IN LIMINE TO ADMIT BAD ACTS AND OTHER ACTS OF THE DEFT. AGAINST THE VICTIM...DEFT'S MOTION TO SUPPRESS OR IN THE ALTERNATIVE A JACKSON V DENNO...STATE'S MOTION IN LIMINE REGARDING THE DEFENDANT'S EXPERT WITNESSES AND REQUEST FOR DISCOVERY.</i>
05/09/2011	CANCELED Jury Trial (10:00 AM) (Judicial Officer: Barker, David) <i>Vacated - per Clerk Trial reset on 5/4/11</i>
05/16/2011	Motion in Limine (8:15 AM) (Judicial Officer: Barker, David) 05/16/2011, 08/17/2011, 10/07/2011, 10/24/2011, 12/07/2011 Events: 05/03/2011 Motion in Limine <i>Motion in Limine to Bar the Admission of Cumulative Victim Impact Evidence in Violation of the Due Process Clause</i>
05/16/2011	Motion in Limine (8:15 AM) (Judicial Officer: Barker, David) 05/16/2011, 08/17/2011, 10/07/2011, 10/24/2011, 12/07/2011 Events: 05/03/2011 Motion in Limine <i>Motion in Limine to Preclude the State from Moving to Admit into Evidence Photographs Prejudicial to Kevin Gipson</i>
05/16/2011	 All Pending Motions (8:15 AM) (Judicial Officer: Barker, David) <i>DEFT'S MOTION IN LIMINE TO BAR THE ADMISSION OF CUMULATIVE VICTIM IMPACT EVIDENCE IN VIOLATION OF THE DUE PROCESS CLAUSE...DEFT'S MOTION IN LIMINE TO PRECLUDE THE STATE FROM MOVING TO ADMIT INTO EVIDENCE PHOTOGRAPHS PREJUDICIAL TO KEVIN GIPSON.</i>
06/28/2011	 Notice of Motion <i>Notice of Motion and Motion to Move Trial Date</i>
07/11/2011	 Motion (8:15 AM) (Judicial Officer: Barker, David) Events: 06/28/2011 Notice of Motion <i>Notice of Motion and Motion to Move Trial Date</i>
08/17/2011	CANCELED Hearing (8:15 AM) (Judicial Officer: Barker, David) <i>Vacated - On In Error</i>
08/17/2011	 All Pending Motions (8:15 AM) (Judicial Officer: Smith, Douglas E.) <i>DEFENDANT'S NOTICE OF MOTION AND MOTION TO BAR THE ADMISSION OF CUMULATIVE VICTIM IMPACT PANEL EVIDENCE IN VIOLATION OF THE DUE PROCESS CLAUSE...DEFT'S MOTION IN LIMINE TO PRECLUDE THE STATE FROM MOVING TO ADMIT INTO EVIDENCE PHOTOGRAPHS PREJUDICIAL TO KEVIN GIPSON.</i>

DEPARTMENT 18
CASE SUMMARY
CASE NO. 10C264079

10/07/2011	 All Pending Motions (8:30 AM) (Judicial Officer: Barker, David)
10/12/2011	 Opposition <i>State's Opposition to Defendant's Motion to Bar the Admission of Cumulative Victim Impact Evidence in Violation of the Due Process Clause</i>
10/12/2011	 Opposition <i>State's Opposition to Defendant's Motion in Limine to Preclude the State From Moving to Admit Into Evidence Photographs Prejudicial to Kevin Gibson</i>
10/24/2011	 All Pending Motions (8:15 AM) (Judicial Officer: Barker, David)
11/09/2011	CANCELED Calendar Call (8:15 AM) (Judicial Officer: Barker, David) <i>Vacated - per Judge</i>
11/09/2011	 Hearing (8:15 AM) (Judicial Officer: Barker, David) 11/09/2011, 12/02/2011 <i>HEARING: JACKSON DENNO HEARING - Motion to Suppress DENIED on 12/2/11</i>
11/09/2011	 All Pending Motions (8:15 AM) (Judicial Officer: Barker, David)
11/09/2011	 Certificate Filed By: Defendant Gipson, Kevin M <i>Certificate of The Eighth Judicial District Court of Nevada</i>
11/09/2011	 Motion Filed By: Defendant Gipson, Kevin M <i>Motion to Secure The Attendance of an Out of State Witness and for Issuance of A Certificate Under Seal of The Court</i>
11/09/2011	 Motion Filed By: Defendant Gipson, Kevin M <i>Motion for Witness List and Evidence in Support of Allegations of Prior Bad Acts</i>
11/10/2011	 Motion Filed By: Defendant Gipson, Kevin M <i>Motion For In Camera Review of Personnel Records</i>
11/10/2011	 Certificate for Attendance of Out-Of-State Witness
11/10/2011	 Motion Filed By: Defendant Gipson, Kevin M <i>Motion to Secure the Attendance of an Out of State Witness and for Issuance of a Certificate Under Seal of the Court</i>
11/14/2011	CANCELED Jury Trial (10:00 AM) (Judicial Officer: Barker, David) <i>Vacated - per Judge</i>
11/15/2011	 Motion <i>State's Supplemental Motion in Limine to Admit Bad Acts and Other Acts of the Defendant</i>
11/15/2011	 Opposition <i>State's Opposition to Defendant's Motion for in Camera Review of Personal Records</i>

DEPARTMENT 18
CASE SUMMARY
CASE NO. 10C264079

11/16/2011	Motion (8:15 AM) (Judicial Officer: Barker, David) <i>Def't's Motion for Witness List and Evidence in Support of Allegations of Prior Bad Acts</i>
11/16/2011	 All Pending Motions (8:15 AM) (Judicial Officer: Barker, David)
11/21/2011	 Motion (8:15 AM) (Judicial Officer: Barker, David) Events: 11/10/2011 Motion <i>Motion For In Camera Review of Personnel Records</i>
11/30/2011	 Motion <i>Notice of Motion and Motion in Limine Regarding Jail Phone Call</i>
11/30/2011	 Order Filed By: Defendant Gipson, Kevin M
12/02/2011	 Motion Filed By: Defendant Gipson, Kevin M <i>Motion to Limit The Testimony of Det. Long</i>
12/05/2011	 Notice of Witnesses Party: Defendant Gipson, Kevin M <i>Defendant's Notice of Witnesses, Pursuant to NRS 174.234</i>
12/07/2011	Calendar Call (8:15 AM) (Judicial Officer: Barker, David)
12/07/2011	 All Pending Motions (8:15 AM) (Judicial Officer: Barker, David)
12/07/2011	 Guilty Plea Agreement
12/12/2011	CANCELED Motion in Limine (8:15 AM) (Judicial Officer: Barker, David) <i>Vacated - per Judge</i>
12/12/2011	CANCELED Jury Trial (10:00 AM) (Judicial Officer: Barker, David) <i>Vacated - per Judge</i>
02/10/2012	 Sentencing (1:30 PM) (Judicial Officer: Barker, David)
02/21/2012	 Criminal Order to Statistically Close Case <i>Criminal Order to Statistically Close Case</i>
03/13/2012	 Judgment of Conviction <i>Judgment of Conviction (Plea of Guilty)</i>
09/05/2012	 Motion Filed By: Defendant Gipson, Kevin M <i>Motion To Withdraw Plea</i>
09/21/2012	 Opposition to Motion Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Motion Pro Per Motion to Withdraw Plea</i>
09/26/2012	 Motion (8:15 AM) (Judicial Officer: Barker, David)

DEPARTMENT 18
CASE SUMMARY
CASE NO. 10C264079

Deft's Pro Per Motion to Withdraw Plea

09/27/2012	 Order Denying Motion Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Pro Per Motion to Withdraw Plea</i>
10/15/2012	 Motion Filed By: Defendant Gipson, Kevin M <i>Motion To Proceed In Forma Pauperis</i>
10/15/2012	 Motion Filed By: Defendant Gipson, Kevin M <i>Ex Parte Motion For Appointment Of Counsel And Request For Evidentiary Hearing</i>
11/02/2012	 Opposition Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Motion to Appoint Counsel and Request for Evidentiary Hearing</i>
11/05/2012	 Motion Filed By: Defendant Gipson, Kevin M <i>Motion for Direct Appeal / Memorandum of Points and Authorities Facts of the Case</i>
11/07/2012	Motion (8:15 AM) (Judicial Officer: Barker, David) <i>Deft's Pro Per Motion To Proceed In Forma Pauperis</i>
11/07/2012	Motion (8:15 AM) (Judicial Officer: Barker, David) 11/07/2012, 01/09/2013 <i>Deft's Pro Per Ex Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing</i>
11/07/2012	All Pending Motions (8:15 AM) (Judicial Officer: Barker, David)
11/26/2012	Motion (8:15 AM) (Judicial Officer: Barker, David) Events: 11/05/2012 Motion <i>Motion for Direct Appeal / Memorandum of Points and Authorities Facts of the Case</i>

ORIGINAL

FILED

MAR 13 2012

Ok. 1.11.12
CLERK OF COURT

JOCP

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-VS-

CASE NO. C264079

DEPT. NO. XVIII

KEVIN MARQUETTE GIPSON
aka Kevin Marquette Gipson
#1582343

Defendant.

10C264079
JOC
Judgment of Conviction
1797054



JUDGMENT OF CONVICTION

(PLEA OF GUILTY)

The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crime of MURDER WITH USE OF A DEADLY WEAPON (Category A Felony), in violation of NRS 200.010, 200.030, 193.165; thereafter, on the 10TH day of February, 2012, the Defendant was present in court for sentencing with his counsels, CHRISTY CRAIG-ROHAN, Deputy Public Defender and TIMOTHY O'BRIEN, Deputy Public Defender, and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense and, in addition to the \$25.00 Administrative Assessment Fee, and Indigent Defense Civil Assessment Fee of \$250.00, the Defendant is sentenced to the Nevada Department of

1 Corrections (NDC) as follows: LIFE with a POSSIBLE parole eligibility of TWENTY (20)
2 YEARS with a CONSECUTIVE term of TWO HUNDRED FORTY (240) MONTHS
3 MAXIMUM and NINETY-SIX (96) MONTHS MINIMUM for Use of a Deadly Weapon;
4 with SIX HUNDRED EIGHTY-SIX (686) days Credit for Time Served. As the Fee and
5 Genetic Testing have been previously imposed, the Fee and Testing in the current case
6 are WAIVED.
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9 DATED this MAR 09 2012 day of February, 2012

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13 DAVID BARKER
DISTRICT JUDGE

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**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****April 28, 2010**

10C264079

The State of Nevada vs Kevin M Gipson

April 28, 2010**11:45 AM****Grand Jury Indictment****GRAND JURY
INDICTMENT****Court Clerk: Tina
Hurd****Reporter/Recorder:
Renee Vincent****Heard By: Linda Bell****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**Clowers, Shanon
Schubert, DavidAttorney
Attorney**JOURNAL ENTRIES**

- Duane Schlismann, Grand Jury Foreperson, stated to the Court that at least twelve members had concurred in the return of the true bill during deliberation, but had been excused for presentation to the Court. The State presented Grand Jury case number 09AGJ167X to the Court. COURT ORDERED, the Indictment may be filed and is assigned case number C264079, Department 18. Ms. Clowers requested a warrant and argued bail. COURT ORDERED, ARREST WARRANT WILL ISSUE, NO BAIL. Matter set for initial arraignment. Exhibit(s) 1-18 lodged with Clerk of District Court.

WARRANT (CUSTODY)**5-5-10 8:15 AM INITIAL ARRAIGNMENT (DEPT. 18)**

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****May 05, 2010**

10C264079

The State of Nevada vs Kevin M Gipson

May 05, 2010**8:15 AM****All Pending Motions****ALL PENDING
MOTIONS (5/5/10)
Court Clerk: Sharon
Chun
Reporter/Recorder:
Richard Kangas
Heard By: David
Barker****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Bolenbaker, Mike R.

Attorney

Craig-Rohan, Christy L.

Attorney

Gipson, Kevin M

Defendant

Public Defender

Attorney

JOURNAL ENTRIES**- INITIAL ARRAIGNMENT...BENCH WARRANT RETURN**

Deft present in custody. DEFT. GIPSON ARRAIGNED, PLED NOT GUILTY and WAIVED THE 60-DAY RULE. COURT ORDERED, matter set for trial in ordinary course. Mr. Bolenbaker noted that the State may be seeking the Death Penalty and COURT ORDERED, matter SET for status check. At request of Ms. Craig, COURT ORDERED, Ms. Craig has 21 days from filing of the transcript to file a Writ.

CUSTODY (B.W.)**5/21/10 8:15 AM STATUS CHECK: STATE'S REQUEST RE DEATH PENALTY**

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****May 21, 2010**

10C264079

The State of Nevada vs Kevin M Gipson

May 21, 2010**8:15 AM****Status Check****STATUS CHECK:
STATE'S REQUEST
RE DEATH
PENALTY Relief
Clerk: Tia Everett/te
Reporter/Recorder:
Richard Kangas
Heard By: David
Barker****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Clowers, Shanon

Attorney

Craig-Rohan, Christy L.

Attorney

Gipson, Kevin M

Defendant

Public Defender

Attorney

JOURNAL ENTRIES

- Ms. Clowers informed the Court a decision has been made and the State will not be seeking the death penalty in this case. Ms. Craig advised this case will still carry the potential penalty of life without the possibility of parole and due to the significant mental health issues with defendant and his family she may need to request a continuance of the trial. Court stated parties should work toward the current trial date at this time; however, should the need arise for the Court to make a decision to place the matter on calendar.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 15, 2010

10C264079

The State of Nevada vs Kevin M Gipson

September 15, 2010 8:15 AM Calendar Call

HEARD BY: Barker, David

COURTROOM: RJC Courtroom 11B

COURT CLERK: Sharon Chun

RECORDER: Richard Kangas

REPORTER:

PARTIES**PRESENT:**

Clowers, Shanon

Attorney

Craig-Rohan, Christy L.

Attorney

Public Defender

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Ms. Craig requested the trial continued and a briefing schedule set, because of a discovery issue. The State had no opposition, as well as to Deft filing its Writ. COURT ORDERED the 9/20/10 trial VACATED and RESET.

CUSTODY

5/4/11 8:15 AM CALENDAR CALL

5/9/11 10:00 AM TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 19, 2010

10C264079

The State of Nevada vs Kevin M Gipson

November 19, 2010 8:15 AM

Further Proceedings

HEARD BY: Barker, David

COURTROOM: RJC Courtroom 11B

COURT CLERK: Roshonda Mayfield

RECORDER: Richard Kangas

REPORTER:

PARTIES

PRESENT:

Craig-Rohan, Christy L.
Gipson, Kevin M

Attorney
Defendant

JOURNAL ENTRIES

- Following representations by counsel, COURT ORDERED, calendar call and trial date STANDS.

CUSTODY

5/4/11 8:15 A.M. CALENDAR CALL

5/9/11 10:00 A.M. JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 19, 2011

10C264079

The State of Nevada vs Kevin M Gipson

January 19, 2011

8:15 AM

Motion

HEARD BY: Barker, David

COURTROOM: RJC Courtroom 11B

COURT CLERK: Roshonda Mayfield

RECORDER: Richard Kangas

REPORTER:

PARTIES

PRESENT:

Clowers, Shanon

Attorney

Gipson, Kevin M

Defendant

Khamsi, Bitu

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Upon inquiry by the Court, the Deft. states he would like to withdraw his motion as the issues within the motion are no longer true. Therefore, COURT ORDERED, motion WITHDRAWN and OFF CALENDAR at the request of the Defendant; trial STANDS.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****April 25, 2011**

10C264079

The State of Nevada vs Kevin M Gipson

April 25, 2011**8:15 AM****All Pending Motions****HEARD BY:** Barker, David**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Roshonda Mayfield**RECORDER:** Richard Kangas**REPORTER:****PARTIES****PRESENT:**

Craig-Rohan, Christy L.

Attorney

Gipson, Kevin M

Defendant

State of Nevada

Plaintiff

Turner, Robert B.

Attorney

JOURNAL ENTRIES

- DEFT'S MOTION TO COMPEL DISCOVERY...DEFT'S MOTION TO SUPPRESS OR IN THE ALTERNATIVE A JACKSON V. DENNO.

Colloquy between parties regarding charts, grafts and reports as it relates to this matter. Following representations by counsel, COURT ORDERED, matter CONTINUED with there being no opposition.

CUSTODY

5/2/11 8:15 A.M. DEFENDENTS MOTION TO COMPEL DISCOVERY...DEFENDANTS MOTION TO SUPPRESS OR IN THE ALTERNATIVE A JACKSON V. DENNO.

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****May 02, 2011**

10C264079

The State of Nevada vs Kevin M Gipson

May 02, 2011**8:15 AM****All Pending Motions****HEARD BY:** Barker, David**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Roshonda Mayfield**RECORDER:** Richard Kangas**REPORTER:****PARTIES****PRESENT:**

Clowers, Shanon

Attorney

Craig-Rohan, Christy L.

Attorney

Gipson, Kevin M

Defendant

State of Nevada

Plaintiff

Turner, Robert B.

Attorney

JOURNAL ENTRIES

- STATES MOTION IN LIMINE TO ADMIT BAD ACTS AND OTHER ACTS OF THE DEFENDANT AGAINST THE VICTIM...DEFT'S MOTION TO COMPEL DISCOVERY...DEFT'S MOTION TO SUPPRESS OR IN THE ALTERNATIVE A JACKSON V DENNO...STATE'S MOTION IN LIMINE REGARDING THE DEFENDANT'S EXPERT WITNESSES AND REQUEST FOR DISCOVERY.

Attorney Clowers argued, there is an issue regarding the defense motion to suppress that may affect the trial date in this matter.

Attorney Craig advised, the State has provided defense with everything requested as it pertains to discovery. Therefore, the motion is moot.

Court advised, the parties are still in the process of addressing other motions. This Court will hold to the calendar call date that has been set. All pending motions are to be properly noticed. Therefore, there will be no decisions made as to the motions at this time; motions CONTINUED to the calendar call date. Further the Motion to Compel is MOOT/OFF CALENDAR as stated on the record.

CUSTODY**PRINT DATE:** 11/08/2012**Page 8 of 27****Minutes Date:**

April 28, 2010

5/4/11 8:15 A.M. STATES MOTION IN LIMINE TO ADMIT BAD ACTS AND OTHER ACTS OF THE DEFENDANT AGAINST THE VICTIM.....DEFT'S MOTION TO SUPPRESS OR IN THE ALTERNATIVE A JACKSON V DENNO...STATE'S MOTION IN LIMINE REGARDING THE DEFENDANT'S EXPERT WITNESSES AND REQUEST FOR DISCOVERY

CLERK'S NOTE: Minute order modified to reflect the Motion to Compel being MOOT/OFF CALENDAR. (rm 8/16/11)

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****May 04, 2011**

10C264079

The State of Nevada vs Kevin M Gipson

May 04, 2011**8:15 AM****All Pending Motions****HEARD BY:** Barker, David**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Roshonda Mayfield**RECORDER:** Richard Kangas**REPORTER:****PARTIES****PRESENT:**

Clowers, Shanon

Attorney

Craig-Rohan, Christy L.

Attorney

Gipson, Kevin M

Defendant

State of Nevada

Plaintiff

Turner, Robert B.

Attorney

JOURNAL ENTRIES

- CALENDAR CALL...DEFT'S MOTION IN LIMINE TO ADMIT BAD ACTS AND OTHER ACTS OF THE DEFT. AGAINST THE VICTIM...DEFT'S MOTION TO SUPPRESS OR IN THE ALTERNATIVE A JACKSON V DENNO...STATE'S MOTION IN LIMINE REGARDING THE DEFENDANT'S EXPERT WITNESSES AND REQUEST FOR DISCOVERY.

Attorney's Craig and Turner argued, the person needed for the Jackson Denno hearing will not be available for 13 weeks. Following representations by counsel, COURT ORDERED, matter CONTINUED at the request of counsel without there being opposition; Defense oral request to continue trial GRANTED; trial VACATED and RESET. Matter set for hearing regarding all pending motions.

CUSTODY

8/17/11 8:15 A.M. HEARING (ALL PENDING MOTIONS)

9/7/11 8:15 A.M. CALENDAR CALL

9/12/11 10:00 A.M. JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****May 16, 2011**

10C264079

The State of Nevada vs Kevin M Gipson

May 16, 2011**8:15 AM****All Pending Motions****HEARD BY:** Barker, David**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Roshonda Mayfield**RECORDER:** Richard Kangas**REPORTER:****PARTIES****PRESENT:**

Avants, Lynn

Attorney

Gipson, Kevin M

Defendant

JOURNAL ENTRIES

- DEFT'S MOTION IN LIMINE TO BAR THE ADMISSION OF CUMULATIVE VICTIM IMPACT EVIDENCE IN VIOLATION OF THE DUE PROCESS CLAUSE...DEFT'S MOTION IN LIMINE TO PRECLUDE THE STATE FROM MOVING TO ADMIT INTO EVIDENCE PHOTOGRAPHS PREJUDICIAL TO KEVIN GIPSON.

Court advised, both parties are requesting a continuance in this matter. Therefore, COURT ORDERED, matter CONTINUED at the request of counsel.

CUSTODY

8/17/11 8:15 A.M. DEFT'S MOTION IN LIMINE TO BAR THE ADMISSION OF CUMULATIVE VICTIM IMPACT EVIDENCE IN VIOLATION OF THE DUE PROCESS CLAUSE/DEFT'S MOTION IN LIMINE TO PRECLUDE THE STATE FROM MOVING TO ADMIT INTO EVIDENCE PHOTOGRAPHS PREJUDICIAL TO KEVIN GIPSON.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 11, 2011

10C264079

The State of Nevada vs Kevin M Gipson

July 11, 2011

8:15 AM

Motion

HEARD BY: Barker, David

COURTROOM: RJC Courtroom 11B

COURT CLERK: Roshonda Mayfield

RECORDER: Richard Kangas

REPORTER:

PARTIES**PRESENT:**

Clowers, Shanon

Attorney

Craig-Rohan, Christy L.

Attorney

Gipson, Kevin M

Defendant

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Following a conference at the bench, Court advised, there is a scheduling conflict with the State. Therefore, COURT ORDERED, motion GRANTED; trial VACATED and RESET.

CUSTODY

11/9/11 8:15 A.M. CALENDAR CALL

11/14/11 10:00 A.M. JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****August 17, 2011**

10C264079

The State of Nevada vs Kevin M Gipson

August 17, 2011**8:15 AM****All Pending Motions****HEARD BY:** Smith, Douglas E.**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Roshonda Mayfield**RECORDER:** Richard Kangas**REPORTER:****PARTIES****PRESENT:**

Clowers, Shanon

Attorney

Attorney

Craig-Rohan, Christy L.

Attorney

Gipson, Kevin M

Defendant

State of Nevada

Plaintiff

JOURNAL ENTRIES

- DEFENDANT'S NOTICE OF MOTION AND MOTION TO BAR THE ADMISSION OF CUMULATIVE VICTIM IMPACT PANEL EVIDENCE IN VIOLATION OF THE DUE PROCESS CLAUSE...DEFT'S MOTION IN LIMINE TO PRECLUDE THE STATE FROM MOVING TO ADMIT INTO EVIDENCE PHOTOGRAPHS PREJUDICIAL TO KEVIN GIPSON.

Court advised, this matter is on calendar today specifically to set dates regarding the pending motions and the denno hearing. Therefore, COURT SO ORDERED.

10/7/11 1:00 P.M. DEFENDANT'S NOTICE OF MOTION AND MOTION TO BAR THE ADMISSION OF CUMULATIVE VICTIM IMPACT PANEL EVIDENCE IN VIOLATION OF THE DUE PROCESS CLAUSE...DEFT'S MOTION IN LIMINE TO PRECLUDE THE STATE FROM MOVING TO ADMIT INTO EVIDENCE PHOTOGRAPHS PREJUDICIAL TO KEVIN GIPSON...STATES MOTION IN LIMINE TO ADMIT BAD ACTS AND OTHER ACTS OF THE DEFENDANT AGAINST THE VICTIM...STATES MOTION IN LIMINE REGARDING THE DEFENDANT'S EXPERT WITNESSES AND REQUEST FOR DISCOVERY.

11/9/11 8:15 A.M. CALENDAR CALL

PRINT DATE: 11/08/2012

Page 13 of 27

Minutes Date:

April 28, 2010

11/14/11 10:00 A.M. JURY TRIAL

11/14/11 10:00 A.M. HEARING (JACKSON v DENNO)

CLERK'S NOTE: The pending motions from 5/4/11 were not heard on 8/17/11 due to a clerical error of not being entered into Odyssey. (rm 8/16/11)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 07, 2011

10C264079

The State of Nevada vs Kevin M Gipson

October 07, 2011

8:30 AM

All Pending Motions

HEARD BY: Barker, David

COURTROOM: RJC Courtroom 11B

COURT CLERK: April Watkins

RECORDER: Richard Kangas

REPORTER:

PARTIES

PRESENT: Gipson, Kevin M

Defendant

JOURNAL ENTRIES

- STATE'S MOTION IN LIMINE REGARDING THE DEFT'S EXPERT WITNESSES AND REQUEST FOR DISCOVERY...STATE'S MOTION IN LIMINE TO ADMIT BAD ACTS AND OTHER ACTS OF THE DEFT. AGAINST THE VICTIM...DEFT'S MOTION IN LIMINE TO PRECLUDE THE STATE FROM MOVING TO ADMIT INTO EVIDENCE PHOTOGRAPHS PREJUDICIAL TO KEVIN GIPSON...DEFT'S MOTION IN LIMINE TO BAR THE ADMISSION OF CUMULATIVE VICTIM IMPACT EVIDENCE IN VIOLATION OF THE DUE PROCESS CLAUSE

COURT ORDERED, matters CONTINUED at request of counsel.

CUSTODY

CONTINUED TO: 10/24/11 8:15 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 24, 2011

10C264079

The State of Nevada vs Kevin M Gipson

October 24, 2011

8:15 AM

All Pending Motions

HEARD BY: Barker, David

COURTROOM: RJC Courtroom 11B

COURT CLERK: April Watkins

RECORDER: Cheryl Carpenter

REPORTER:

PARTIES**PRESENT:**

Craig-Rohan, Christy L.

Attorney

Gipson, Kevin M

Defendant

State of Nevada

Plaintiff

Turner, Robert B.

Attorney

JOURNAL ENTRIES

- STATE'S MOTION IN LIMINE REGARDING THE DEFT'S EXPERT WITNESSES AND REQUEST FOR DISCOVERY...STATE'S MOTION IN LIMINE TO ADMIT BAD ACTS AND OTHER ACTS OF THE DEFT. AGAINST THE VICTIM...DEFT'S MOTION IN LIMINE TO PRECLUDE THE STATE FROM MOVING TO ADMIT INTO EVIDENCE PHOTOGRAPHS PREJUDICIAL TO KEVIN GIPSON...DEFT'S MOTION IN LIMINE TO BAR THE ADMISSION OF CUMULATIVE VICTIM IMPACT EVIDENCE IN VIOLATION OF THE DUE PROCESS CLAUSE

Statement by Ms. Craig regarding State's request to continue trial date due to missing witnesses. Colloquy regarding pending motions. Upon Court's inquiry, Mr. Turner stated he does not believe motions will have a impact on trial date. Colloquy regarding Jackson v. Denno hearing. COURT ORDERED, trial date VACATED and RESET. FURTHER ORDERED, State's Motion in Limine to Admit Bad Acts and Jackson v. Denno Hearing date VACATED and RESET; Deft's motions and State's Motion in Limine Regarding the Deft's Expert Witnesses CONTINUED.

CUSTODY

11/9/11 8:15 AM STATE'S MOTION IN LIMINE TO ADMIT BAD ACTS AND OTHER ACTS OF THE DEFT. AGAINST THE VICTIM...JACKSON V. DENNO HEARING

PRINT DATE: 11/08/2012

Page 16 of 27

Minutes Date:

April 28, 2010

12/7/11 8:15 AM CALENDAR CALL...STATE'S MOTION IN LIMINE REGARDING THE DEFT'S
EXPERT WITNESSES AND REQUEST FOR DISCOVERY...DEFT'S MOTION IN LIMINE TO
PRECLUDE THE STATE FROM MOVING TO ADMIT INTO EVIDENCE PHOTOGRAPHS
PREJUDICIAL TO KEVIN GIPSON...DEFT'S MOTION IN LIMINE TO B AR THE ADMISSION OF
CUMULATIVE VICTIM IMPACT EVIDENCE IN VIOLATION OF THE DUE PROCESS CLAUSE

12/12/11 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****November 09, 2011**

10C264079

The State of Nevada vs Kevin M Gipson

November 09, 2011 8:15 AM**All Pending Motions****HEARD BY:** Barker, David**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** April Watkins**RECORDER:** Cheryl Carpenter**REPORTER:****PARTIES****PRESENT:**

Clowers, Shanon

Attorney

Attorney

Craig-Rohan, Christy L.

Attorney

Gipson, Kevin M

Defendant

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Deft's Motion for Witness List and Evidence in Support of Allegations of Prior Bad Acts FILED IN OPEN COURT.

Court stated he has read other bad acts motion. Ms. Clowers stated she is doing this as a precautionary measure. Further, when pretrialing other witnesses, came across other information that was presented in motion. Additionally, Ms. Clowers stated she can provide names of witnesses for Petrocelli Hearing. Ms. Craig argued she does not believe Petrocelli Hearing standard has been met. Further, Ms. Craig argued she does not have names of witnesses and advised she has requested dates and what will be used to support. Ms. Clowers stated she believed information was provided and argued Deft. went to victim's place of business demanding money, do not have employees name who witnessed, but will provide. Further, Ms. Clowers stated she was also advised victim's father, Charles Lavall, observed incidents and will be calling him as a witness. COURT ORDERED, State of Nevada has ONE (1) WEEK to produce names, dates and interviews. Ms. Clowers stated she does not have interviews.

Ms. Clowers stated as to the former Las Vegas Metropolitan Police Department (LVMPD) employee, believes he has been located and believes if he is served with order, he will appear. CONFERENCE

PRINT DATE: 11/08/2012

Page 18 of 27

Minutes Date:

April 28, 2010

AT THE BENCH. Colloquy. FURTHER ORDERED, State's Motion and Deft's Motion CONTINUED. Additional colloquy. COURT ORDERED, Jackson v. Denno hearing CONTINUED.

Motion to Secure the Attendance of an Out of State Witness and for Issuance of a Certificate Under Seal of the Court and Certificate of the Eighth Judicial District Court of Nevada FILED IN OPEN COURT.

Colloquy. COURT ORDERED, motion to secure GRANTED. Order and Certificate signed in open court.

CUSTODY

11/16/11 State's Motion in Limine to Admit Bad Acts and Other Acts of the Deft. Against Victim...Deft's Motion for Witness List and Evidence in Support of Allegations of Prior Bad Acts

12/2/11 1:00 PM JACKSON V. DENNO HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****November 16, 2011**

10C264079

The State of Nevada vs Kevin M Gipson

November 16, 2011 8:15 AM**All Pending Motions****HEARD BY:** Barker, David**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** April Watkins**RECORDER:** Cheryl Carpenter**REPORTER:****PARTIES****PRESENT:**

Clowers, Shanon

Attorney

Attorney

Craig-Rohan, Christy L.

Attorney

Gipson, Kevin M

Defendant

State of Nevada

Plaintiff

JOURNAL ENTRIES

- STATE'S MOTION IN LIMINE TO ADMIT BAD ACTS AND OTHER ACTS OF DEFT. AGAINST THE VICTIM...DEFT'S MOTION FOR WITNESS LIST AND EVIDENCE IN SUPPORT OF ALLEGATIONS OF PRIOR BAD ACTS

Court stated he has received information the State would be withdrawing motion. Ms. Clowers stated she has gone through everything as well as meeting with witnesses and the State does not have anything at this point to qualify as a bad act. Further, the State will present evidence regarding the relationship they had. COURT ORDERED, State's Motion WITHDRAWN. Ms. Craig stated she is concerned as to the body of the motion which list things the State believes they can get in which the State is now withdrawing and argued all is hearsay. Further, Ms. Craig stated she believes there are Crawford problems. Ms. Clowers stated issue will be brought up at time of trial and the Court can rule at that time. Further, Ms. Clowers stated she has noticed all witnesses the State intends on calling. Colloquy. Ms. Clowers advised she has prepare a list of things the State wants to present which she will provide to Deft's counsel. Court stated he will require proffer from the State. As to the motion for in camera review of personnel records, Ms. Clowers argued State filed opposition. Further, Ms. Clowers advised Charlotte Bible, counsel for the Las Vegas Metropolitan Police Department is not available on the day that was determined. Colloquy. Ms. Craig stated she did

10C264079

send notice to Mr. Flohr who did interviews with Deft. FURTHER ORDERED, Deft's Motion MOOT.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****November 21, 2011**

10C264079

The State of Nevada vs Kevin M Gipson

November 21, 2011 8:15 AM Motion**HEARD BY:** Barker, David**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** April Watkins**RECORDER:** Cheryl Carpenter**REPORTER:****PARTIES**

PRESENT:	Clowers, Shanon	Attorney
		Attorney
	Craig-Rohan, Christy L.	Attorney
	Gipson, Kevin M	Defendant
	State of Nevada	Plaintiff
	Turner, Robert B.	Attorney

JOURNAL ENTRIES

- Ms. Craig requested the Court do a in camera review of Mr. Flohr's civilian file while employed with the Las Vegas Metropolitan Police Department (Metro). Further, Ms. Craig argued Mr. Flohr conducted the interrogation of Deft., advised she wants the Court to determine if he was disciplined regarding Miranda Rights and if his separation from Metro had to do with any of this as well as accommodations he said he has. Mr. Turner argued speculation, nothing shown from Deft's counsel, no nexus between Miranda violation and the fact there will be records to help impeach. Court stated in camera review is appropriate. Mr. Turner advised everything was done on video. Further, Mr. Turner stated if Mr. Flohr violated Miranda in another case, does not mean it was violated here. COURT ORDERED, motion GRANTED. Court will determine if there are issues of veracity that would impact Deft. and if anything else needs to be determined as to Mr. Flohr's veracity.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****December 02, 2011**

10C264079

The State of Nevada vs Kevin M Gipson

December 02, 2011 8:30 AM Hearing**HEARD BY:** Barker, David**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** April Watkins; Christine Erickson**RECORDER:** Cheryl Carpenter**REPORTER:****PARTIES**

PRESENT:	Craig-Rohan, Christy L.	Attorney
	Gipson, Kevin M	Defendant
	State of Nevada	Plaintiff
	Turner, Robert B.	Attorney

JOURNAL ENTRIES

- Deft's Motion to Limit the Testimony of Detective Long FILED IN OPEN COURT.

Ms. Craig advised she is objecting to some of the testimony from Detective Long. Further, Ms. Craig objected to any hearsay testimony including discussions between Deft. and Mr. Flohr, argued clear hearsay and no exceptions. Additionally, Ms. Craig requested State to provide identifiers for Mr. Flohr, advised he has been found in Michigan, counsel has spoken to Judge Schrock in Michigan, they know where he is, know where he is working in Michigan and they have no problem enforcing this Court's order. Colloquy. Ms. Craig further requested Detective Long's testimony be limited and advised there was a second statement given by Deft. on March 25th, argued Detective Long makes ten comments, none are questions, just comments. Further, interview conducted by Mr. Flohr, counsel argued hearsay and inappropriate, cannot testify as to what Mr. Flohr said. Mr. Turner argued motion is untimely, have to establish Deft. was mirandized and have to establish statement was voluntary. Court inquired if Detective Long was present during process. Mr. Turner stated he was, he will testify he was there directly with Mr. Flohr or just outside observing and could hear everything. Court stated objection to hearsay is noted. Detective Long and Linda Jackson, sworn and testified. Ms. Craig requested to bifurcate hearing so Mr. Flohr can be present and testify. Colloquy. Ms. Craig requested anything after March 25th not come in and argued Detective Long did not participate in the polygraph testing done by Mr. Flohr. Mr. Turner argued Mr. Flohr is not here to

discuss CIT test, if it was performed properly, argued here today to determine if Deft. was there voluntarily and if Miranda was violated. COURT ORDERED, Oral Motion to Bifurcate DENIED as the Court has an understanding of interaction between Deft. and police. Mr. Turner argued Deft. was never in custody by any indicia, never told he was in custody, never told he was arrested, took him into custody after Deft. confessed, Detective picked up Deft. in a unmarked vehicle, no handcuffs, no admissions by Deft. in first interview and door was never locked. Further, second interview, Deft. not in custody and argued Las Vegas Metropolitan Police Department's (Metro) policy is to mirandize Deft. Colloquy. Mr. Turner stated Court has to determine if Deft. was in custody at that time. Additionally, Mr. Turner argued Deft. did not have right to counsel in second interview, could of done CIT test since Deft. was not in custody, Deft. said lets do it but Detective decided to take Deft. home, advised him to speak to who he needed to and picked him up at 11:30 a.m. . Further, Mr. Turner argued Deft. given Miranda again, did not invoke right to counsel and testing was performed. Additionally, Mr. Turner stated when Deft. was told he failed test, then he confessed. Mr. Turner further stated on March 25th, Deft. said he wanted to talk to counsel, if the Court finds Deft. was in custody and if there is a break in custody between interviews, argued sufficient time State has right to re-mirandize Deft. Ms. Craig argued Deft. expressed concerns about the testing, did not volunteer, did not bring up, the police brought it up, Deft. waits in a room for a couple of hours, Deft. under video taped surveillance and argued not sure if door was locked or not locked. Further, Mr. Flohr mirandized Deft. during second interview and explained Miranda to Deft. Additionally, Ms. Craig stated police willing to bring Deft. a telephone, willing to bring him telephone book and argued Deft. not free to leave. Colloquy. Ms. Craig further argued Deft. was in custody, being interrogated, under Edwards, Detective and police were to stop interrogating Deft. once he asked for counsel. As to mental illness, Ms. Craig argued Mr. Flohr should of been told about Deft's long history of mental illness. Court FINDS based on the totality of circumstances, cannot find this was a custodial interrogation, Deft. voluntarily participated in the questioning and examination and ORDERED, motion to suppress DENIED.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****December 07, 2011**

10C264079

The State of Nevada vs Kevin M Gipson

December 07, 2011 8:15 AM All Pending Motions**HEARD BY:** Barker, David**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** April Watkins; Christine Erickson**RECORDER:** Cheryl Carpenter**REPORTER:****PARTIES**

PRESENT:	Craig-Rohan, Christy L.	Attorney
	Gipson, Kevin M	Defendant
	State of Nevada	Plaintiff
	Turner, Robert B.	Attorney

JOURNAL ENTRIES

- STATE'S MOTION IN LIMINE REGARDING THE DEFT'S EXPERT WITNESSES AND REQUEST FOR DISCOVERY...DEFT'S MOTION IN LIMINE TO PRECLUDE THE STATE FROM MOVING TO ADMIT INTO EVIDENCE PHOTOGRAPHS PREJUDICIAL TO KEVIN GIPSON...DEFT'S MOTION IN LIMINE TO BAR THE ADMISSION OF CUMULATIVE VICTIM IMPACT EVIDENCE IN VIOLATION OF THE DUE PROCESS CLAUSE... CALENDAR CALL

NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED IN OPEN COURT. Ms. Craig requested to enter plea of guilty but mentally ill. Court noted all agree this decision is not reflected in guilty plea agreement. Mr. Turner stated the State agrees to that but the Court needs to make finding. DEFT. GIPSON ARRAIGNED AND PLED GUILTY BUT MENTALLY ILL to MURDER WITH USE OF A DEADLY WEAPON (F). Court ACCEPTED plea and ORDERED, matter referred to the Division of Parole and Probation (P & P) and set for sentencing. FURTHER ORDERED, State's Motion, Deft's Motions MOOT and trial date VACATED.

CUSTODY

2/10/12 1:30 PM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 10, 2012**

10C264079

The State of Nevada vs Kevin M Gipson

February 10, 2012**1:30 PM****Sentencing****HEARD BY:** Barker, David**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Tiffany Lawrence**RECORDER:** Cheryl Carpenter**REPORTER:****PARTIES****PRESENT:****JOURNAL ENTRIES**

- Robert Turner, DDA, and Shanon Clowers, DDA, present for State of Nevada. Christy Craig-Rohan, DPD, and Timothy O'Brien, DPD, present with Defendant. DEFT GIPSON ADJUDGED GUILTY of MURDER WITH USE OF A DEADLY WEAPON (F). Arguments by counsel and statement of Deft read on the record. Victim Speakers Mechele Lavoll, Charles Lavoll, and Shaena Lavoll sworn and gave victim impact statement. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee and a \$250.00 Civil Indigent Defense Assessment fee, Deft. SENTENCED to LIFE in the Nevada Department of Corrections (NDC) with a MINIMUM PAROLE ELIGIBILITY of TWENTY (20) YEARS; COURT made FACTUAL FINDINGS and ORDERED, pursuant to NRS 193.165 a CONSECUTIVE term of a MAXIMUM of TWO-HUNDRED FORTY (240) MONTHS and a MINIMUM of NINETY-SIX (96) MONTHS in NDC for the weapons enhancement, with 686 DAYS credit for time served. COURT FURTHER ORDERED, DNA Analysis fee WAIVED as previously imposed.

CUSTODY**BOND, if any, EXONERATED.**

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****September 26, 2012**

10C264079

The State of Nevada vs Kevin M Gipson

September 26, 2012 8:15 AM**Motion****Deft's Pro Per Motion
to Withdraw Plea****HEARD BY:** Barker, David**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** April Watkins**RECORDER:** Cheryl Carpenter**REPORTER:****PARTIES****PRESENT:**

Clowers, Shanon

Attorney

Attorney

Craig-Rohan, Christy L.

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Ms. Craig stated she has reviewed motion, given the fact Deft. plead and sentenced to a significant sentence, counsel believes someone should be appointed to see if Deft. has grounds. Court stated Deft. sentenced in manner consistent with stipulation, have not followed Chapter 34 rules, action under Chapter 176, Deft. has to follow the rules and the Court is treating this as a fugitive document. Ms. Craig requested to withdraw as counsel, will mail copy of motion to Deft. and also advised Deft. suffers from mental illness which is a legitimate grounds for the Court to look into consideration to see if counsel did what she was suppose to do. COURT ORDERED, oral request to withdraw GRANTED and motion DENIED under Chapter 176, no factual or legal basis to support.

NDC

CLERK'S NOTE: The above minute order has been distributed to: Kevin Marquette Gipson #1082776, Ely State Prison, 4569 North State Route 490, P.O. Box 1989, Ely, NV 893041. aw

Exhibit List

Case: 10C264079 Party: Sort Order: Status Defendant Name: Gipson, Kevin M DOB

Exhibit ID	On Behalf Of	Status/Date	Return/Destroy Date	Type and Description	Exhibit Flag	Source	In Custody Of	Location
PG	Plaintiff			GRAND JURY -18		State of Nevada	District Court Criminal/Civil 04/28/2010	Evidence Vault
Comment: ExhibitID : 190446								
1	Plaintiff	Admitted 12/02/2011	Destroy 01/26/2015	Document Voluntary Statement		Roger, David J.		

Comment: for complete list see scanned exhibit list in Odyssey

'S EXHIBIT LIST

HEARING DATE

DEC 02 2011

Case No. <u>C264079</u>	Clerk: <u>April Watkins</u>
Dept. <u>XVIII</u> Judge: <u>DAVID BARKER</u>	Recorder: <u>Cheryl Carpenter</u>
Pltf(s): <u>The State of Nevada</u>	Pltf's Counsel: <u>Brend Turner</u>
Def't(s): <u>Kevin Marquett Gipson</u>	Def't's Counsel: <u>Christy Craig</u>

[illegible]

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):

MEMORANDUM OF POINTS AND AUTHORITIES FACTS OF THE CASE;
CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; JUDGMENT OF
CONVICTION (PLEA OF GUILTY); DISTRICT COURT MINUTES; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

vs.

KEVIN M. GIPSON,

Defendant(s).

Case No: C264079
Dept No: XVIII

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 8 day of November 2012.

Steven D. Grierson, Clerk of the Court


Teodora Jones, Deputy Clerk



**EIGHTH JUDICIAL DISTRICT COURT
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER
200 LEWIS AVENUE, 3rd FL.
LAS VEGAS, NEVADA 89155-1160
(702) 671-4554

Steven D. Grierson
Clerk of the Court

November 8, 2012

Tracie Lindeman
Clerk of the Supreme Court
201 South Carson Street, Suite 201
Carson City, Nevada 89701-4702

RE: STATE OF NEVADA vs. KEVIN M. GIPSON
D.C. CASE: C264079

Dear Ms. Lindeman:

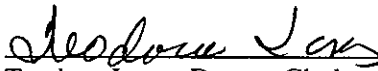
Please find enclosed a Notice of Appeal packet, filed November 8, 2012. Due to extenuating circumstances minutes from the date(s) listed below have not been included:

November 7, 2012

We do not currently have a time frame for when these minutes will be available.

If you have any questions regarding this matter, please contact me at (702) 671-0512.

Sincerely,
STEVEN D. GRIERSON, CLERK OF THE COURT


Teodora Jones, Deputy Clerk