

FILED

FEB 22 2013

Electronic Filed  
Feb 26 2013 02:26 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

09C266384  
NOASC  
Notice of Appeal (criminal)  
2247430



DISTRICT COURT  
COUNTY NEVADA

BARRONHAMM JR. # 1052277  
In Proper Person  
P.O. Box 650 H.D.S.P.  
Indian Springs, Nevada 89018

STATE OF Nevada,  
Plaintiff  
-v-  
BARRON HAMM JR. # 1052277,  
Defendant

Case No. C-256-384  
Dept. No. XI  
Docket

NOTICE OF APPEAL

Notice is hereby given that the Defendant BARRON  
HAMM, by and through himself in proper person, does now appeal  
to the Supreme Court of the State of Nevada, the decision of the District  
Court Denial of Petition for A writ of HABEAS corpus  
Postconviction relief & Appointment of counsel

Dated this date, 26 of February, 2013.

Respectfully Submitted,

Barron Hamm Jr.  
#1052277  
In Proper Person

RECEIVED  
FEB 22 2013

CLERK OF THE COURT

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding \_\_\_\_\_

Notice of Appeal Denial of petition of writ of Habeas corpus  
(Title of Document)

filed in District Court Case number 0256-384

☒ Does not contain the social security number of any person.

-OR-

☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

B. For the administration of a public program or for an application  
for a federal or state grant.

Barron Hamm Jr.  
Signature

02-25-2013  
Date

BARRON HAMM JR.  
Print Name

Defendant Pro Se  
Title

**CERTIFICATE OF SERVICE BY MAILING**

I, BARRON HAMM J.C., hereby certify, pursuant to NRCP 5(b), that on this 06  
day of February, 2013, I mailed a true and correct copy of the foregoing, "Notice of  
appeal on the district court's denial petition for writ of Habeas corpus"  
by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid,  
addressed as follows:

Clark ex clerk of Justice

200 LEWIS AVE.

Las Vegas, NV. 89155

DATED: this 06 day of February, 2013.

Barron Hamm J.C.

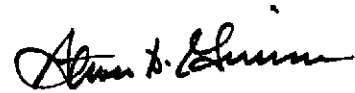
Barron Hamm J.C.

#1052277

/In Propria Persona

Post Office box 650 [HDSP]

Indian Springs, Nevada 89018



CLERK OF THE COURT

ASTA

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

STATE OF NEVADA,

Plaintiff(s),

vs.

BARRON HAMM,

Defendant(s).

Case No: 09C256384

Dept No: XI

**CASE APPEAL STATEMENT**

1. Appellant(s): Barron Hamm

2. Judge: Jennifer Togliatti

3. Appellant(s): Barron Hamm

Counsel:

Barron Hamm #105227  
P.O. Box 650  
Indian Springs, NV 89070

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: N/A

3 9. Date Commenced in District Court: July 22, 2009

4 10. Brief Description of the Nature of the Action: Criminal

5 Type of Judgment or Order Being Appealed: Post-Conviction Relief


6 11. Previous Appeal: Yes

7 Supreme Court Docket Number(s): 56559

8 12. Child Custody or Visitation: N/A

9  
10 Dated This 26 day of February 2013.

11 Steven D. Grierson, Clerk of the Court

12  
13 

14 Heather Ungermann, Deputy Clerk  
15 200 Lewis Ave  
16 PO Box 551601  
17 Las Vegas, Nevada 89155-1601  
18 (702) 671-0512  
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28

DEPARTMENT 11  
**CASE SUMMARY**  
**CASE No. 09C256384**

**The State of Nevada vs Barron Hamm**

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§

Location: **Department 11**  
Judicial Officer: **Gonzalez, Elizabeth**  
Filed on: **07/22/2009**  
Case Number History:  
Conversion Case Number: **C256384**  
Lower Court Case Number: **09GJ00036**  
Supreme Court No.: **56559**

**CASE INFORMATION**

<b>Offense</b>	<b>Deg</b>	<b>Date</b>	<b>Case Type: Felony/Gross Misdemeanor</b>
1. MURDER IN THE SECOND DEGREE WDW	F	01/01/1900	<b>Case Flags: Appealed to Supreme Court Custody Status - Nevada Department of Corrections</b>
<i>Filed As:</i> BURGLARY.	F	07/22/2009	
2. ASSAULT WITH A DEADLY WEAPON (5024)	F	01/01/1900	
3. MURDER.	F	01/01/1900	
3. DEGREES OF MURDER	F	01/01/1900	
3. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	F	01/01/1900	
4. A PERSON SHALL NOT CARRY CONCEALED UPON HIS PERSON ANY PISTOL, REVOLVER,	F	01/01/1900	

**Statistical Closures**

02/12/2013 Other Manner of Disposition - Criminal  
07/11/2012 Jury Trial - Conviction - Criminal

**Warrants**

Bench Warrant - Hamm, Barron (Judicial Officer: Bell, Linda Marie )  
07/24/2009 Quashed  
07/22/2009 Issued  
Fine: \$0 Bond: \$0

**DATE**

**CASE ASSIGNMENT**

**Current Case Assignment**

Case Number 09C256384  
Court Department 11  
Date Assigned 01/22/2013  
Judicial Officer Gonzalez, Elizabeth

**PARTY INFORMATION**

		<i>Lead Attorneys</i>
<b>Defendant</b>	<b>Hamm, Barron</b>	<b>Pro Se</b>
<b>Plaintiff</b>	<b>State of Nevada</b>	<b>Wolfson, Steven B</b> 702-671-2700(W)

**DATE**

**EVENTS & ORDERS OF THE COURT**











**INDEX**

07/22/2009 **Grand Jury Indictment (11:30 AM)**  
*GRAND JURY INDICTMENT Relief Clerk: Shelly Landwehr/sl Reporter/Recorder:  
Cheryl Carpenter Heard By: Linda Bell*







07/22/2009  Indictment  
*(GRAND JURY) INDICTMENT Fee \$0.00*

*09C2563840001.tif pages*

DEPARTMENT 11  
**CASE SUMMARY**  
**CASE No. 09C256384**






07/22/2009	 Bench Warrant <i>INDICTMENT WARRANT</i>	09C2563840006.tif pages
07/22/2009	Conversion Case Event Type <i>STATUS CHANGE: ACTIVE TO WARRANT</i>	09C2563840007.tif pages
07/23/2009	 Bench Warrant <i>BENCH WARRANT RETURN</i>	09C2563840002.tif pages
07/23/2009	Conversion Case Event Type <i>STATUS CHANGE: WARRANT TO ACTIVE</i>	09C2563840008.tif pages
07/24/2009	Hearing <i>GRAND JURY INDICTMENT</i>	09C2563840004.tif pages
07/24/2009	Hearing <i>INITIAL ARRAIGNMENT (VJ 7/27/09)</i>	09C2563840005.tif pages
07/27/2009	<b>Bench Warrant Return</b> (9:00 AM) Events: 07/23/2009 Bench Warrant <i>BENCH WARRANT RETURN Court Clerk: Linda Skinner Reporter/Recorder: Cheryl Gardner Heard By: Donald Mosley</i>	
07/27/2009	Hearing <i>STATUS CHECK: DISCOVERY</i>	09C2563840012.tif pages
07/27/2009	 Media Request and Order <i>MEDIA REQUEST AND ORDER FOR CAMERA ACCESS TO COURT PROCEEDINGS</i>	09C2563840013.tif pages
07/29/2009	<b>CANCELED Initial Arraignment</b> (9:00 AM) Events: 07/24/2009 Hearing <i>Vacated</i>	
08/03/2009	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - GRAND JURY VOLUME 1</i>	09C2563840014.tif pages
08/03/2009	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - GRAND JURY VOLUME 2</i>	09C2563840015.tif pages
08/06/2009	 Receipt <i>RECEIPT FOR GRAND JURY TRANSCRIPTS - VOLUMES 1-2</i>	09C2563840017.tif pages
08/24/2009	 Petition <i>PTN FOR WRIT OF HABEAS CORPUS</i>	09C2563840016.tif pages
08/31/2009	 Writ <i>RETURN TO WRIT OF HABEAS CORPUS</i>	09C2563840018.tif pages
08/31/2009	 Order <i>ORDER</i>	09C2563840019.tif pages
09/01/2009	 Writ Filed by: Defendant Hamm, Barron <i>WRIT OF HABEAS CORPUS</i>	09C2563840020.tif pages

DEPARTMENT 11  
**CASE SUMMARY**  
**CASE No. 09C256384**







09/08/2009	<b>Petition for Writ of Habeas Corpus</b> (9:00 AM) Events: 08/24/2009 Petition <i>PTN FOR WRIT OF HABEAS CORPUS Court Clerk: Linda Skinner Reporter/Recorder: Maureen Schorn Heard By: Donald Mosley</i>	
09/08/2009	 <b>Motion</b> <i>DEFT'S PRO PER MTN TO DISMISS COUNSEL/09</i>	09C2563840021.tif pages
09/14/2009	 <b>Order</b> <i>ORDER DENYING DEFTS PETITION FOR WRIT OF HABEAS CORPUS</i>	09C2563840023.tif pages
09/21/2009	<b>Motion to Dismiss</b> (9:00 AM) Events: 09/08/2009 Motion <i>DEFT'S PRO PER MTN TO DISMISS COUNSEL/09 Court Clerk: Tina Hurd Reporter/Recorder: Renee Vincent Heard By: Linda Bell</i>	
11/03/2009	 <b>Notice of Witnesses and/or Expert Witnesses</b> <i>NOTICE OF WITNESSES AND/OR EXPERT WITNESSES</i>	09C2563840024.tif pages
12/11/2009	 <b>Motion</b> <i>DEFT' PRO PER MTN TO DISMISS COUNSEL AND APPOINTMENT OF ALTERNATIVE COUNSEL/10</i>	09C2563840025.tif pages
01/06/2010	<b>Motion to Dismiss</b> (9:00 AM) Events: 12/11/2009 Motion <i>DEFT' PRO PER MTN TO DISMISS COUNSEL AND APPOINTMENT OF ALTERNATIVE COUNSEL/10 Relief Clerk: Carol Donahoo Reporter/Recorder: Renee Vincent Heard By: Bell, Linda</i>	
01/13/2010	<b>Status Check</b> (9:00 AM) Events: 07/27/2009 Hearing <i>STATUS CHECK: DISCOVERY</i>	
01/13/2010	<b>Motion to Dismiss</b> (9:00 AM) <i>DEFT' PRO PER MTN TO DISMISS COUNSEL AND APPOINTMENT OF ALTERNATIVE COUNSEL/10</i>	
01/13/2010	<b>All Pending Motions</b> (9:00 AM) <i>ALL PENDING MOTIONS (1/13/10) Relief Clerk: Susan Jovanovich /sj Reporter/Recorder: Cheryl Carpenter Heard By: Linda Bell</i>	
01/13/2010	<b>Motion</b> <i>ALL PENDING MOTIONS (1/13/10)</i>	09C2563840026.tif pages
02/09/2010	 <b>Notice of Witnesses and/or Expert Witnesses</b> <i>NOTICE OF WITNESSES AND/OR EXPERT WITNESSES</i>	09C2563840027.tif pages
03/08/2010	 <b>Notice of Witnesses and/or Expert Witnesses</b> <i>NOTICE OF WITNESSES AND/OR EXPERT WITNESSES</i>	09C2563840030.tif pages
03/09/2010	<b>Calendar Call</b> (9:00 AM) <i>CALENDAR CALL Heard By: Linda Bell</i>	
03/10/2010	<b>Calendar Call</b> (9:00 AM) <i>CALENDAR CALL Court Clerk: Tina Hurd Reporter/Recorder: Cheryl Carpenter Heard By: Linda Bell</i>	



DEPARTMENT 11  
**CASE SUMMARY**  
**CASE No. 09C256384**

03/10/2010	Hearing <i>STATUS CHECK: TRIAL READINESS</i>	09C2563840028.tif pages
03/10/2010	 Notice of Witnesses and/or Expert Witnesses <i>SUPPLEMENTAL NOTICE OF WITNESSES</i>	09C2563840031.tif pages
03/12/2010	<b>Status Check</b> (8:45 AM) Events: 03/10/2010 Hearing <i>STATUS CHECK: TRIAL READINESS Court Clerk: Tina Hurd Reporter/Recorder: Renee Vincent Heard By: Linda Bell</i>	
03/12/2010	Conversion Case Event Type <i>SENTENCING</i>	09C2563840032.tif pages
03/12/2010	 Memorandum <i>GUILTY PLEA MEMORANDUM/AGREEMENT</i>	09C2563840033.tif pages
03/12/2010	 Indictment <i>AMENDED (GRAND JURY) INDICTMENT</i>	09C2563840034.tif pages
03/12/2010	<b>Disposition</b> (Judicial Officer: Bell, Linda Marie) 3. MURDER. Charges Amended/Dropped 3. DEGREES OF MURDER Charges Amended/Dropped 3. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Charges Amended/Dropped 4. A PERSON SHALL NOT CARRY CONCEALED UPON HIS PERSON ANY PISTOL, REVOLVER, Charges Amended/Dropped	
03/12/2010	<b>Plea</b> (Judicial Officer: Bell, Linda Marie) 1. MURDER IN THE SECOND DEGREE WDW Guilty 2. ASSAULT WITH A DEADLY WEAPON (5024) Guilty 3. MURDER. Charges Amended/Dropped 3. DEGREES OF MURDER Charges Amended/Dropped 3. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Charges Amended/Dropped 4. A PERSON SHALL NOT CARRY CONCEALED UPON HIS PERSON ANY PISTOL, REVOLVER, Charges Amended/Dropped	
03/15/2010	<b>CANCELED Jury Trial</b> (9:00 AM) <i>Vacated</i>	
03/15/2010	<b>CANCELED Jury Trial</b> (9:30 AM) <i>Vacated</i>	
03/23/2010	 Media Request and Order <i>MEDIA REQUEST AND ORDER FOR CAMERA ACCESS TO COURT PROCEEDINGS</i>	09C2563840035.tif pages
03/23/2010	 Notice Filed By: Defendant Hamm, Barron <i>NOTIFICATION OF MEDIA REQUEST</i>	09C2563840036.tif pages

DEPARTMENT 11  
**CASE SUMMARY**  
**CASE NO. 09C256384**


05/13/2010	<b>Disposition</b> (Judicial Officer: Bell, Linda Marie) 1. MURDER IN THE SECOND DEGREE WDW Guilty 2. ASSAULT WITH A DEADLY WEAPON (5024) Guilty	
05/13/2010	<b>Sentence</b> (Judicial Officer: Bell, Linda Marie) 1. MURDER IN THE SECOND DEGREE WDW Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Life with the possibility of parole after:10 Years Consecutive Enhancement:Use of deadly weapon, Minimum:96 Months, Maximum:240 Months	
05/13/2010	<b>Sentence</b> (Judicial Officer: Bell, Linda Marie) 2. ASSAULT WITH A DEADLY WEAPON (5024) Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:24 Months, Maximum:72 Months Consecutive: Charge 1 Credit for Time Served: 375 Days Other Fees 1. , \$36,796.27 - To the Fleming Family 2. , \$6,000.00 - to Victims of Violent Crimes Comment: \$25.ADM, \$150.DNAF	
05/14/2010	<b>Sentencing</b> (8:45 AM) Events: 03/12/2010 Conversion Case Event Type <i>SENTENCING Court Clerk: Tina Hurd Reporter/Recorder: Renee Vincent Heard By: Linda Bell</i>	
05/20/2010	 Judgment <i>JUDGMENT OF CONVICTION/ADMIN ASSESSMENT</i>	09C2563840037.tif pages
05/20/2010	Judgment <i>JUDGMENT OF CONVICTION/GENETIC TESTING</i>	09C2563840038.tif pages
05/20/2010	Judgment <i>JUDGMENT OF CONVICTION/RESTITUTION</i>	09C2563840039.tif pages
07/21/2010	Motion <i>DEFT'S MTN TO WITHDRAW ATTRNY OF REC/15</i>	09C2563840041.tif pages
07/21/2010	 Motion to Withdraw As Counsel Filed By: Defendant Hamm, Barron <i>Motion to Withdrawl as Attorney of Record</i>	
07/26/2010	 Motion to Withdraw As Counsel Filed By: Defendant Hamm, Barron <i>Motion to Withdraw Counsel</i>	
08/04/2010	 <b>Motion to Withdraw as Counsel</b> (8:45 AM) (Judicial Officer: Bell, Linda Marie) Events: 07/21/2010 Motion <i>Deft's Motion to Withdraw Attorney of Record</i>	
08/05/2010	 Notice of Appeal (criminal) Party: Defendant Hamm, Barron	
08/09/2010	 Case Appeal Statement	

DEPARTMENT 11  
**CASE SUMMARY**  
**CASE NO. 09C256384**


	Filed By: Plaintiff State of Nevada
08/11/2010	<b>CANCELED Motion to Withdraw as Counsel</b> (8:45 AM) (Judicial Officer: Bell, Linda Marie) <i>Vacated - Moot</i> <i>VJ 8-4-10</i>
08/12/2010	 Request Filed by: Defendant Hamm, Barron <i>Request of Status of Motions</i>
08/18/2010	 Ex Parte Filed By: Defendant Hamm, Barron <i>Ex Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing</i>
08/27/2010	 Opposition Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Ex Parte Motion for Appointment of Counsel and Request For Evidentiary Heraing</i>
09/01/2010	 <b>Motion for Appointment</b> (8:45 AM) (Judicial Officer: Bell, Linda Marie) <i>Defendant's Pro Per's Motion for Appointment of Counsel and Request for Evidentiary Hearing</i>
09/28/2010	 Decision <i>Decision and Order</i>
10/14/2010	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Appeal Dismissed.</i>
07/29/2011	 Motion for Order Filed By: Defendant Hamm, Barron <i>Motion for Order Granting Request for Sentencing Transcripts</i>
08/10/2011	 <b>Motion for Order</b> (8:45 AM) (Judicial Officer: Bell, Linda Marie) <b>08/10/2011, 09/14/2011</b> Events: 07/29/2011 Motion for Order <i>Deft's Pro Per Motion for an Order Granting Request for Sentencing Transcripts</i>
11/10/2011	 Order Admitting Defendant to Probation & Fixing Terms <i>Order Admitting Defendant to Probation &amp; Fixing Terms Thereof</i>
02/13/2012	 Motion to Withdraw Plea Filed By: Defendant Hamm, Barron <i>Pro Se Motion to Withdrawal Plea</i>
02/22/2012	 Opposition to Motion <i>State's Opposition to Defendant's Motion to Withdraw Guilty Plea</i>
02/24/2012	 <b>Motion to Withdraw Plea</b> (8:45 AM) (Judicial Officer: Bell, Linda Marie) Events: 02/13/2012 Motion to Withdraw Plea <i>Pro Se Motion to Withdrawal Plea</i>
05/07/2012	 Order


DEPARTMENT 11  
**CASE SUMMARY**  
**CASE NO. 09C256384**

Filed By: Plaintiff State of Nevada  
*Order*


07/11/2012  Criminal Order to Statistically Close Case  
Filed By: Plaintiff State of Nevada


08/06/2012 Case Reassigned to Department 9  
*Case reassigned from Judge Bell*


10/31/2012  Petition for Writ of Habeas Corpus  
Filed by: Defendant Hamm, Barron


10/31/2012  Motion for Appointment of Attorney  
Filed By: Defendant Hamm, Barron  
*Motion for Appointment of Counsel (Habeas Corpus)*


11/02/2012  Order for Petition for Writ of Habeas Corpus


11/14/2012  Response  
Filed by: Plaintiff State of Nevada  
*State's Response And Motion To Dismiss Defendant's Pro Per Petition For Writ Of Habeas Corpus (Post Conviction) And Motion To Appoint Counsel*


11/16/2012  Motion  
Filed By: Defendant Hamm, Barron  
*Motion For Clarification*


11/26/2012  Request  
Filed by: Defendant Hamm, Barron  
*Request For Motion To Be Immediately Heard By Court*

11/27/2012  Response  
Filed by: Plaintiff State of Nevada  
*State's Response To Defendant's Motion For Clarification*

11/30/2012  Motion  
Filed By: Defendant Hamm, Barron  
*Motion And Order For Transportation Of Inmate For Court Appearance Or, In The Alternative, For Appearance By Telephone Or Video Conference*

11/30/2012  Response  
Filed by: Plaintiff State of Nevada  
*State's Response To Defendant's Pro Per Request For Motion To Be Immediately Heard By Court*

11/30/2012  Response  
Filed by: Defendant Hamm, Barron  
*Pro Per Response Why Petition for Writ of Habeas Corpus (Post-Conviction) and Motion to Appoint Counsel Should Issue.*


12/10/2012  **Motion for Clarification** (9:00 AM) (Judicial Officer: Togliatti, Jennifer)  
**12/10/2012, 01/10/2013**  
*Motion For Clarification*

12/11/2012

DEPARTMENT 11  
**CASE SUMMARY**  
**CASE NO. 09C256384**

	 Opposition Filed By: Plaintiff State of Nevada <i>State's Opposition To Defendant's Pro Per Motion For Transportation Of Inmate For Court Appearance, Or In The Alternative, For Appearance By Telephone Or Video Conference</i>
12/19/2012	 <b>Motion</b> (9:00 AM) (Judicial Officer: Barker, David) <i>Request For Motion To Be Immediately Heard By Court</i>
12/19/2012	 Response <i>Defendant's Response and Objection to State's Opposition to Defendant's Pro Per Motion for Transportation of Inmate for Court</i>
12/24/2012	 <b>Motion</b> (9:00 AM) (Judicial Officer: Togliatti, Jennifer) <b>12/24/2012, 01/10/2013</b> <i>Motion And Order For Transportation Of Inmate For Court Appearance Or, In The Alternative, For Appearance By Telephone Or Video Conference</i>
01/10/2013	<b>Petition for Writ of Habeas Corpus</b> (9:00 AM) (Judicial Officer: Togliatti, Jennifer) Events: 11/02/2012 Order for Petition for Writ of Habeas Corpus
01/10/2013	 <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Togliatti, Jennifer)
01/17/2013	 Order Denying Motion Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Pro Per Request for Motion to be Immediately Heard by Court</i>
01/22/2013	Case Reassigned to Department 11 <i>Case reassigned from Judge Jennifer Togliatti Dept 9</i>
01/29/2013	 Finding of Fact and Conclusions of Law Filed By: Plaintiff State of Nevada <i>Findings of Fact, Conclusions of Law and Order</i>
01/29/2013	 Order Denying Motion Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Pro Per Motion For Transportation Of Inmate For Court Appearance, Or In The Alternative, For Appearance By Telephone Or Video Conference &amp; Order Denying Defendant's Pro Per Motion For Clarification</i>
02/04/2013	 Notice of Entry Filed By: Defendant Hamm, Barron <i>Notice of Entry of Findings of Fact, Conclusions of law and Order</i>
02/12/2013	 Criminal Order to Statistically Close Case <i>Criminal Order to Statistically Close Case</i>
02/22/2013	 Notice of Appeal (criminal) Party: Defendant Hamm, Barron
02/25/2013	 Motion Filed By: Defendant Hamm, Barron <i>Motion for Reconsideration; and for Appointment of Counsel for "Direct Appeal"</i>

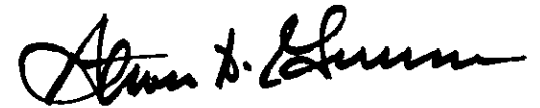
DEPARTMENT 11  
**CASE SUMMARY**  
**CASE NO. 09C256384**

02/26/2013	 Case Appeal Statement Filed By: Defendant Hamm, Barron <i>Case Appeal Statement</i>	
03/18/2013	<b>Motion to Reconsider</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth) <i>Motion for Reconsideration; and for Appointment of Counsel for "Direct Appeal"</i>	

**DATE**

**FINANCIAL INFORMATION**

<b>Defendant</b> Hamm, Barron	
Total Charges	175.00
Total Payments and Credits	0.00
<b>Balance Due as of 2/26/2013</b>	<b>175.00</b>



CLERK OF THE COURT

**ORDR**

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
JONATHAN COOPER  
Deputy District Attorney  
Nevada Bar #012195  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,  
Plaintiff,

-vs-

BARRON HAMM,  
#2707761

Defendant.

CASE NO: 09C256384

DEPT NO: IX

FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND ORDER

DATE OF HEARING: JANUARY 10, 2013  
TIME OF HEARING: 9:00 A.M.

THIS CAUSE having come on for hearing before the Honorable JUDGE JENNIFER TOGLIATTI, District Judge, on the 10th day of January, 2013, the Petitioner not being present, PROCEEDING IN FORMA PAUPERIS, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through JONATHAN COOPER, Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, no arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. On July 22, 2009, BARRON HAMM (hereinafter "Defendant") was charged by way of Indictment with COUNT 1 – Burglary While in Possession of a Firearm (Felony – NRS 205.060); COUNT 2 – Assault With a Deadly Weapon (Felony – NRS 200.471);

1 COUNT 3 – Murder With Use of a Deadly Weapon (Felony – NRS 200.010, 200.030,  
2 193.165); and COUNT 4 – Carrying Concealed Firearm or Other Deadly Weapon (Felony –  
3 NRS 202.350(1)(d)(3)).

4 2. On March 12, 2010, Defendant pled guilty to COUNT 1 – Second Degree  
5 Murder With Use of a Deadly Weapon and COUNT 2 – Assault With a Deadly Weapon. An  
6 Amended Indictment and Guilty Plea Agreement (“GPA”) were filed in open court the same  
7 day.

8 3. On May 14, 2010, Defendant was sentenced, pursuant to the GPA, as follows:  
9 COUNT 1 – to LIFE with a minimum parole eligibility of TEN (10) YEARS plus a  
10 consecutive term of TWO HUNDRED FORTY (240) MONTHS with a minimum parole  
11 eligibility of NINETY-SIX (96) MONTHS for the use of a deadly weapon; and COUNT 2 –  
12 to a maximum of SEVENTY-TWO (72) MONTHS with a minimum parole eligibility of  
13 TWENTY-FOUR (24) MONTHS; COUNT 2 to run consecutive to COUNT 1; with THREE  
14 HUNDRED SEVENTY-FIVE (375) DAYS credit for time served. Judgment of Conviction  
15 was filed on May 20, 2010.

16 4. Defendant filed an untimely Notice of Appeal on August 5, 2010, and the  
17 Nevada Supreme Court dismissed Defendant’s appeal on September 10, 2010. Remittitur  
18 issued on October 6, 2010.

19 5. On February 13, 2012, Defendant filed a Motion to Withdraw Guilty Plea. On  
20 February 22, 2012, the State filed its Opposition to Defendant’s Motion to Withdraw Guilty  
21 Plea. On February 24, 2012, the District Court denied Defendant’s Motion to Withdraw  
22 Guilty Plea. In the court minutes from this hearing the court noted that by that time, any  
23 Petition for Writ of Habeas Corpus (Post-Conviction) Defendant would attempt to file would  
24 be untimely.

25 6. On October 31, 2012, Defendant filed a Motion to Appoint Counsel and  
26 Petition for Writ of Habeas Corpus (Post-Conviction) to which the State filed its Response  
27 and Motion to Dismiss on November 14, 2012. The Court entertained Defendant’s Petition  
28 on January 10, 2013.



7. Defendant Petition was time barred pursuant to NRS 34.726.

8. Defendant did not show good cause for the late filing of his Petition.

9. Defendant was not entitled to the appointment of counsel as he failed to demonstrate that any petition he might file would not be dismissed summarily as untimely per NRS 34.726 or that any requested review would not be frivolous.

## CONCLUSIONS OF LAW

1. Pursuant to NRS 34.726:

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

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

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

2. The Supreme Court of Nevada has held that NRS 34.726 should be construed by its plain meaning. Pellegrini v. State, 117 Nev. 860, 873, 34 P.3d 519, 528 (2001). As per the language of the statute, the one-year time bar proscribed by NRS 34.726 begins to run from the date the judgment of conviction is filed or a remittitur from a timely direct appeal is filed. Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133-34 (1998).

3. The one-year time limit for preparing petitions for post-conviction relief under NRS 34.726 is strictly applied. In Gonzales v. State, 118 Nev. 590, 53 P.3d 901 (2002), the Nevada Supreme Court rejected a habeas petition that was filed two (2) days late despite evidence presented by the defendant that he purchased postage through the prison and mailed the Notice within the one-year time limit. The Petition in this case was filed over a year late.

4. The Nevada Supreme Court has held that the district court has *a duty* to consider whether a defendant's post-conviction petition claims are procedurally barred. *State v. Eighth Judicial District Court*, 121 Nev. 225, 112 P.3d 1070 (2005). The Court

1 found that “[a]pplication of the statutory procedural default rules to post-conviction habeas  
2 petitions is mandatory,” noting:

3 Habeas corpus petitions that are filed many years after conviction  
4 are an unreasonable burden on the criminal justice system. The  
5 necessity for a workable system dictates that there must exist a  
time when a criminal conviction is final.

6 121 Nev. at 231, 112 P.3d at 1074. Additionally, the Court noted that procedural bars  
7 “cannot be ignored [by the district court] when properly raised by the State.” 121 Nev. at  
8 233, 112 P.3d at 1075. The Nevada Supreme Court has granted no discretion to the district  
9 courts regarding whether to apply the statutory procedural bars; the rules *must* be applied.

10 5. Generally, ‘good cause’ means a ‘substantial reason; one that affords a legal  
11 excuse.’” Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) *quoting Colley v.*  
12 State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989). “In order to demonstrate good cause,  
13 a petitioner must show that an impediment external to the defense prevented him or her from  
14 complying with State procedural default rules.” Hathaway, 71 P.3d at 506 *citing Pellegrini v.*  
15 State, 117 Nev. 860, 886-87, 34 P.3d 519, 537 (2001); Lozada v. State, 110 Nev. 349, 353,  
16 871 P.2d 944, 946 (1994); Passanisi v. Director, 105 Nev. 63, 66, 769 P.2d 72, 74 (1989).  
17 An impediment external to the defense can be demonstrated by a showing “that the factual or  
18 legal basis for the claim was not reasonably available to counsel or that some interference by  
19 officials made compliance impracticable.” Hathaway, 71 P.3d at 506.

20 6. In Coleman v. Thompson, 501 U.S. 722 (1991), the United States Supreme  
21 Court ruled that the Sixth Amendment provides no right to counsel in post-conviction  
22 proceedings. In McKague v. Warden, 112 Nev. 159, 912 P.2d 255 (1996), the Nevada  
23 Supreme Court similarly observed that “[t]he Nevada Constitution...does not guarantee a  
24 right to counsel in post-conviction proceedings, as we interpret the Nevada Constitution’s  
25 right to counsel provision as being coextensive with the Sixth Amendment to the United  
26 States Constitution.”

27 //

28 //

7. NRS 34.750 provides, in pertinent part:

[a] petition may allege that the Defendant is unable to pay the 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.

8. Under NRS 34.750, it is clear that the court has discretion in determining whether to appoint counsel if the petition is not summarily dismissed. McKague specifically held that, with the exception of cases in which appointment of counsel is mandated by statute, one does not have “[a]ny constitutional or statutory right to counsel at all” in post-conviction proceedings. *Id.* at 164.

9. 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)).

## ORDER

THEREFORE, IT IS HEREBY ORDERED that the Petition for Post-Conviction Relief shall be, and it is, hereby denied.

DATED this 28<sup>th</sup> day of January, 2013.

*Jennifer L. Ingrate*  
DISTRICT JUDGE

**STEVEN B. WOLFSON**  
Clark County District Attorney  
Nevada Bar #001565

BY JONATHAN COOPER  
Deputy District Attorney  
Nevada Bar #012195

1 CERTIFICATE OF SERVICE

2 I certify that on the 17th day of January, 2013, I mailed a copy of the foregoing  
3 proposed Findings of Fact, Conclusions of Law, and Order to:

4 BARRON HAMM #1052277  
5 HIGH DESERT STATE PRISON  
6 P.O. BOX 650  
7 INDIAN SPRINGS, NV 89018

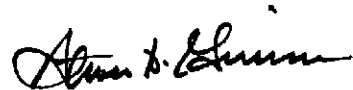
8 BY:



9 R. JOHNSON

10 Secretary for the District Attorney's Office

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28 KC/JC/jr/M-1



CLERK OF THE COURT

NEO

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

BARRON HAMM,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent,

Case No: 09C256384

Dept No: IX

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

**PLEASE TAKE NOTICE** that on January 29, 2013, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on February 4, 2013.

STEVEN D. GRIERSON, CLERK OF THE COURT



Teodora Jones, Deputy Clerk

CERTIFICATE OF MAILING

I hereby certify that on this 4 day of February 2013, I placed a copy of this Notice of Entry in:

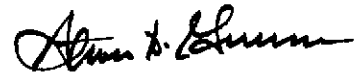
The bin(s) located in the Office of the District Court Clerk of:  
Clark County District Attorney's Office  
Attorney General's Office – Appellate Division-

☒ The United States mail addressed as follows:

**Barron Hamm # 1052277**  
P.O. Box 650  
Indian Springs, NV 89018



Teodora Jones, Deputy Clerk



CLERK OF THE COURT

**ORDR**

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
JONATHAN COOPER  
Deputy District Attorney  
Nevada Bar #012195  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

BARRON HAMM,  
#2707761

Defendant.

CASE NO: 09C256384

DEPT NO: IX

FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND ORDER

DATE OF HEARING: JANUARY 10, 2013  
TIME OF HEARING: 9:00 A.M.

THIS CAUSE having come on for hearing before the Honorable JUDGE JENNIFER TOGLIATTI, District Judge, on the 10th day of January, 2013, the Petitioner not being present, PROCEEDING IN FORMA PAUPERIS, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through JONATHAN COOPER, Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, no arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. On July 22, 2009, BARRON HAMM (hereinafter "Defendant") was charged by way of Indictment with COUNT 1 – Burglary While in Possession of a Firearm (Felony – NRS 205.060); COUNT 2 – Assault With a Deadly Weapon (Felony – NRS 200.471);

1 COUNT 3 – Murder With Use of a Deadly Weapon (Felony – NRS 200.010, 200.030,  
2 193.165); and COUNT 4 – Carrying Concealed Firearm or Other Deadly Weapon (Felony –  
3 NRS 202.350(1)(d)(3)).

4 2. On March 12, 2010, Defendant pled guilty to COUNT 1 – Second Degree  
5 Murder With Use of a Deadly Weapon and COUNT 2 – Assault With a Deadly Weapon. An  
6 Amended Indictment and Guilty Plea Agreement (“GPA”) were filed in open court the same  
7 day.

8 3. On May 14, 2010, Defendant was sentenced, pursuant to the GPA, as follows:  
9 COUNT 1 – to LIFE with a minimum parole eligibility of TEN (10) YEARS plus a  
10 consecutive term of TWO HUNDRED FORTY (240) MONTHS with a minimum parole  
11 eligibility of NINETY-SIX (96) MONTHS for the use of a deadly weapon; and COUNT 2 –  
12 to a maximum of SEVENTY-TWO (72) MONTHS with a minimum parole eligibility of  
13 TWENTY-FOUR (24) MONTHS; COUNT 2 to run consecutive to COUNT 1; with THREE  
14 HUNDRED SEVENTY-FIVE (375) DAYS credit for time served. Judgment of Conviction  
15 was filed on May 20, 2010.

16 4. Defendant filed an untimely Notice of Appeal on August 5, 2010, and the  
17 Nevada Supreme Court dismissed Defendant’s appeal on September 10, 2010. Remittitur  
18 issued on October 6, 2010.

19 5. On February 13, 2012, Defendant filed a Motion to Withdraw Guilty Plea. On  
20 February 22, 2012, the State filed its Opposition to Defendant’s Motion to Withdraw Guilty  
21 Plea. On February 24, 2012, the District Court denied Defendant’s Motion to Withdraw  
22 Guilty Plea. In the court minutes from this hearing the court noted that by that time, any  
23 Petition for Writ of Habeas Corpus (Post-Conviction) Defendant would attempt to file would  
24 be untimely.

25 6. On October 31, 2012, Defendant filed a Motion to Appoint Counsel and  
26 Petition for Writ of Habeas Corpus (Post-Conviction) to which the State filed its Response  
27 and Motion to Dismiss on November 14, 2012. The Court entertained Defendant’s Petition  
28 on January 10, 2013.

- 1           7. Defendant Petition was time barred pursuant to NRS 34.726.
- 2           8. Defendant did not show good cause for the late filing of his Petition.
- 3           9. Defendant was not entitled to the appointment of counsel as he failed to
- 4 demonstrate that any petition he might file would not be dismissed summarily as untimely
- 5 per NRS 34.726 or that any requested review would not be frivolous.

6                                   **CONCLUSIONS OF LAW**

7           1. Pursuant to NRS 34.726:

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 of the 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
- 17 unduly prejudice the petitioner.

18           2. The Supreme Court of Nevada has held that NRS 34.726 should be construed

19 by its plain meaning. Pellegrini v. State, 117 Nev. 860, 873, 34 P.3d 519, 528 (2001). As

20 per the language of the statute, the one-year time bar proscribed by NRS 34.726 begins to

21 run from the date the judgment of conviction is filed or a remittitur from a timely direct

22 appeal is filed. Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133-34 (1998).

23           3. The one-year time limit for preparing petitions for post-conviction relief under

24 NRS 34.726 is strictly applied. In Gonzales v. State, 118 Nev. 590, 53 P.3d 901 (2002), the

25 Nevada Supreme Court rejected a habeas petition that was filed two (2) days late despite

26 evidence presented by the defendant that he purchased postage through the prison and

27 mailed the Notice within the one-year time limit. The Petition in this case was filed over a

28 year late.

          4. The Nevada Supreme Court has held that the district court has *a duty* to

consider whether a defendant's post-conviction petition claims are procedurally barred.

State v. Eighth Judicial District Court, 121 Nev. 225, 112 P.3d 1070 (2005). The Court



1 found that “[a]pplication of the statutory procedural default rules to post-conviction habeas  
2 petitions is mandatory,” noting:

3 Habeas corpus petitions that are filed many years after conviction  
4 are an unreasonable burden on the criminal justice system. The  
5 necessity for a workable system dictates that there must exist a  
time when a criminal conviction is final.

6 121 Nev. at 231, 112 P.3d at 1074. Additionally, the Court noted that procedural bars  
7 “cannot be ignored [by the district court] when properly raised by the State.” 121 Nev. at  
8 233, 112 P.3d at 1075. The Nevada Supreme Court has granted no discretion to the district  
9 courts regarding whether to apply the statutory procedural bars; the rules *must* be applied.

10 5. Generally, ‘good cause’ means a ‘substantial reason; one that affords a legal  
11 excuse.’” Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) *quoting Colley v.*  
12 State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989). “In order to demonstrate good cause,  
13 a petitioner must show that an impediment external to the defense prevented him or her from  
14 complying with State procedural default rules.” Hathaway, 71 P.3d at 506 *citing Pellegrini v.*  
15 State, 117 Nev. 860, 886-87, 34 P.3d 519, 537 (2001); Lozada v. State, 110 Nev. 349, 353,  
16 871 P.2d 944, 946 (1994); Passanisi v. Director, 105 Nev. 63, 66, 769 P.2d 72, 74 (1989).  
17 An impediment external to the defense can be demonstrated by a showing “that the factual or  
18 legal basis for the claim was not reasonably available to counsel or that some interference by  
19 officials made compliance impracticable.” Hathaway, 71 P.3d at 506.

20 6. In Coleman v. Thompson, 501 U.S. 722 (1991), the United States Supreme  
21 Court ruled that the Sixth Amendment provides no right to counsel in post-conviction  
22 proceedings. In McKague v. Warden, 112 Nev. 159, 912 P.2d 255 (1996), the Nevada  
23 Supreme Court similarly observed that “[t]he Nevada Constitution...does not guarantee a  
24 right to counsel in post-conviction proceedings, as we interpret the Nevada Constitution’s  
25 right to counsel provision as being coextensive with the Sixth Amendment to the United  
26 States Constitution.”

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1 7. NRS 34.750 provides, in pertinent part:

2 [a] petition may allege that the Defendant is unable to pay the  
3 costs of the proceedings or employ counsel. If the court is  
4 satisfied that the allegation of indigency is true and the petition is  
5 not dismissed summarily, the court may appoint counsel at the  
6 time the court orders the filing of an answer and a return. In  
7 making its determination, the court may consider whether:

- 8 (a) The issues are difficult;  
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10 proceedings; or  
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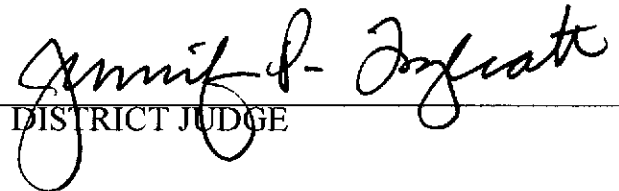
12 8. Under NRS 34.750, it is clear that the court has discretion in determining  
13 whether to appoint counsel if the petition is not summarily dismissed. McKague specifically  
14 held that, with the exception of cases in which appointment of counsel is mandated by  
15 statute, one does not have "[a]ny constitutional or statutory right to counsel at all" in post-  
16 conviction proceedings. Id. at 164.

17 9. The Nevada Supreme Court has observed that a petitioner "must show that the  
18 requested review is not frivolous before he may have an attorney appointed." Peterson v.  
19 Warden, Nevada State Prison, 87 Nev. 134, 483 P.2d 204 (1971) (citing former statute NRS  
20 177.345(2)).


21 **ORDER**

22 THEREFORE, IT IS HEREBY ORDERED that the Petition for Post-Conviction  
23 Relief shall be, and it is, hereby denied.

24 DATED this 28<sup>th</sup> day of January, 2013.

25   
DISTRICT JUDGE

26 STEVEN B. WOLFSON  
27 Clark County District Attorney  
28 Nevada Bar #001565

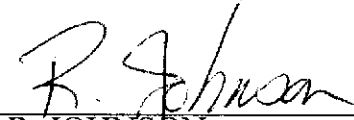
BY   
JONATHAN COOPER  
Deputy District Attorney  
Nevada Bar #012195

1 CERTIFICATE OF SERVICE

2 I certify that on the 17th day of January, 2013, I mailed a copy of the foregoing  
3 proposed Findings of Fact, Conclusions of Law, and Order to:

4 BARRON HAMM #1052277  
5 HIGH DESERT STATE PRISON  
6 P.O. BOX 650  
7 INDIAN SPRINGS, NV 89018

8 BY:



9 R. JOHNSON

10 Secretary for the District Attorney's Office

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**DISTRICT COURT  
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****July 22, 2009**

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09C256384

The State of Nevada vs Barron Hamm

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**July 22, 2009****11:30 AM****Grand Jury Indictment****GRAND JURY  
INDICTMENT****Relief Clerk: Shelly****Landwehr/sl****Reporter/Recorder:****Cheryl Carpenter****Heard By: Linda Bell****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Mitchell, Scott S.

Attorney

**JOURNAL ENTRIES**

- Duane Schlismann, Grand Jury Foreman, 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 09AGJ036X to the Court. COURT ORDERED, the indictment may be filed and is assigned Case Number C256384, Department 14. Mr. Mitchell requested a bench warrant, COURT ORDERED, NO BAIL BENCH WARRANT. Exhibit(s) 1-34 lodged with Clerk of District Court.

BW(CUSTODY)

07/29/09 09:00 AM INITIAL ARRAIGNMENT (DEPT. 14)

**DISTRICT COURT  
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****July 27, 2009**

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09C256384

The State of Nevada vs Barron Hamm

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**July 27, 2009****9:00 AM****Bench Warrant Return****BENCH WARRANT  
RETURN Court  
Clerk: Linda Skinner  
Reporter/Recorder:  
Cheryl Gardner  
Heard By: Donald  
Mosley****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coffee, Scott L.

Attorney

Hamm, Barron

Defendant

Public Defender

Attorney

Villegas, Victoria A.

Attorney

**JOURNAL ENTRIES**

- Mr. Coffee advised this matter was taken to the Grand Jury before the Preliminary Hearing and that the Public Defender's Office needs to be appointed. COURT SO ORDERED. DEFENDANT ARRAIGNED, PLED NOT GUILTY AND WAIVED THE SIXTY (60) DAY RULE. COURT ORDERED, matter set for trial in ordinary course with priority. Mr. Coffee requested 21 days from the filing of the Grand Jury Transcript to file a writ. Court advised Defendants rights are reserved. CUSTODY

1/13/10 9:00 AM STATUS CHECK: DISCOVERY

3/9/10 9:00 AM CALENDAR CALL (#1)

3/15/10 1:30 PM JURY TRIAL (#1)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 08, 2009

09C256384

The State of Nevada vs Barron Hamm

September 08, 2009 9:00 AM

Petition for Writ of Habeas  
CorpusPTN FOR WRIT OF  
HABEAS CORPUS  
Court Clerk: Linda  
Skinner  
Reporter/Recorder:  
Maureen Schorn  
Heard By: Donald  
Mosley

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

**PARTIES****PRESENT:**Campbell, Donishia L.  
Coffee, Scott L.  
Hamm, Barron  
Jimenez, Sonia V.  
Public DefenderAttorney  
Attorney  
Defendant  
Attorney  
Attorney**JOURNAL ENTRIES**

- Court noted the issue is probable cause primarily as to Count 1, that the Defense does not feel there was enough evidence presented to the Grand Jury to support this Count. Statements by Mr. Coffee in support of the Writ. Statements by Ms. Jimenez in opposition. COURT ORDERED, Writ DENIED. Mr. Coffee requested a stay to appeal to the Supreme Court. Court DENIED request.

CUSTODY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 21, 2009

09C256384

The State of Nevada vs Barron Hamm

September 21, 2009

9:00 AM

Motion to Dismiss

DEFT'S PRO PER  
MTN TO DISMISS  
COUNSEL/09 Court  
Clerk: Tina Hurd  
Reporter/Recorder:  
Renee Vincent  
Heard By: Linda Bell

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

**PARTIES****PRESENT:**

Coffee, Scott L.  
Hamm, Barron  
Jimenez, Sonia V.  
Public Defender

Attorney  
Defendant  
Attorney  
Attorney

**JOURNAL ENTRIES**

- Court advised she read the motion and Deft. Hamm is indicating Mr. Coffee has not been communicating with his family. Mr. Coffee advised he met with Deft's family at the time of the Preliminary Hearing, 15 people, and provided discovery to them. They have his phone number and he returns phone calls. Mr. Coffee advised the family was not present at the time of the Writ. An unidentified family member present and stated they were not aware of the hearing and have not been able to contact Mr. Coffee. Colloquy between Court and Deft. COURT ORDERED, motion DENIED. CUSTODY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 06, 2010

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09C256384

The State of Nevada vs Barron Hamm

---

January 06, 2010

9:00 AM

Motion to Dismiss

DEFT' PRO PER  
MTN TO DISMISS  
COUNSEL  
AND APPOINTMENT  
OF ALTERNATIVE  
COUNSEL/10 Relief  
Clerk: Carol  
Donahoo  
Reporter/Recorder:  
Renee Vincent  
Heard By: Bell, Linda

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

**PARTIES****PRESENT:**

Coffee, Scott L.  
Hamm, Barron  
Public Defender  
Turner, Robert B.

Attorney  
Defendant  
Attorney  
Attorney

**JOURNAL ENTRIES**

- Upon Court's inquiry, Deft. Hamm stated he would like new counsel; colloquy. COURT ORDERED, matter CONTINUED. In the meantime, Mr. Coffee to meet with Deft. to try negotiate a solution.  
CUSTODY



**DISTRICT COURT  
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****January 13, 2010**

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09C256384

The State of Nevada vs Barron Hamm

---

**January 13, 2010****9:00 AM****All Pending Motions****ALL PENDING  
MOTIONS (1/13/10)****Relief Clerk: Susan****Jovanovich /sj****Reporter/Recorder:****Cheryl Carpenter****Heard By: Linda Bell****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coffee, Scott L.

Attorney

Hamm, Barron

Defendant

Jimenez, Sonia V.

Attorney

Public Defender

Attorney

**JOURNAL ENTRIES**

- STATUS CHECK: DISCOVERY...DEFT'S PRO PER MOTION TO DISMISS COUNSEL AND APPOINTMENT OF ALTERNATIVE COUNSEL

Mr. Coffee advised issues have been resolved between Deft. and himself, and Deft. is comfortable on having him remain in the case. Upon Court's inquiry, Mr. Coffee advised there are no remaining issues with Discovery; and requested any exculpatory information the State may have, to be provided. Ms. Jimenez advised she is aware of the obligations, and State will comply with the rules and procedures. Court so noted. COURT ORDERED, Deft's Motion is MOOT.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 10, 2010

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09C256384

The State of Nevada vs Barron Hamm

---

March 10, 2010

9:00 AM

Calendar Call

CALENDAR CALL

Court Clerk: Tina  
Hurd

Reporter/Recorder:

Cheryl Carpenter

Heard By: Linda Bell

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

**PARTIES****PRESENT:**

Campbell, Donishia L.

Attorney

Coffee, Scott L.

Attorney

Hamm, Barron

Defendant

Jimenez, Sonia V.

Attorney

Public Defender

Attorney

**JOURNAL ENTRIES**

- Mr. Coffee announced ready for trial and advised they reviewed the State's file and will be picking up copies this morning. He does not anticipate a problem. Mr. Coffee advised he made a Brady request during the file review regarding anyone carrying a weapon at the party. Additionally, several of the witnesses have been represented by his office as juveniles. Mr. Coffee advised his review of the situation is it will not result in a conflict and they will not be using any confidential information. Mr. Coffee advised, also, he expects the issue that this was the victim's 14th birthday party to be raised and stated it does not seem to be part of the res gestae and he will be asking to remove that from the jury's consideration. Mr. Coffee requested a status check on Friday to make sure everything is set and, if there is a resolution, they will not have to scramble to be heard at the last minute. Conference at the bench. COURT ORDERED, this case will proceed to trial on Monday; matter set for status check on Friday and the Court will take up any pre-trial issues at that time.

CUSTODY

**09C256384**

3-12-10 8:45 AM STATUS CHECK: TRIAL READINESS

3-15-10 9:00 AM JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****March 12, 2010**

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09C256384

The State of Nevada vs Barron Hamm

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**March 12, 2010****8:45 AM****Status Check****STATUS CHECK:  
TRIAL READINESS  
Court Clerk: Tina  
Hurd  
Reporter/Recorder:  
Renee Vincent  
Heard By: Linda Bell****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Campbell, Donishia L.

Attorney

Coffee, Scott L.

Attorney

Hamm, Barron

Defendant

Jimenez, Sonia V.

Attorney

Public Defender

Attorney

**JOURNAL ENTRIES**

- Guilty Plea Agreement FILED IN OPEN COURT. NEGOTIATIONS: State retains full right to argue on the charge of Second Degree Murder. Parties stipulate to a sentence of 8-20 years for the deadly weapon enhancement. Parties also stipulate to a sentence of 24-72 months for the charge of Assault with a Deadly Weapon and agree to run the sentence consecutive to Count 1. Further, this agreement is conditional on the Court agreeing to and following through with the stipulated portion of the sentence. Ms. Jimenez advised, if the Court is not inclined to abide by the stipulations, either party may withdraw from the negotiations. Court acknowledged. DEFT. HAMM ARRAIGNED AND PLED GUILTY TO THE AMENDED INDICTMENT FILED IN OPEN COURT CHARGING--COUNT 1 - SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON (F) and COUNT 2 - ASSAULT WITH A DEADLY WEAPON (F). COURT ACCEPTED plea and ORDERED, matter referred to the Division of Parole and Probation (P&P) and set for sentencing.

**09C256384**

CUSTODY

5-14-10 8:45 AM SENTENCING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 14, 2010

09C256384

The State of Nevada vs Barron Hamm

May 14, 2010

8:45 AM

Sentencing

SENTENCING

Court Clerk: Tina  
HurdReporter/Recorder:  
Renee Vincent

Heard By: Linda Bell

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

**PARTIES****PRESENT:**

Coffee, Scott L.

Hamm, Barron

Jimenez, Sonia V.

Public Defender

Attorney

Defendant

Attorney

Attorney

**JOURNAL ENTRIES**

- Conference at the bench. DEFT. HAMM ADJUDGED GUILTY OF COUNT 1 - SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON (F) and COUNT 2 - ASSAULT WITH A DEADLY WEAPON (F). Matter argued and submitted. Sworn statements by Karen Kennedy Grill and the victim's mother Kimberly Brown Fleming. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee and \$150.00 DNA Analysis fee including testing to determine genetic markers, Deft. SENTENCED as follows: Count 1 - to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC) plus a CONSECUTIVE term of a MAXIMUM of TWO HUNDRED FORTY (240) MONTHS with a MINIMUM parole eligibility of NINETY SIX (96) MONTHS for use of a deadly weapon. Court stated her findings regarding the weapons enhancement. Count 2 - to a MAXIMUM term of SEVENTY TWO (72) MONTHS with a MINIMUM parole eligibility of TWENTY FOUR (24) MONTHS in the Nevada Department of Corrections (NDC), CONSECUTIVE to Count 1. 375 DAYS credit for time served. Deft. to PAY \$36,796.27 RESTITUTION to the Fleming Family and \$6,000.00 RESTITUTION to

**09C256384**

Victims of Violent Crimes. BOND, if any, EXONERATED.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 04, 2010

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09C256384

The State of Nevada vs Barron Hamm

---

August 04, 2010

8:45 AM

Motion to Withdraw as  
Counsel

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 15C

COURT CLERK: Tina Hurd; Sandra Harrell

RECORDER: Renee Vincent

REPORTER:

**PARTIES****PRESENT:**

State of Nevada

Plaintiff

WATERS, WILLIAM M., ESQ

Attorney

Westmeyer, Daniel

Attorney

**JOURNAL ENTRIES**

- Defendant not present, incarcerated at NDC. Mr. Waters advised he will send file to Defendant.  
COURT ORDERED, Motion to Withdraw is GRANTED.

NDC

CLERK'S NOTE: A copy of the above minute order was mailed to Barron Hamm #1052277 @ High  
Desert State Prison PO BOX 650, Indian Springs, NV 89018./sjh



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**September 01, 2010**

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09C256384

The State of Nevada vs Barron Hamm

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**September 01, 2010    8:45 AM            Motion for Appointment**

**HEARD BY:**    Bell, Linda Marie

**COURTROOM:**    RJC Courtroom 15C

**COURT CLERK:**    Tina Hurd; Shelly Landwehr

**RECORDER:**    Renee Vincent

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS, Deft. did not show a basis and did not file a petition. Further, Court noted it is unclear if Mr. Coffee will be filing an appeal. COURT ORDERED, motion, DENIED.

NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**August 10, 2011**

---

09C256384

The State of Nevada vs Barron Hamm

---

**August 10, 2011**

**8:45 AM**

**Motion for Order**

**HEARD BY:** Bonaventure, Joseph T.

**COURTROOM:** RJC Courtroom 15C

**COURT CLERK:** Tina Hurd

**RECORDER:** Renee Vincent

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Frank Ponticello, DDA, present for the State of Nevada.

- Deft. Hamm not present, in Proper Person.

Mr. Ponticello submitted to the Court's discretion. Court advised this is a closed appeal, however, he would prefer a written Opposition. Mr. Ponticello requested thirty days. COURT ORDERED, matter CONTINUED.

NDC

CONTINUED TO: 9-14-11 8:45 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**September 14, 2011**

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09C256384

The State of Nevada vs Barron Hamm

---

**September 14, 2011     8:45 AM**

**Motion for Order**

**HEARD BY:**    Bell, Linda Marie

**COURTROOM:**    RJC Courtroom 15C

**COURT CLERK:**    Tina Hurd

**RECORDER:**    Renee Vincent

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Brian Kochevar, DDA, present for the State of Nevada.

- Deft. Hamm not present, in Proper Person.

Court advised Deft. Hamm has failed to provide any reason why he needs the transcripts and

ORDERED, motion DENIED WITHOUT PREJUDICE. Court advised she will reconsider if Deft. provides a reason he needs the transcripts.

NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**February 24, 2012**

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09C256384

The State of Nevada vs Barron Hamm

---

**February 24, 2012**

**8:45 AM**

**Motion to Withdraw Plea**

**HEARD BY:** Bell, Linda Marie

**COURTROOM:** RJC Courtroom 15C

**COURT CLERK:** Tina Hurd

**RECORDER:** Renee Vincent

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Maria Lavell, DDA, present for the State of Nevada.

- Deft. Hamm not present, in Proper Person.

Court advised she read the motion and the State's opposition and no oral argument will be taken.

Court stated it appears the motion would have been more properly brought as a post-conviction petition and, even then, it would be untimely. Under the circumstances of the case, there does not appear to be any basis to grant the motion. COURT ORDERED, motion DENIED. State to prepare the Order.

NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**December 10, 2012**

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09C256384

The State of Nevada vs Barron Hamm

---

**December 10, 2012      9:00 AM      Motion for Clarification**

**HEARD BY:**    Cory, Kenneth

**COURTROOM:**    RJC Courtroom 10C

**COURT CLERK:**    Athena Trujillo

**RECORDER:**    Yvette G. Sison-Britt

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Jonathan Cooper, Deputy District Attorney, present for the State of Nevada.  
Defendant Hamm not present.

Court noted the Defendant s request for counsel is premature and advised the Writ of Habeas Corpus is scheduled for 01/10/13. COURT ORDERED, matter CONTINUED.

NDC

CONTINUED TO: 01/10/13 9:00 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**December 19, 2012**

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09C256384

The State of Nevada vs Barron Hamm

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**December 19, 2012      9:00 AM      Motion**

**HEARD BY:**    Barker, David

**COURTROOM:**    RJC Courtroom 11B

**COURT CLERK:**    Athena Trujillo

**RECORDER:**    Yvette G. Sison-Britt

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Frank Ponticello, Deputy District Attorney, present for the State of Nevada.  
Defendant Hamm not present.

COURT ORDERED, motion DENIED, hearing set for 01/10/13 STANDS.

NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**December 24, 2012**

---

09C256384

The State of Nevada vs Barron Hamm

---

**December 24, 2012      9:00 AM      Motion**

**HEARD BY:**    Togliatti, Jennifer

**COURTROOM:**    RJC Courtroom 10C

**COURT CLERK:**    Athena Trujillo

**RECORDER:**    Yvette G. Sison-Britt

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Sam Martinez, Deputy Public Defender, present for the State of Nevada.  
Defendant Hamm not present.

COURT noted Defendant's Motion is premature and ORDERED, matter CONTINUED.

NDC

CONTINUED TO: 01/10/13 9:00 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****January 10, 2013**

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09C256384

The State of Nevada vs Barron Hamm

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**January 10, 2013****9:00 AM****All Pending Motions****HEARD BY:** Togliatti, Jennifer**COURTROOM:** RJC Courtroom 10D**COURT CLERK:** Athena Trujillo**RECORDER:** Yvette G. Sison-Britt**REPORTER:****PARTIES****PRESENT:****JOURNAL ENTRIES**

- Jonathan Cooper, Deputy District Attorney, present for the State of Nevada.  
Defendant Hamm not present.

DEFENDANT'S PRO SE ORDER FOR TRANSPORTATION OF INMATE FOR COURT  
APPEARANCE OR, IN THE ALTERNATIVE, BY TELEPHONE OR VIDEO CONFERENCE ...  
PETITION FOR WRIT OF HABEAS CORPUS ... DEFENDANT'S PRO SE MOTION FOR  
CLARIFICATION

COURT noted the Defendant was not transported because it does not entertain oral arguments on these matters and ORDERED, Defendant s presence WAIVED. COURT noted the Defendant requested to be transported, but as it does not entertain oral argument in these matters, ORDERED, Defendant's Pro Se Order for Transportation of Inmate for Court Appearance, or in the Alternative, by Telephone or Video Conference DENIED. With respect to the Petition for Writ of Habeas Corpus, State advised the Court of the Defendant's birth date. COURT noted the reasons listed are insufficient and the Defendant was not a minor and ORDERED, Motion DENIED. COURT FURTHER ORDERED, Motion for Clarification DENIED.

NDC

CLERK'S NOTE: A copy of this minute order has been mailed to:

PRINT DATE: 02/26/2013

Page 21 of 22

Minutes Date:

July 22, 2009



**09C256384**

Barron Hamm #1052277  
High Desert State Prison  
PO Box 650 HDSP  
Indian Springs, NV 89070

## Exhibit List

Case: 09C256384 Party: Sort Order: Status Defendant Name: Hamm, Barron 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 -34		State of Nevada	District Court Criminal/Civil 07/24/2009	Evidence Vault
Comment: ExhibitID : 181950								

# 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; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

vs.

BARRON HAMM,

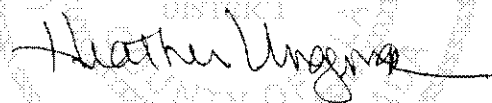
Defendant(s).

Case No: C256384  
Dept No: XI

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 26 day of February 2013.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk