

1 KEITH C. BROWER, ESQ.
2 NEVADA BAR#007288
3 THE LAW OFFICES OF KEITH C. BROWER, LLC
4 8275 SOUTH EASTERN #200
5 LAS VEGAS, NEVADA 89123
6 (702) 451-4921


CLERK OF THE COURT

Electronically Filed
Dec 16 2013 11:18 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

7 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND**
8 **FOR THE COUNTY OF CLARK**

9 STATE OF NEVADA)
10 Plaintiff,)

Case No. : 07C232494-1
Dept. No.: XXIV

11 vs.)

12 DELARIAN WILSON,)
13 ID# 1966773)
14 Defendant)

15 **NOTICE OF APPEAL**

16 Notice is hereby given that Delarian Wilson, defendant above named, hereby appeals to the
17 Supreme Court of Nevada from the denial of Defendant's Post Conviction Petition For Writ Of
18 Habeas Corpus and The Findings Of Fact, Conclusions Of Law And Order filed on or about
19 November 12, 2013 with a Notice Of Entry Of Order filed on or about November 19, 2013.

20 Dated this 10th day of December, 2013.



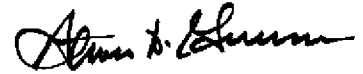
21 Keith C. Brower, Esq.
22 The Law Offices Of Keith C. Brower, LLC.
23 8275 South Eastern #200
24 Las Vegas, NV 89123
25 (702) 451-4921
26 Attorney For Appellant

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11 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND
12 FOR THE COUNTY OF CLARK**

13 STATE OF NEVADA)
14 Plaintiff,)
15)
16 vs.)
17)
18 DELARIAN WILSON,)
19 ID# 1966773)
20 Defendant)
21

Electronically Filed
12/10/2013 01:54:59 PM
Case No. : 07C232494-1
Dept. No.: XXIV



CLERK OF THE COURT

22 **CASE APPEAL STATEMENT**

23 1. Name of appellant filing this case appeal statement:

24 DELARIAN WILSON

25 2. Identify the judge issuing the decision, judgment, or order appealed from:

26 The Honorable James Bixler, Eighth Judicial District Court Department XXIV.

27 3. Identify each appellant and the name and address of counsel for each appellant:

28 Keith C. Brower
The Law Offices Of Keith C. Brower, LLC
8275 South Eastern #200
Las Vegas, NV 89123

1 Identify each respondent and the name and address of appellate counsel, if known,
2 for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as
3 much and provide the name and address of that respondent's trial counsel):

4 Steven Wolfson
5 Clark County District Attorney
6 200 Lewis Avenue
7 Las Vegas8, NV 89101

1 5. Indicate whether any attorney identified above in response to question 3 or 4 is not
2 licensed to practice law in Nevada and, if so, whether the district court granted that attorney
3 permission to appear under SCR 42 (attach a copy of any district court order granting such
4 permission):

5
6 Not Applicable

7 6. Indicate whether appellant was represented by appointed or retained counsel in the
8 district court:

9
10 Appointed

11 7. Indicate whether appellant is represented by appointed or retained counsel on
12 appeal:

13 Appointed

14
15 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the
16 date of entry of the district court order granting such leave:

17 Not Applicable

18
19 9. Indicate the date the proceedings commenced in the district court (e.g., date
20 complaint, indictment, information, or petition was filed):

21 On or about April 19, 2007.

22 10. Provide a brief description of the nature of the action and result in the district
23 court, including the type of judgment or order being appealed and the relief granted by the
24 district court:
25

26 This case stems from the reconsideration of Appellant's Petition For Writ Of Habeas
27 Corpus, and the denial of Appellant's Petition based upon time-barred issues. This appeal
28

1 follows.

2 11. Indicate whether the case has previously been the subject of an appeal to or
3 original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court
4 docket number of the prior proceeding:
5

6 Nevada Supreme Court Case Numbers 52104 and 60309.

7 12. Indicate whether this appeal involves child custody or visitation:
8

9 No.

10 13. If this is a civil case, indicate whether this appeal involves the possibility of
11 settlement:

12 Not Applicable

13 Dated this 10th day of December 2013.
14

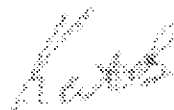
15 

16 Keith C. Brower, Esq.
17 The Law Offices Of Keith C. Brower, LLC.
18 8275 South Eastern #200, Las Vegas, NV 89123
19 Attorney For Appellant

20 **CERTIFICATE OF DELIVERY**

21 I certify that on the 10th of December 2013, I electronically filed with an electronic delivery
22 to the Clark County District Attorney's Office this document along with mailing this document to
23 the District Attorney's Office at 200 Lewis, Las Vegas, Nevada.

24 Dated this 10th day of December 2013.

25 

26 Keith C. Brower, Esq.
27 The Law Offices Of Keith C. Brower, LLC.
28 8275 South Eastern #200, Las Vegas, NV 89123
Attorney For Delarian Wilson

NOV 21 2013

BY,

TERESA SLADE, DEPUTY

KEITH C. BROWER, ESQ.
NEVADA BAR#007288
THE LAW OFFICES OF KEITH C. BROWER, LLC
8275 SOUTH EASTERN #200
LAS VEGAS, NEVADA 89123
(702) 451-4921

EIGHTH JUDICIAL DISTRICT COURT, CLARK COUNTY, NEVADA

State of Nevada,
Plaintiff,
vs.

Delarian Wilson,
Defendant.

District Court Case No.: 07C232494-1

DEPT : XXIV

ORDER FOR TRANSCRIPT

Upon the ex-parte application of the Defendant's court appointed counsel, Keith C. Brower,
and good cause appearing therefor,

It is HEREBY ORDERED that a transcript of the July 11, 2013 hearing on Defendant's
Motion For Reconsideration heard by the Honorable James Bixler be prepared by Bill Nelson, Court
Reporter/Recorder.

Dated this 21st day of November, 2013.

District Court Judge

By: Keith C. Brower, Esq.
NV Bar# 7288
The Law Offices Of Keith C. Brower, LLC
8275 South Eastern #200
Las Vegas, NV 89123
(702) 451-4921
Attorney For The Defendant Delarian Wilson

DEPARTMENT 24
CASE SUMMARY
CASE NO. 07C232494-1

The State of Nevada vs Delarian K Wilson

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§

Location: **Department 24**
Judicial Officer: **Bixler, James**
Filed on: **04/19/2007**
Cross-Reference Case Number: **C232494**
Defendant's Scope ID #: **1966773**
Lower Court Case Number: **07FH00317**
Supreme Court No.: **60309**

CASE INFORMATION

Offense	Deg	Date	Case Type:
1. ROBBERY	F	01/01/1900	Felony/Gross Misdemeanor
1. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	F	01/01/1900	Case Flags: Bail Set
2. ROBBERY	F	01/01/1900	Appealed to Supreme Court
2. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	F	01/01/1900	Custody Status - Nevada
3. SEXUAL ASSAULT	F	01/01/1900	Department of Corrections
3. SEXUAL ASSUALT	F	01/01/1900	
4. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	F	01/01/1900	
5. ASSAULT.	F	01/01/1900	
5. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	F	01/01/1900	
6. ROBBERY	F	01/01/1900	
6. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	F	01/01/1900	
7. ROBBERY	F	01/01/1900	
7. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	F	01/01/1900	
8. ASSAULT.	F	01/01/1900	
8. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	F	01/01/1900	
9. ROBBERY	F	01/01/1900	
9. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	F	01/01/1900	
10. KIDNAPPING IN FIRST DEGREE	F	01/01/1900	
10. KIDNAP WITH USE OF A DEADLY WEAPON	F	01/01/1900	
10. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	F	01/01/1900	
11. BURGLARY.	F	01/01/1900	
12. SEXUAL ASSAULT	F	01/01/1900	
12. SEXUAL ASSUALT	F	01/01/1900	
12. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	F	01/01/1900	
13. SEXUAL ASSAULT	F	01/01/1900	
13. SEXUAL ASSUALT	F	01/01/1900	

DEPARTMENT 24
CASE SUMMARY
CASE No. 07C232494-1

13.	USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	F	01/01/1900
14.	SEXUAL ASSAULT	F	01/01/1900
14.	SEXUAL ASSAULT	F	01/01/1900
14.	USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	M	01/01/1900
15.	SEXUAL ASSAULT	F	01/01/1900
15.	SEXUAL ASSAULT	F	01/01/1900
15.	USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	F	01/01/1900
16.	COERCION, UNLAWFUL FOR ANY PERSON TO FORCE ANOTHER TO DO OR ABSTAIN FROM	F	01/01/1900
16.	USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	F	01/01/1900
17.	SEXUAL ASSAULT	F	01/01/1900
17.	SEXUAL ASSAULT	F	01/01/1900
17.	USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	F	01/01/1900
18.	OPEN OR GROSS LEWDNESS	F	01/01/1900
18.	USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	F	01/01/1900

Related Cases

07C232494-2 (Multi-Defendant Case)

Statistical Closures

09/23/2008	USJR Reporting Statistical Closure
06/26/2008	USJR Reporting Statistical Closure
07/16/2008	USJR Reporting Statistical Closure

DATE	CASE ASSIGNMENT
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Current Case Assignment

Case Number	07C232494-1
Court	Department 24
Date Assigned	04/19/2007
Judicial Officer	Bixler, James

PARTY INFORMATION		
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Defendant	Wilson, Delarian K	<i>Lead Attorneys</i> Brower, Keith <i>Retained</i> 7024514921(W)
Plaintiff	State of Nevada	Wolfson, Steven B 702-671-2700(W)

DATE	EVENTS & ORDERS OF THE COURT	INDEX
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01/01/1900	Disposition (Judicial Officer: User, Conversion) 15. SEXUAL ASSAULT Charges Amended/Dropped
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DEPARTMENT 24
CASE SUMMARY
CASE No. 07C232494-1

01/01/1900	Plea (Judicial Officer: User, Conversion) 1. ROBBERY Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 1. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 2. ROBBERY Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 2. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 3. SEXUAL ASSAULT Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 3. SEXUAL ASSAULT Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 4. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 5. ASSAULT. Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 5. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 6. ROBBERY Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 6. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 7. ROBBERY Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 7. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 8. ASSAULT. Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 8. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Not Guilty







DEPARTMENT 24
CASE SUMMARY
CASE No. 07C232494-1

01/01/1900	Plea (Judicial Officer: User, Conversion) 9. ROBBERY Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 9. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 10. KIDNAPPING IN FIRST DEGREE Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 10. KIDNAP WITH USE OF A DEADLY WEAPON Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 10. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 11. BURGLARY. Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 12. SEXUAL ASSAULT Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 12. SEXUAL ASSAULT Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 12. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 13. SEXUAL ASSAULT Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 13. SEXUAL ASSAULT Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 13. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 14. SEXUAL ASSAULT Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 14. SEXUAL ASSAULT Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 14. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion)









DEPARTMENT 24
CASE SUMMARY
CASE NO. 07C232494-1

	15. SEXUAL ASSAULT Not Guilty	
01/01/1900	Plea (Judicial Officer: User, Conversion) 15. SEXUAL ASSUALT Not Guilty	
01/01/1900	Plea (Judicial Officer: User, Conversion) 15. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Not Guilty	
01/01/1900	Plea (Judicial Officer: User, Conversion) 16. COERCION. UNLAWFUL FOR ANY PERSON TO FORCE ANOTHER TO DO OR ABSTAIN FROM Not Guilty	
01/01/1900	Plea (Judicial Officer: User, Conversion) 16. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Not Guilty	
01/01/1900	Plea (Judicial Officer: User, Conversion) 17. SEXUAL ASSAULT Not Guilty	
01/01/1900	Plea (Judicial Officer: User, Conversion) 17. SEXUAL ASSUALT Not Guilty	
01/01/1900	Plea (Judicial Officer: User, Conversion) 17. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Not Guilty	
01/01/1900	Plea (Judicial Officer: User, Conversion) 18. OPEN OR GROSS LEWDNESS Not Guilty	
01/01/1900	Plea (Judicial Officer: User, Conversion) 18. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Not Guilty	
04/19/2007	Information <i>INFORMATION Fee \$0.00</i>	07C232494- 10001.tif pages
04/20/2007	Hearing <i>INITIAL ARRAIGNMENT</i>	07C232494- 10002.tif pages
04/20/2007	 Information <i>INFORMATION</i>	07C232494- 10003.tif pages
04/25/2007	 Criminal Bindover <i>CRIMINAL BINDOVER</i>	07C232494- 10004.tif pages
05/09/2007	Initial Arraignment (9:00 AM) Events: 04/20/2007 Hearing <i>INITIAL ARRAIGNMENT Court Clerk: Lore Vanderbusse/iv Relief Clerk: Lorraine Williams Reporter/Recorder: Kiara Schmidt Heard By: Kevin Williams</i>	


DEPARTMENT 24
CASE SUMMARY
CASE NO. 07C232494-1

05/09/2007	Hearing <i>ARRAIGNMENT CONTINUED</i>	07C232494- 10006.tif pages
05/16/2007	Arraignment Continued (9:00 AM) Events: 05/09/2007 Hearing <i>ARRAIGNMENT CONTINUED Court Clerk: Lore Vanderbusse/ly Relief Clerk: Lorraine Williams Reporter/Recorder: Kiara Schmidt Heard By: Kevin Williams</i>	
05/17/2007	 Motion <i>DEFT'S O.R. RELEASE/BAIL REDUCTION /5</i>	07C232494- 10009.tif pages
05/22/2007	Motion for Own Recognizance Release/Settling Reasonable Bail (8:30 AM) Events: 05/17/2007 Motion <i>DEFT'S O.R. RELEASE/BAIL REDUCTION /5 Court Clerk: Theresa Lee Reporter/Recorder: Bill Nelson Heard By: James Bixler</i>	
05/22/2007	Hearing <i>CONFIRMATION OF COUNSEL (KOHN)</i>	07C232494- 10010.tif pages
05/23/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT PRELIMINARY HEARING</i>	07C232494- 10011.tif pages
05/23/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT PRELIMINARY HEARING</i>	07C232494- 10012.tif pages
05/24/2007	Motion for Confirmation of Counsel (8:30 AM) Events: 05/22/2007 Hearing <i>CONFIRMATION OF COUNSEL (KOHN) Court Clerk: Theresa Lee Reporter/Recorder: Bill Nelson Heard By: James Bixler</i>	
05/25/2007	Hearing <i>STATUS CHECK: TRIAL DATE</i>	07C232494- 10013.tif pages
05/31/2007	Status Check (8:30 AM) Events: 05/25/2007 Hearing <i>STATUS CHECK: TRIAL DATE Court Clerk: Theresa Lee Reporter/Recorder: Jackie Nelson Heard By: James Bixler</i>	
06/08/2007	 Bond <i>BOND - #AS250K-1339 - \$93,000.00</i>	07C232494- 10014.tif pages
06/08/2007	 Bond <i>BOND - #AS100K-2709 - \$100,000.00</i>	07C232494- 10015.tif pages
06/08/2007	 Bond <i>BOND - #AS250K-1338 - \$215,000.00</i>	07C232494- 10016.tif pages
06/28/2007	CANCELED Calendar Call (8:30 AM) <i>Vacated</i>	
07/02/2007	CANCELED Jury Trial (10:00 AM) <i>Vacated</i>	

DEPARTMENT 24
CASE SUMMARY
CASE NO. 07C232494-1




08/16/2007	 Request <i>EX PARTE MOTION TO APPOINT INVESTIGATOR AND FOR FEES IN EXCESS OF STATUTORY LIMIT LIMIT- RELATED PARTYID: 07C232494_0001</i>	07C232494-10019.tif pages
08/29/2007	 Ex Parte Order <i>EX PARTE ORDER - RELATED PARTYID: 07C232494_0001</i>	07C232494-10020.tif pages
11/01/2007	Calendar Call (8:30 AM) <i>CALENDAR CALL Court Clerk: Theresa Lee Reporter/Recorder: Bill Nelson Heard By: James Bixler</i>	
11/05/2007	CANCELED Jury Trial (10:00 AM) <i>Vacated</i>	
01/24/2008	Calendar Call (8:30 AM) <i>CALENDAR CALL Court Clerk: Theresa Lee/tl Relief Clerk: Rebecca Foster Reporter/Recorder: Bill Nelson Heard By: James Bixler</i>	
01/28/2008	CANCELED Jury Trial (10:00 AM) <i>Vacated</i>	
03/06/2008	 Motion <i>DEFT'S MTN TO SEVER DEFTS/14</i>	07C232494-10025.tif pages
03/11/2008	 Motion <i>DEFT'S MTN TO SUPPRESS /15</i>	07C232494-10026.tif pages
03/11/2008	 Motion <i>DEFT'S JOINDER TO MTN TO SEVER DEFTS /16</i>	07C232494-10027.tif pages
03/17/2008	 Motion <i>DEFT'S MTN TO SUPPRESS STATEMENT/17</i>	07C232494-10028.tif pages
03/18/2008	Motion to Sever (8:30 AM) Events: 03/06/2008 Motion <i>DEFT'S MTN TO SEVER DEFTS/14 Heard By: James Bixler</i>	
03/18/2008	Joinder (8:30 AM) Events: 03/11/2008 Motion <i>DEFT'S JOINDER TO MTN TO SEVER DEFTS /16 Heard By: James Bixler</i>	
03/18/2008	All Pending Motions (8:30 AM) <i>ALL PENDING MOTIONS (3/18/08) Court Clerk: Theresa Lee Reporter/Recorder: Bill Nelson Heard By: James Bixler</i>	
03/22/2008	Motion <i>ALL PENDING MOTIONS (3/18/08)</i>	07C232494-10029.tif pages
03/24/2008	 Opposition <i>STATES OPPOSITION TO DEFENDANT WILSONS MOTION TO SUPPRESS STATEMENT</i>	07C232494-10030.tif pages
03/24/2008	 Opposition <i>STATES OPPOSITION TO DEFENDANT WESLEYS MOTION TO SUPPRESS FRUITS OF</i>	07C232494-10031.tif pages

DEPARTMENT 24
CASE SUMMARY
CASE NO. 07C232494-1

	<i>ILLEGAL SEARCH SEARCH</i>	
03/25/2008	Motion to Sever (8:30 AM) <i>DEFT'S MTN TO SEVER DEFTS/14 Heard By: James Bixler</i>	
03/25/2008	Motion to Suppress (8:30 AM) Events: 03/11/2008 Motion <i>DEFT'S MTN TO SUPPRESS /15</i>	
03/25/2008	Joinder (8:30 AM) <i>DEFT'S JOINDER TO MTN TO SEVER DEFTS /16 Heard By: James Bixler</i>	
03/25/2008	All Pending Motions (8:30 AM) <i>ALL PENDING MOTIONS (3/25/08) Court Clerk: Theresa Lee Reporter/Recorder: Lee Bahr Heard By: James Bixler</i>	
03/25/2008	 Motion <i>DEFT'S MTN TO CONTINUE /1</i>	07C232494-10032.tif pages
03/26/2008	Motion <i>ALL PENDING MOTIONS (3/25/08)</i>	07C232494-10033.tif pages
03/27/2008	Calendar Call (8:30 AM) <i>CALENDAR CALL</i>	
03/27/2008	Motion to Sever (8:30 AM) <i>DEFT'S MTN TO SEVER DEFTS/14 Heard By: James Bixler</i>	
03/27/2008	Joinder (8:30 AM) <i>DEFT'S JOINDER TO MTN TO SEVER DEFTS /16 Heard By: James Bixler</i>	
03/27/2008	Motion to Suppress (8:30 AM) Events: 03/17/2008 Motion <i>DEFT'S MTN TO SUPPRESS STATEMENT/17 Heard By: James Bixler</i>	
03/27/2008	Motion to Continue (8:30 AM) Events: 03/25/2008 Motion <i>DEFT'S MTN TO CONTINUE /1 Heard By: James Bixler</i>	
03/27/2008	All Pending Motions (8:30 AM) <i>ALL PENDING MOTIONS (3/27/08) Court Clerk: Theresa Lee Reporter/Recorder: Lee Bahr Heard By: James Bixler</i>	
03/27/2008	Motion to Suppress (1:30 PM) <i>DEFT'S MTN TO SUPPRESS /15</i>	
03/27/2008	Hearing <i>STATUS CHECK: CHANGE OF PLEA</i>	07C232494-10034.tif pages
03/27/2008	Hearing <i>FRANKS HEARING (DO NOT POST)</i>	07C232494-10035.tif pages
03/27/2008	Motion <i>ALL PENDING MOTIONS (3/27/08)</i>	07C232494-10038.tif pages
03/28/2008	Motion to Suppress (9:00 AM)	

DEPARTMENT 24
CASE SUMMARY
CASE No. 07C232494-1


DEFT'S MTN TO SUPPRESS STATEMENT/17 Heard By: James Bixler

03/28/2008	Status Check (9:00 AM) Events: 03/27/2008 Hearing <i>STATUS CHECK: CHANGE OF PLEA</i>	
03/28/2008	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 3/28/08 Relief Clerk: Nora Pena Reporter/Recorder: Lee Bahr Heard By: James Bixler</i>	
03/28/2008	Motion <i>ALL PENDING MOTIONS 3/28/08</i>	<i>07C232494- 10039.tif pages</i>
03/28/2008	 Memorandum <i>GUILTY PLEA MEMORANDUM/AGREEMENT</i>	<i>07C232494- 10040.tif pages</i>
03/28/2008	 Information <i>AMENDED INFORMATION</i>	<i>07C232494- 10042.tif pages</i>
03/28/2008	 Notice of Witnesses and/or Expert Witnesses <i>NOTICE OF WITNESSES AND/OR EXPERT WITNESSES</i>	<i>07C232494- 10045.tif pages</i>
03/28/2008	Disposition (Judicial Officer: User, Conversion) 4. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Charges Amended/Dropped	
03/28/2008	Disposition (Judicial Officer: User, Conversion) 5. ASSAULT. Charges Amended/Dropped	
03/28/2008	Disposition (Judicial Officer: User, Conversion) 5. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Charges Amended/Dropped	
03/28/2008	Disposition (Judicial Officer: User, Conversion) 6. ROBBERY Charges Amended/Dropped	
03/28/2008	Disposition (Judicial Officer: User, Conversion) 6. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Charges Amended/Dropped	
03/28/2008	Disposition (Judicial Officer: User, Conversion) 7. ROBBERY Charges Amended/Dropped	
03/28/2008	Disposition (Judicial Officer: User, Conversion) 7. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Charges Amended/Dropped	
03/28/2008	Disposition (Judicial Officer: User, Conversion) 8. ASSAULT. Charges Amended/Dropped	
03/28/2008	Disposition (Judicial Officer: User, Conversion) 8. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Charges Amended/Dropped	

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03/28/2008	Disposition (Judicial Officer: User, Conversion) 9. ROBBERY Charges Amended/Dropped
03/28/2008	Disposition (Judicial Officer: User, Conversion) 9. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Charges Amended/Dropped
03/28/2008	Disposition (Judicial Officer: User, Conversion) 10. KIDNAPPING IN FIRST DEGREE Charges Amended/Dropped
03/28/2008	Disposition (Judicial Officer: User, Conversion) 10. KIDNAP WITH USE OF A DEADLY WEAPON Charges Amended/Dropped
03/28/2008	Disposition (Judicial Officer: User, Conversion) 10. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Charges Amended/Dropped
03/28/2008	Disposition (Judicial Officer: User, Conversion) 11. BURGLARY. Charges Amended/Dropped
03/28/2008	Disposition (Judicial Officer: User, Conversion) 12. SEXUAL ASSAULT Charges Amended/Dropped
03/28/2008	Disposition (Judicial Officer: User, Conversion) 12. SEXUAL ASSAULT Charges Amended/Dropped
03/28/2008	Disposition (Judicial Officer: User, Conversion) 12. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Charges Amended/Dropped
03/28/2008	Disposition (Judicial Officer: User, Conversion) 13. SEXUAL ASSAULT Charges Amended/Dropped
03/28/2008	Disposition (Judicial Officer: User, Conversion) 13. SEXUAL ASSAULT Charges Amended/Dropped
03/28/2008	Disposition (Judicial Officer: User, Conversion) 13. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Charges Amended/Dropped
03/28/2008	Disposition (Judicial Officer: User, Conversion) 14. SEXUAL ASSAULT Charges Amended/Dropped
03/28/2008	Disposition (Judicial Officer: User, Conversion) 14. SEXUAL ASSAULT Charges Amended/Dropped
03/28/2008	Disposition (Judicial Officer: User, Conversion) 14. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Charges Amended/Dropped

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03/28/2008	Disposition (Judicial Officer: User, Conversion) 15. SEXUAL ASSAULT Charges Amended/Dropped
03/28/2008	Disposition (Judicial Officer: User, Conversion) 15. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Charges Amended/Dropped
03/28/2008	Disposition (Judicial Officer: User, Conversion) 16. COERCION. UNLAWFUL FOR ANY PERSON TO FORCE ANOTHER TO DO OR ABSTAIN FROM Charges Amended/Dropped
03/28/2008	Disposition (Judicial Officer: User, Conversion) 16. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Charges Amended/Dropped
03/28/2008	Disposition (Judicial Officer: User, Conversion) 17. SEXUAL ASSAULT Charges Amended/Dropped
03/28/2008	Disposition (Judicial Officer: User, Conversion) 17. SEXUAL ASSAULT Charges Amended/Dropped
03/28/2008	Disposition (Judicial Officer: User, Conversion) 17. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Charges Amended/Dropped
03/28/2008	Disposition (Judicial Officer: User, Conversion) 18. OPEN OR GROSS LEWDNESS Charges Amended/Dropped
03/28/2008	Disposition (Judicial Officer: User, Conversion) 18. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Charges Amended/Dropped
03/31/2008	CANCELED Jury Trial (10:00 AM) <i>Vacated</i>
03/31/2008	Motion to Suppress (1:30 PM) <i>DEFT'S MTN TO SUPPRESS /15</i>
03/31/2008	Hearing (1:30 PM) Events: 03/27/2008 Hearing <i>FRANKS HEARING (DO NOT POST) Court Clerk: Theresa Lee Reporter/Recorder: Bill Nelson Heard By: Bixler, James</i>
04/01/2008	CANCELED Jury Trial (10:00 AM) <i>Vacated</i>
04/01/2008	CANCELED Jury Trial (10:00 AM) <i>Vacated</i>
04/01/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT CHANGE OF PLEA AS TO DEFENDANT WILSON</i>
04/02/2008	CANCELED Jury Trial (10:00 AM) <i>Vacated</i>










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10046.tif pages

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04/04/2008	Conversion Case Event Type <i>SENTENCING</i>	07C232494- 10047.tif pages
04/07/2008	 Notice of Witnesses and/or Expert Witnesses <i>NOTICE OF WITNESSES AND/OR EXPERT WITNESSES - RELATED PARTYID: 07C232494_0002</i>	07C232494- 10048.tif pages
04/09/2008	Hearing (10:30 AM) <i>FRANKS HEARING (DO NOT POST) Heard By: James Bixler</i>	
04/09/2008	Jury Trial (1:00 PM) <i>TRIAL BY JURY Heard By: James Bixler</i>	
04/10/2008	Jury Trial (9:00 AM) <i>TRIAL BY JURY Court Clerk: Theresa Lee Reporter/Recorder: Bill Nelson Heard By: Bixler, James</i>	
04/10/2008	 Information <i>SECOND AMENDED INFORMATION</i>	07C232494- 10049.tif pages
04/10/2008	 Jury List <i>DISTRICT COURT JURY LIST</i>	07C232494- 10051.tif pages
04/11/2008	Jury Trial (10:00 AM) <i>TRIAL BY JURY Heard By: James Bixler</i>	
04/11/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS</i>	07C232494- 10050.tif pages
04/14/2008	Jury Trial (10:00 AM) <i>TRIAL BY JURY Relief Clerk: Roshonda Mayfield Reporter/Recorder: Bill Nelson Heard By: Bixler, James</i>	
04/14/2008	 Amended Jury List <i>AMENDED CRIMINAL JURY LIST</i>	07C232494- 10054.tif pages
04/15/2008	Jury Trial (9:30 AM) <i>TRIAL BY JURY Relief Clerk: Nora Pena Reporter/Recorder: Bill Nelson Heard By: Bixler, James</i>	
04/16/2008	Jury Trial (10:00 AM) <i>TRIAL BY JURY Heard By: James Bixler</i>	
04/17/2008	Jury Trial (10:00 AM) <i>TRIAL BY JURY Heard By: James Bixler</i>	
04/18/2008	Jury Trial (10:00 AM) <i>TRIAL BY JURY Court Clerk: Theresa Lee Reporter/Recorder: Bill Nelson Heard By: James Bixler</i>	
04/18/2008	Conversion Case Event Type <i>SENTENCING</i>	07C232494- 10052.tif pages
04/18/2008	 Instructions to the Jury	07C232494- 10053.tif pages

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INSTRUCTIONS TO THE JURY

04/18/2008	 Judgment <i>VERDICT</i>	07C232494- 10055.tif pages
04/21/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OPENING STATEMENT OF MR LANDIS</i>	07C232494- 10056.tif pages
04/24/2008	 Order <i>ORDER FOR EXPEDITION OF TRANSCRIPT</i>	07C232494- 10059.tif pages
04/28/2008	 Motion <i>DEFT WESLEY'S MTN FOR NEW TRIAL/32</i>	07C232494- 10060.tif pages
04/28/2008	 Request <i>MOTION FOR WITHDRAWAL OF COUNSEL - RELATED PARTYID: 07C232494_0002</i>	07C232494- 10061.tif pages
04/28/2008	 Request <i>MOTION FOR EXTENSION OF TIME - RELATED PARTYID: 07C232494_0002</i>	07C232494- 10062.tif pages
04/28/2008	 Notice <i>NOTICE OF MOTION - RELATED PARTYID: 07C232494_0001</i>	07C232494- 10063.tif pages
05/01/2008	 Motion <i>DEFT'S PRO PER MTN FOR BAIL PENDING/33 (VK/NO MTN EXISTS)</i>	07C232494- 10064.tif pages
05/01/2008	 Request <i>MOTION FOR BAIL PENDING SENTENCING APPEAL</i>	07C232494- 10065.tif pages
05/01/2008	Motion <i>DEFT WESLEY'S PRO PER MTN FOR BAIL PEND SENTENCING/APPEAL</i>	07C232494- 10069.tif pages
05/08/2008	Motion (8:30 AM) Events: 04/28/2008 Motion <i>DEFT WESLEY'S MTN FOR NEW TRIAL/32 Court Clerk: Theresa Lee Reporter/Recorder: Bill Nelson Heard By: Bixler, James</i>	
05/10/2008	Hearing <i>CONFIRMATION OF COUNSEL (PRIVATE COUNSEL)</i>	07C232494- 10066.tif pages
05/10/2008	Motion <i>RESET SENTENCING DATE</i>	07C232494- 10067.tif pages
05/13/2008	Sentencing (8:30 AM) Events: 04/04/2008 Conversion Case Event Type <i>SENTENCING Court Clerk: Theresa Lee Reporter/Recorder: Lee Bahr Heard By: JOHN MCGROARTY</i>	
05/17/2008	Motion	07C232494- 10068.tif pages

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	<i>RESET SENTENCING DATE</i>	
05/22/2008	Motion (8:30 AM) <i>DEFT WESLEY'S MTN FOR NEW TRIAL/32 Heard By: James Bixler</i>	
05/22/2008	CANCELED Motion (8:30 AM) Events: 05/01/2008 Motion <i>Vacated</i>	
05/22/2008	Motion for Confirmation of Counsel (8:30 AM) Events: 05/10/2008 Hearing <i>CONFIRMATION OF COUNSEL (PRIVATE COUNSEL) Heard By: James Bixler</i>	
05/22/2008	Hearing (8:30 AM) Events: 05/10/2008 Motion <i>RESET SENTENCING DATE Heard By: James Bixler</i>	
05/22/2008	Hearing (8:30 AM) Events: 05/17/2008 Motion <i>RESET SENTENCING DATE Heard By: James Bixler</i>	
05/22/2008	Motion (8:30 AM) Events: 05/01/2008 Motion <i>DEFT WESLEY'S PRO PER MTN FOR BAIL PEND SENTENCING/APPEAL Heard By: James Bixler</i>	
05/22/2008	All Pending Motions (8:30 AM) <i>ALL PENDING MOTIONS (5/22/08) Court Clerk: Theresa Lee Reporter/Recorder: Bill Nelson Heard By: James Bixler</i>	
05/22/2008	Motion <i>ALL PENDING MOTIONS (5/22/08)</i>	07C232494-10070.tif pages
05/22/2008	Conversion Case Event Type <i>SENTENCING</i>	07C232494-10071.tif pages
06/03/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS JUDGMENT AND SENTENCING</i>	07C232494-10072.tif pages
06/05/2008	CANCELED Sentencing (8:30 AM) Events: 04/18/2008 Conversion Case Event Type <i>Vacated</i>	
06/05/2008	 Points and Authorities <i>SUPPLEMENTAL POINTS AND AUTHORITIES TO MOTION FOR NEW TRIAL - RELATED PARTYID: 07C232494_0002</i>	07C232494-10073.tif pages
06/10/2008	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 07C232494_0002</i>	07C232494-10074.tif pages
06/18/2008	 Opposition <i>STATES OPPOSITION TO DEFTS MTN FOR NEW TRIAL</i>	07C232494-10075.tif pages
06/19/2008	Motion (8:30 AM) <i>DEFT WESLEY'S MTN FOR NEW TRIAL/32 Heard By: James Bixler</i>	

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06/19/2008	Motion (8:30 AM) <i>DEFT WESLEY'S PRO PER MTN FOR BAIL PEND SENTENCING/APPEAL Heard By: James Bixler</i>	
06/19/2008	All Pending Motions (8:30 AM) <i>ALL PENDING MOTIONS (6/19/08) Court Clerk: Theresa Lee Reporter/Recorder: Bill Nelson Heard By: James Bixler</i>	
06/19/2008	Motion <i>ALL PENDING MOTIONS (6/19/08)</i>	07C232494-10076.tif pages
06/24/2008	 PSI <i>Amended PSI</i>	
06/26/2008	Motion (8:30 AM) <i>DEFT WESLEY'S MTN FOR NEW TRIAL/32 Heard By: James Bixler</i>	
06/26/2008	Motion (8:30 AM) <i>DEFT WESLEY'S PRO PER MTN FOR BAIL PEND SENTENCING/APPEAL Heard By: James Bixler</i>	
06/26/2008	All Pending Motions (8:30 AM) <i>ALL PENDING MOTIONS (6/26/08) Court Clerk: Theresa Lee Reporter/Recorder: Lee Bahr Heard By: James Bixler</i>	
06/26/2008	Motion <i>ALL PENDING MOTIONS (6/26/08)</i>	07C232494-10080.tif pages
07/03/2008	Sentencing (8:30 AM) Events: 05/22/2008 Conversion Case Event Type <i>SENTENCING Court Clerk: Theresa Lee Reporter/Recorder: Bill Nelson Heard By: James Bixler</i>	
07/03/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT DEFENDANTS PRO PER MOTION FOR BAIL PENDING SENTENCING/APPEAL DEFENDANTS MOTION FOR NEW TRIAL SENTENCING/APPEAL DEFENDANTS MOTION FOR NEW TRIAL</i>	07C232494-10077.tif pages
07/03/2008	 Memorandum <i>SENTENCING MEMORANDUM - RELATED PARTYID: 07C232494_0002</i>	07C232494-10078.tif pages
07/03/2008	Disposition (Judicial Officer: User, Conversion) 1. ROBBERY Guilty	
07/03/2008	Disposition (Judicial Officer: User, Conversion)	
07/03/2008	Disposition (Judicial Officer: User, Conversion) 1. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Guilty	
07/03/2008	Disposition (Judicial Officer: User, Conversion) 2. ROBBERY Guilty	
07/03/2008	Disposition (Judicial Officer: User, Conversion)	

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07/03/2008	Disposition (Judicial Officer: User, Conversion) 2. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME. Guilty
07/03/2008	Disposition (Judicial Officer: User, Conversion) 3. SEXUAL ASSAULT Guilty
07/03/2008	Disposition (Judicial Officer: User, Conversion)
07/03/2008	Disposition (Judicial Officer: User, Conversion) 3. SEXUAL ASSAULT Guilty
07/03/2008	Sentence (Judicial Officer: User, Conversion) 1. ROBBERY Adult Adjudication Converted Disposition: Sentence# 0001: Minimum 72 Months to Maximum 180 Months Placement: NSP Converted Disposition: Sentence# 0002: Minimum 72 Months to Maximum 180 Months Placement: NSP Cons/Conc: Consecutive w/Charge Item: 0001 and Sentence#: 0001 Converted Disposition: Sentence# 0003: CREDIT FOR TIME SERVED Minimum 500 Days to Maximum 500 Days Converted Disposition: Sentence# 0004: RESTITUTION Amount: \$3196.00 Converted Disposition: Sentence# 0005: LIFETIME SUPERVISION Converted Disposition: Sentence# 0006: DNA FEE/GENETIC MARKERS ANALYSIS Amount: \$150.00 Converted Disposition: Sentence# 0007: ADMINISTRATION FEE Amount: \$25.00
07/03/2008	Sentence (Judicial Officer: User, Conversion) 2. ROBBERY Adult Adjudication Converted Disposition: Sentence# 0001: Minimum 72 Months to Maximum 180 Months Placement: NSP Cons/Conc: Consecutive w/Charge Item: 0001 and Sentence#: 0001 Converted Disposition: Sentence# 0002: Minimum 72 Months to Maximum 180 Months Placement: NSP Cons/Conc: Consecutive w/Charge Item: 0003 and Sentence#: 0001
07/03/2008	Sentence (Judicial Officer: User, Conversion) 3. SEXUAL ASSAULT

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Adult Adjudication
Converted Disposition:
Sentence# 0001: LIFE WITH POSSIBILITY OF PAROLE
Cons/Conc: Consecutive
w/Charge Item: 0003
and Sentence#: 0001

07/16/2008	 Judgment <i>JUDGMENT OF CONVICTION/ADMIN ASSESSMENT</i>	07C232494- 10083.tif pages
07/16/2008	Judgment <i>JUDGMENT OF CONVICTION/GENETIC TESTING</i>	07C232494- 10084.tif pages
07/16/2008	Judgment <i>JUDGMENT OF CONVICTION/RESTITUTION</i>	07C232494- 10085.tif pages
07/18/2008	 Judgment <i>JUDGMENT OF CONVICTION/ADMIN ASSESSMENT</i>	07C232494- 10086.tif pages
07/18/2008	Judgment <i>JUDGMENT OF CONVICTION/GENETIC TESTING</i>	07C232494- 10087.tif pages
07/18/2008	Judgment <i>JUDGMENT OF CONVICTION/RESTITUTION</i>	07C232494- 10088.tif pages
07/18/2008	 Notice of Appeal <i>NOTICE OF APPEAL (SC 52104) - RELATED PARTYID: 07C232494_0001</i>	07C232494- 10089.tif pages
07/21/2008	 Statement <i>CASE APPEAL STATEMENT</i>	07C232494- 10090.tif pages
07/22/2008	 Notice of Appeal <i>NOTICE OF APPEAL (SC 52104) - RELATED PARTYID: 07C232494_0001</i>	07C232494- 10091.tif pages
07/24/2008	 Statement <i>CASE APPEAL STATEMENT</i>	07C232494- 10092.tif pages
07/24/2008	 Notice of Appeal <i>NOTICE OF APPEAL (SC 52127)</i>	07C232494- 10093.tif pages
07/24/2008	 Statement <i>CASE APPEAL STATEMENT</i>	07C232494- 10094.tif pages
07/24/2008	 Statement <i>CASE APPEAL STATEMENT - RELATED PARTYID: 07C232494_0001</i>	07C232494- 10095.tif pages
07/24/2008	 Notice of Appeal <i>NOTICE OF APPEAL (SC 52104) - RELATED PARTYID: 07C232494_0001</i>	07C232494- 10096.tif pages








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07/25/2008	 Notice of Appeal <i>NOTICE OF APPEAL (SC 52127)</i>	07C232494- 10097.tif pages
08/05/2008	 Notice of Appeal <i>NOTICE OF APPEAL (SC 52104) - RELATED PARTYID: 07C232494_0001</i>	07C232494- 10098.tif pages
08/06/2008	 Statement <i>CASE APPEAL STATEMENT</i>	07C232494- 10099.tif pages
08/14/2008	 Statement <i>CASE APPEAL STATEMENT - RELATED PARTYID: 07C232494_0002</i>	07C232494- 10100.tif pages
09/03/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS</i>	07C232494- 10101.tif pages
09/05/2008	 Motion <i>STATE'S MTN TO CORRECT ILLEGAL SENTENCE /42</i>	07C232494- 10103.tif pages
09/10/2008	 Request <i>REQUEST FOR ROUGH DRAFT TRANSCRIPT - RELATED PARTYID: 07C232494_0001</i>	07C232494- 10104.tif pages
09/13/2008	 Order <i>ORDER FOR PRODUCTION OF INMATE</i>	07C232494- 10105.tif pages
09/15/2008	 Ex Parte <i>EX PARTE APPLICATION TO APPOINT ATTORNEY OF RECORD TO REPRESENT DEFT NARCUS S WESLEY DURING APPEAL PROCESS WESLEY DURING APPEAL PROCESS-RELATED PARTYID: 07C232494_0002</i>	07C232494- 10106.tif pages
09/16/2008	Motion (8:30 AM) Events: 09/05/2008 Motion <i>STATE'S MTN TO CORRECT ILLEGAL SENTENCE /42 Court Clerk: Theresa Lee Reporter/Recorder: Bill Nelson Heard By: Bixler, James</i>	
09/16/2008	Motion <i>EX-PARTE MTN FOR COURT APPOINTMENT</i>	07C232494- 10107.tif pages
09/17/2008	 Request <i>REQUEST FOR ROUGH DRAFT TRANSCRIPT - RELATED PARTYID: 07C232494_0001</i>	07C232494- 10108.tif pages
09/23/2008	Motion (8:30 AM) <i>STATE'S MTN TO CORRECT ILLEGAL SENTENCE /42 Heard By: James Bixler</i>	
09/23/2008	Motion for Appointment (8:30 AM) Events: 09/16/2008 Motion <i>EX-PARTE MTN FOR COURT APPOINTMENT Heard By: James Bixler</i>	
09/23/2008	All Pending Motions (8:30 AM) <i>ALL PENDING MOTIONS (9/23/08) Court Clerk: Theresa Lee Reporter/Recorder: Bill Nelson Heard By: James Bixler</i>	

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09/23/2008	Motion <i>ALL PENDING MOTIONS (9/23/08)</i>	07C232494-10110.tif pages
10/07/2008	 Request <i>REQUEST FOR TRANSCRIPT OF PROCEEDINGS - RELATED PARTYID: 07C232494_0002</i>	07C232494-10112.tif pages
10/08/2008	 Judgment <i>AMENDED JUDGMENT OF CONVICTION</i>	07C232494-10111.tif pages
11/12/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - JURY TRIAL</i>	07C232494-10113.tif pages
11/12/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - JURY TRIAL</i>	07C232494-10114.tif pages
11/12/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - JURY TRIAL</i>	07C232494-10115.tif pages
11/12/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - REGARDING SENTENCING</i>	07C232494-10116.tif pages
11/12/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - JURY TRIAL</i>	07C232494-10117.tif pages
11/12/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - SENTENCING</i>	07C232494-10118.tif pages
11/12/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - JURY TRIAL</i>	07C232494-10119.tif pages
11/12/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - SENTENCING</i>	07C232494-10120.tif pages
12/05/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - JURY TRIAL</i>	07C232494-10121.tif pages
12/05/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - JURY TRIAL</i>	07C232494-10122.tif pages
12/05/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - JURY TRIAL</i>	07C232494-10123.tif pages
12/05/2008	 Certificate <i>CERTIFICATE OF DELIVERY TO THE SUPREME COURT COURTHOUSE</i>	07C232494-10126.tif pages

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12/09/2008	 Certificate <i>CERTIFICATE OF DELIVERY TO THE SUPREME COURT COURTHOUSE</i>	07C232494-10124.tif pages
12/09/2008	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS - CHANGE OF PLEA AS TO DEFENDANT WILSON</i>	07C232494-10125.tif pages
08/07/2009	 Judgment <i>CLERK'S CERTIFICATE JUDGMENT AFFIRMED</i>	07C232494-10128.tif pages
04/12/2010	 Judgment <i>CLERK'S CERTIFICATE/JUDGMENT AFFIRMED</i>	07C232494-10132.tif pages
06/28/2010	 Conversion Case Event Type <i>ATTORNEY TIME AND COSTS - RELATED PARTYID: 07C232494_0002</i>	07C232494-10133.tif pages
08/05/2010	 Motion for Order Filed By: Defendant Wilson, Delarian K <i>Motion for An Order Instructing the Attorney of Record to Provide Petitioner with a Complete and Copy of the Case File in the Above Entitled Cases Number</i>	
08/17/2010	 Motion for Order (8:30 AM) (Judicial Officer: Bixler, James) Events: 08/05/2010 Motion for Order <i>Motion for An Order Instructing the Attorney of Record to Provide Petitioner with a Complete and Copy of the Case File in the Above Entitled Cases Number</i>	
08/20/2010	 Certificate of Mailing Filed By: Defendant Wilson, Delarian K	
10/01/2010	 Request Filed by: Defendant Wilson, Delarian K <i>Defendant's Pro Per Request for Transcripts/Court Proceedings</i>	
10/13/2010	 Opposition to Motion <i>Opposition to Defendant's Request for Transcripts/Court Proceedings</i>	
10/19/2010	 Request (8:30 AM) (Judicial Officer: Bixler, James) Events: 10/01/2010 Request <i>Defendant's Pro Per Request for Transcripts / Court Proceedings</i>	
10/27/2010	 Motion Filed By: Defendant Wilson, Delarian K <i>Defendant's Motion to Appoint Post Conviction Relief Counsel</i>	
11/01/2010	 Order Denying Filed By: Plaintiff State of Nevada <i>Order Denying Defendants Request for Transcripts/Court Proceedings</i>	
11/23/2010	 Opposition to Motion <i>Opposition to Defendant's Motion to Appoint Post-Conviction Relief Counsel</i>	







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11/30/2010	 Motion (8:30 AM) (Judicial Officer: Bixler, James) 11/30/2010, 12/14/2010 Events: 10/27/2010 Motion <i>Defendant's Motion to Appoint Post Conviction Relief Counsel</i>
12/14/2010	Confirmation of Counsel (8:30 AM) (Judicial Officer: Bixler, James) <i>Confirmation of Counsel (Court Appointment)</i>
12/14/2010	 All Pending Motions (8:30 AM) (Judicial Officer: Bixler, James)
12/17/2010	 Receipt <i>Receipt of File</i>
01/13/2011	 Status Check (8:30 AM) (Judicial Officer: Bixler, James) <i>BRIEFING SCHEDULE</i>
06/15/2011	 Notice of Change of Hearing
10/04/2011	 Decision (8:30 AM) (Judicial Officer: Bixler, James) <i>Argument/Decision</i>
10/10/2011	 Petition for Writ of Habeas Corpus Filed by: Defendant Wilson, Delarian K
10/13/2011	 Order Filed By: Plaintiff State of Nevada <i>Application and Order for Transcripts</i>
10/13/2011	 Order Filed By: Plaintiff State of Nevada <i>Application and Order for Transcripts</i>
11/01/2011	 Response <i>Response to Defendant's Petition for Writ of Habeas Corpus (Post-Conviction) and Motion to Dismiss</i>
11/17/2011	 Transcript of Proceedings Party: Plaintiff State of Nevada <i>Status Check - Heard 01/13/2011</i>
11/29/2011	 Petition for Writ of Habeas Corpus (8:30 AM) (Judicial Officer: Bixler, James) 11/29/2011, 12/13/2011 Events: 10/10/2011 Petition for Writ of Habeas Corpus
12/05/2011	 Reply <i>Reply to State's Response to Defendant's Petition for Writ of Habeas Corpus (Post-Conviction) and Motion to Dismiss</i>
12/13/2011	CANCELED Petition for Writ of Habeas Corpus (8:30 AM) (Judicial Officer: Bixler, James) <i>Vacated - per Clerk dual setting</i>
01/06/2012	 Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff State of Nevada

DEPARTMENT 24
CASE SUMMARY
CASE NO. 07C232494-1

01/18/2012	 Notice of Entry of Decision and Order
01/30/2012	 Motion to Reconsider Filed By: Defendant Wilson, Delarian K <i>Motion For Clarification And/Or Reconsideration Of Denial Of Defendant's Petition For Writ Of Habeas Corpus (Post-Conviction)</i>
02/14/2012	 Motion (8:30 AM) (Judicial Officer: Bixler, James) 02/14/2012, 03/13/2012 <i>Motion For Clarification And/Or Reconsideration Of Denial Of Defendant's Petition For Writ Of Habeas Corpus (Post-Conviction)</i>
02/21/2012	 Notice of Appeal (criminal) Party: Defendant Wilson, Delarian K <i>Notice Of Appeal</i>
02/21/2012	 Order Filed By: Defendant Wilson, Delarian K <i>Order Staying The Findings of Fact, Conclusions of Law, and Order</i>
02/24/2012	 Opposition to Motion <i>Opposition to Defendant's Motion for Clarification and/or Reconsideration of Denial of Defendant's Petition for Writ of Habeas Corpus</i>
03/01/2012	 Order for Production of Inmate <i>Order for Production of Inmate Delarian Kameron Wilson BAC #1022177</i>
09/27/2012	 Reporters Transcript Filed By: Plaintiff State of Nevada <i>Hearing - Reporter's Transcript of Proceedings 12/13/11</i>
09/27/2012	 Reporters Transcript Filed By: Plaintiff State of Nevada <i>Hearing - Reporter's Transcript of Proceedings 3/13/12</i>
05/23/2013	 Motion Filed By: Plaintiff State of Nevada <i>Motion To Place On Calendar</i>
06/04/2013	 Motion (8:30 AM) (Judicial Officer: Bixler, James) <i>Motion To Place On Calendar</i>
07/11/2013	 Hearing (10:30 AM) (Judicial Officer: Bixler, James) <i>Deft's Petition for Writ of Habeas Corpus</i>
08/06/2013	 Order Filed By: Plaintiff State of Nevada <i>Order for Transcript</i>
09/23/2013	 Transcript of Proceedings <i>Reporter's Transcript of Proceedings Writ 7/11/13</i>

DEPARTMENT 24
CASE SUMMARY
CASE NO. 07C232494-1

11/12/2013	 Finding of Fact and Conclusions of Law <i>Findings of Fact, Conclusions of Law and Order</i>
11/19/2013	 Notice of Entry Filed By: Plaintiff State of Nevada <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
11/21/2013	 Request (8:30 AM) (Judicial Officer: Bixler, James) <i>Deft's request to Correct Deft's Reply to State's Opposition to Deft's Writ of Habeas Corpus</i>
11/21/2013	 Order Filed By: Defendant Wilson, Delarian K <i>Order for Transcript</i>
12/10/2013	 Notice of Appeal (criminal) Party: Plaintiff State of Nevada <i>Notice Of Appeal</i>
12/10/2013	 Case Appeal Statement Filed By: Plaintiff State of Nevada <i>Case Appeal Statement</i>

DATE

FINANCIAL INFORMATION

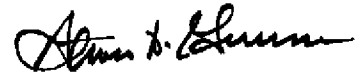
Defendant Wilson, Delarian K	
Total Charges	175.00
Total Payments and Credits	0.00
Balance Due as of 12/12/2013	175.00

ORIGINAL

1 **ORDR**

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 LISA LUZAICH
6 Chief Deputy District Attorney
7 Nevada Bar #005056
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

Electronically Filed
11/12/2013 10:24:04 AM



CLERK OF THE COURT

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 THE STATE OF NEVADA,)
10)
11 Plaintiff,)

CASE NO: 07C232494-1

12 -vs-)

DEPT NO: XXIV

13 DELARIAN WILSON,
14 #1966773)

Defendant.)

15 **FINDINGS OF FACT, CONCLUSIONS OF**

16 **LAW AND ORDER**

17 DATES OF HEARINGS: DECEMBER 13, 2011 AND JULY 11, 2013
18 TIME OF HEARINGS: 8:30 A.M.

19 THIS CAUSE having come on for hearing before the Honorable Judge Bixler,
20 District Judge, on the 13th day of December, 2011, and on the 11th day of July, 2013;
21 Petitioner not being present on the 13th day of December, 2011, present on he 11th day of
22 July, 2013, and represented By KEITH BROWER, ESQ.; Respondent being represented by
23 STEVEN B. WOLFSON, District Attorney, by and through LISA LUZAICH, Chief Deputy
24 District Attorney; and, the Court having considered the matter, including briefs, transcripts,
25 arguments of counsel, testimony of DELARIAN K. WILSON, the Defendant, and
26 documents on file herein, now therefore, the Court makes the following findings of fact and
27 conclusions of law:

28 //

FINDINGS OF FACT

1. On April 17, 2007, the State of Nevada (hereinafter "State") filed an Amended Criminal Complaint charging Delarian K. Wilson (hereinafter "Defendant") with the following: Conspiracy to Commit Burglary (Gross Misdemeanor – NRS 199.480, 205.060); Conspiracy to Commit Robbery (Felony – NRS 199.480, 200.380); Burglary while in Possession of a Deadly Weapon (Felony – NRS 205.060); Robbery with Use of a Deadly Weapon (Felony – NRS 200.380, 193.165); Assault with Use of a Deadly Weapon (Felony – NRS 200.471, 193.165); First Degree Kidnapping with Use of a Deadly Weapon (Felony – NRS 200.310, 200.320, 193.165); Sexual Assault with Use of a Deadly Weapon (Felony – NRS 200.364, 200.366, 193.165); Coercion with Use of a Deadly Weapon (Felony – NRS 207.190, 193.165); and Open or Gross Lewdness with Use of a Deadly Weapon (Gross Misdemeanor – NRS 201.210, 193.165).
2. Thereafter, Defendant entered into negotiations with the State, and on August 20, 2007, the State filed an Information charging Defendant with the crimes alleged in the Amended Criminal Complaint.
3. On March 28, 2008, the State filed an Amended Information charging Defendant with the following: Counts 1 and 2 - Robbery with Use of a Deadly Weapon (Felony – NRS 200.380, 193.165); and Count 3 - Sexual Assault (Felony – NRS 200.364, NRS 200.366) and Defendant entered into a Guilty Plea Agreement with the State whereby he pled guilty to the crimes alleged in his Amended Information. On April 1, 2008, the court conducted its guilty plea canvass of Defendant and accepted his guilty plea.
4. On July 3, 2008, Defendant was sentenced as follows: Count 1 – Robbery with Use of a Deadly Weapon – a maximum of 180 months with a minimum parole eligibility of 72 months, with an equal and consecutive term, for the use of a deadly weapon, of a maximum of 180 months and a minimum of 72 months; Count 2 – Robbery with Use of a Deadly Weapon – a maximum of 180 months with a minimum parole eligibility of 72 months, with an equal and consecutive term, for the use of a deadly weapon, of

1 a maximum of 180 months and a minimum of 72 months; and Count 3 – Sexual
2 Assault – life with the possibility of parole after 10 years. The court ruled that all
3 sentences were to run consecutive to one another. The court also granted Defendant
4 five hundred (500) days credit for time served.

5 5. Defendant's Judgment of Conviction was filed on July 16, 2008.

6 6. On August 5, 2008 Defendant filed his Notice of Appeal.

7 7. On July 7, 2009, the Nevada Supreme Court affirmed Defendant's Judgment of
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10 November 1, 2011, the State filed its Response and Motion to Dismiss Defendant's
11 Petition.

12 9. This Court held argument on Defendant's Petition on December 13, 2011 and denied
13 the Petition both procedurally and on the merits. The Findings of Fact, Conclusions
14 of Law, and Order was filed January 6, 2012.

15 10. Defendant filed a Motion for Clarification and/or Reconsideration of Denial of
16 Defendant's Petition for Writ of Habeas Corpus (Post-Conviction) on January 30,
17 2012. The State filed its Opposition February 24, 2012.

18 11. On February 21, 2012, this Court entered an Order Staying the Findings of Fact,
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20 12. Defendant filed a Notice of Appeal on February 21, 2012. The appeal was later
21 withdrawn because of procedural issues which required further consideration in the
22 district court first. R.T. July 11, 2013, pg. 4.

23 13. On June 4, 2013, this Court set the matter for an Evidentiary Hearing on the limited
24 issue of alleged good cause to excuse the procedural bars. R.T. July 11, 2013, pgs. 7-
25 9.

26 14. Defendant testified on his own behalf. R.T. July 11, 2013, pgs. 16-23.

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- 1 15. In summary, Defendant testified that his trial counsel, Mr. Oronoz never told him
2 when his appeal was denied or the status of the appeal. Id. Defendant's mom
3 discovered the appeal was closed/denied. Id. Defendant contacted Mr. Oronoz and
4 the State Bar of Nevada. Id. Defendant then filed Motions with the Nevada Supreme
5 Court and the district court trying to remedy this alleged error and proceed with post-
6 conviction relief. Id. Eventually, Mr. Oronoz filed something with the district court
7 which obtained the appointment of current counsel, Mr. Brower to pursue this Petition
8 for Writ of Habeas Corpus (Post-Conviction). Id.
- 9 16. This Court also reviewed the letters sent between Defendant and Mr. Oronoz. R.T.
10 July 11, 2013, pgs. 7, 12-13.
- 11 17. Even in the best case scenario Defendant had notice of the denial of his appeal in July
12 2010, no later than July 27, 2010, but did not file his Petition for Writ of Habeas
13 Corpus (Post-Conviction) until over a year after he received notice. R.T. July 11,
14 2013, pgs. 24-25.
- 15 18. Defendant's petition, filed October 10, 2011, was filed outside the one-year limitation
16 as strictly mandated by NRS 34.726; as such, the petition is time barred.
- 17 19. A petition subject to procedural bars may be considered on its merits if good cause is
18 shown.
- 19 20. Defendant failed to plead facts sufficient to demonstrate to the satisfaction of the
20 court that good cause for delay exists sufficient to overcome the one-year time bar.
- 21 21. Defendant failed to show good cause to overcome the one-year time bar through
22 evidence, testimony, and argument presented at the Evidentiary Hearing.
- 23 22. Defendant failed to demonstrate that he filed his state post-conviction relief petition
24 within a reasonable time after he should have known that his counsel was not
25 pursuing his direct appeal, July 2010, pursuant to Hathaway.
- 26 23. Defendant's petition is denied procedurally and therefore not addressed on the merits
27 at this time.
- 28 24. Defendant's petition was time barred prior to Mr. Brower being appointed.

25. Defendant's petition is time-barred pursuant to NRS 34.726 and he has made no showing of good cause to overcome that mandatory time bar; therefore, Defendant's Petition is properly denied on the procedural issues alone without addressing the issues raised within the Petition on the merits.

26. This Findings of Fact, Conclusions of Law, and Order shall take the place of the Findings of Fact, Conclusions of Law, and Order filed January 6, 2012 and stayed on February 21, 2012.

CONCLUSIONS OF LAW

1. The mandatory provisions of NRS 34.726 read:

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 after 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:

That the delay is not the fault of the petitioner; and

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

(Emphasis added).

2. NRS 34.726 has been strictly applied. In Gonzales v. State, 118 Nev. 590, 593, 590 P.3d 901, 902 (2002), the Nevada Supreme Court rejected a habeas petition that was filed two days late, pursuant to the "clear and unambiguous" mandatory provisions of NRS 34.726(1). Gonzales reiterated the importance of filing the petition with the district court within the one year mandate, absent a showing of "good cause" for the delay in filing. Id. at 593, 590 P.3d at 902. The one-year time bar is therefore strictly construed.

3. "In order to demonstrate good cause, a petitioner must show that an impediment external to the defense prevented him or her from complying with the state procedural default rules." Hathaway v. State, 119 Nev. 30, 71 P.3d 503, 506 (2003); citing Pellegrini v. State, 117 Nev. 860, 886-87, 34 P.3d 519, 537 (2001); Lozada v. State, 110 Nev. 349, 353, 871 P.2d 944, 946 (1994); Passanisi v. Director, 105 Nev. 63, 769

1 P.2d 72 (1989); see also Crump v. Warden, 113 Nev. 293, 295, 934 P.2d 247, 252
2 (1997); Phelps v. Director, 104 Nev. 656, 764 P.2d 1303 (1988).

3 4. Such an external impediment could be “that the factual or legal basis for a claim was
4 not reasonably available to counsel, or that ‘some interference by officials’ made
5 compliance impracticable.” Hathaway, 71 P.3d at 506; quoting Murray v. Carrier,
6 477 U.S. 478, 488, 106 S.Ct. 2639, 2645 (1986); see also Gonzales, 118 Nev. at 595,
7 53 P.3d at 904; citing Harris v. Warden, 114 Nev. 956, 959-60 n. 4, 964 P.2d 785 n. 4
8 (1998).

9 5. In addition, to find good cause there must be a “substantial reason; one that affords a
10 legal excuse.” Hathaway, 71 P.3d at 506; quoting Colley v. State, 105 Nev. 235, 236,
11 773 P.2d 1229, 1230 (1989), quoting State v. Estencion, 625 P.2d 1040, 1042 (Haw.
12 1981).

13 6. The Nevada Supreme Court has specifically held that the district court has a duty to
14 consider whether the procedural bars apply to a post-conviction petition and not
15 arbitrarily disregard them. In State v. Eighth Judicial District Court, 121 Nev. 225,
16 112 P.3d 1070 (2005), the Nevada Supreme Court held as follows:

17 Given the untimely and successive nature of [defendant’s]
18 petition, the district court *had a duty imposed by law* to consider
19 whether any or all of [defendant’s] claims were barred under
20 NRS 34.726, NRS 34.810, NRS 34.800, or by the law of the case
21 . . . [and] the court’s failure to make this determination here
22 constituted an arbitrary and unreasonable exercise of discretion.

21 7. [Emphasis added.] 121 Nev. at 234. (See also State v. Haberstroh, 119 Nev. 173,
22 180-81, 69 P.3d 676, 681-82 (2003) wherein the Nevada Supreme Court held that
23 parties cannot stipulate to waive, ignore or disregard the mandatory procedural default
24 rules nor can they empower a court to disregard them.) A defendant’s petition will
25 not be considered on the merits if it is subject to the procedural bars and no good
26 cause is shown. Id.

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- 1 8. The lack of the assistance of counsel when preparing a petition, and even the failure
2 of trial counsel to forward a copy of the file to a petitioner, have been found to not
3 constitute good cause. See Phelps v. Director Nevada Department of Prisons, 104
4 Nev. 656, 660, 764 P.2d 1303 (1988); Hood v. State, 111 Nev. 335, 890 P.2d 797
5 (1995). Also, the failure of counsel to inform the petitioner of his right to direct
6 appeal did not rise to good cause for overcoming the time bar. Dickerson v. State,
7 114 Nev. 1084, 967 P.2d 1132 (1998).
- 8 9. In Harris v. Warden, Southern Desert Correctional Center, 114 Nev. 956, 964 P.2d
9 785 (1998) the Court addressed this specific issue and held, “[w]e now reaffirm our
10 conclusion and hold that an allegation that trial counsel was ineffective in failing to
11 inform a claimant of the right to appeal from the judgment of conviction, or any other
12 allegation that a claimant was deprived of a direct appeal without his or her consent,
13 does not constitute good cause to excuse the untimely filing of a petition pursuant to
14 N.R.S. 34.726.” Id. at 959, 964 P.2d at 787.
- 15 10. Additionally, the Nevada Supreme Court has specifically held that “there is no
16 constitutional requirement that counsel must always inform a defendant who pleads
17 guilty of the right to pursue a direct appeal.” Thomas v. State, 115 Nev. 148, 150,
18 979 P.2d 222, 223 (1999).
- 19 11. Finally, the Nevada Supreme Court has held:

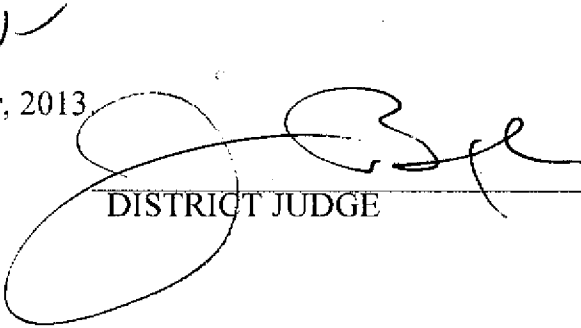
20 The court in Loveland v. Hatcher, 231 F.3d 640 (9th Cir.2000)]
21 held that a petitioner's reliance upon his counsel to file a direct
22 appeal is sufficient cause to excuse a procedural default if the
23 petitioner demonstrates: “(1) he actually believed his counsel
24 was pursuing his direct appeal, (2) his belief was objectively
25 reasonable, and (3) he filed his state post-conviction relief
26 petition within a reasonable time after he should have known
27 that his counsel was not pursuing his direct appeal.” We
28 conclude that the test set forth in Loveland is a reasonable test
for evaluating an allegation of good cause based upon a
petitioner's mistaken belief that counsel had filed a direct appeal.
Thus, a petitioner can establish good cause for the delay under
NRS 34.726(1) if the petitioner establishes that the petitioner
reasonably believed that counsel had filed an appeal and that the
petitioner filed a habeas corpus petition within a reasonable time
after learning that a direct appeal had not been filed.

Hathaway v. State, 119 Nev. 248, 254-55, 71 P.3d 503, 507-08 (2003).

ORDER


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

DATED this 8th day of October, 2013


DISTRICT JUDGE

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

BY

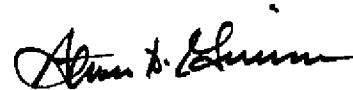

LISA LUZAICH
Chief Deputy District Attorney
Nevada Bar #005056

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KEITH BROWER, ESQ.
e-mail: browerlawoffice@aol.com

Secretary for the District Attorney's Office

hjc/SVU



CLERK OF THE COURT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

DELARIAN K. WILSON,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent,

Case No: 07C232494-1

Dept No: XXIV

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

PLEASE TAKE NOTICE that on November 12, 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 November 19, 2013.

STEVEN D. GRIERSON, CLERK OF THE COURT



Teodora Jones, Deputy Clerk

CERTIFICATE OF MAILING

I hereby certify that on this 19 day of November 2013, I placed a copy of this Notice of Entry in:

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

☒ The United States mail addressed as follows:

Delarian K. Wilson # 1022177
P.O. Box 208
Indian Springs, NV 89070

Keith C. Brower, Esq.
8275 S. Eastern #200
Las Vegas, NV 89123



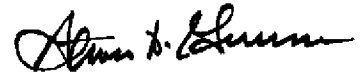
Teodora Jones, Deputy Clerk

ORIGINAL

1 **ORDR**

2 STEVEN B. WOLFSON
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8 200 Lewis Avenue
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10 (702) 671-2500
11 Attorney for Plaintiff

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CLERK OF THE COURT

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 THE STATE OF NEVADA,)
10)
11 Plaintiff,)

CASE NO: **07C232494-1**

12 -vs-)

DEPT NO: **XXIV**

13 DELARIAN WILSON,
14 #1966773)

15 Defendant.)

16 **FINDINGS OF FACT, CONCLUSIONS OF**

17 **LAW AND ORDER**

18 DATES OF HEARINGS: DECEMBER 13, 2011 AND JULY 11, 2013
19 TIME OF HEARINGS: 8:30 A.M.

20 THIS CAUSE having come on for hearing before the Honorable Judge Bixler,
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24 STEVEN B. WOLFSON, District Attorney, by and through LISA LUZAICH, Chief Deputy
25 District Attorney; and, the Court having considered the matter, including briefs, transcripts,
26 arguments of counsel, testimony of DELARIAN K. WILSON, the Defendant, and
27 documents on file herein, now therefore, the Court makes the following findings of fact and
28 conclusions of law:

//

FINDINGS OF FACT

1. On April 17, 2007, the State of Nevada (hereinafter "State") filed an Amended Criminal Complaint charging Delarian K. Wilson (hereinafter "Defendant") with the following: Conspiracy to Commit Burglary (Gross Misdemeanor – NRS 199.480, 205.060); Conspiracy to Commit Robbery (Felony – NRS 199.480, 200.380); Burglary while in Possession of a Deadly Weapon (Felony – NRS 205.060); Robbery with Use of a Deadly Weapon (Felony – NRS 200.380, 193.165); Assault with Use of a Deadly Weapon (Felony – NRS 200.471, 193.165); First Degree Kidnapping with Use of a Deadly Weapon (Felony – NRS 200.310, 200.320, 193.165); Sexual Assault with Use of a Deadly Weapon (Felony – NRS 200.364, 200.366, 193.165); Coercion with Use of a Deadly Weapon (Felony – NRS 207.190, 193.165); and Open or Gross Lewdness with Use of a Deadly Weapon (Gross Misdemeanor – NRS 201.210, 193.165).
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26 14. Defendant testified on his own behalf. R.T. July 11, 2013, pgs. 16-23.

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1 25. Defendant's petition is time-barred pursuant to NRS 34.726 and he has made no
2 showing of good cause to overcome that mandatory time bar; therefore, Defendant's
3 Petition is properly denied on the procedural issues alone without addressing the
4 issues raised within the Petition on the merits.

5 26. This Findings of Fact, Conclusions of Law, and Order shall take the place of the
6 Findings of Fact, Conclusions of Law, and Order filed January 6, 2012 and stayed on
7 February 21, 2012.

8 CONCLUSIONS OF LAW

9 1. The mandatory provisions of NRS 34.726 read:

10 Unless there is good cause shown for delay, a petition that
11 challenges the validity of a judgment or sentence must be filed
12 *within 1 year after entry of the judgment of conviction or*, if an
13 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:

14 That the delay is not the fault of the petitioner; and

15 That dismissal of the petition as untimely will unduly
16 prejudice the petitioner. . . .

(Emphasis added).

17 2. NRS 34.726 has been strictly applied. In Gonzales v. State, 118 Nev. 590, 593, 590
18 P.3d 901, 902 (2002), the Nevada Supreme Court rejected a habeas petition that was
19 filed two days late, pursuant to the "clear and unambiguous" mandatory provisions of
20 NRS 34.726(1). Gonzales reiterated the importance of filing the petition with the
21 district court within the one year mandate, absent a showing of "good cause" for the
22 delay in filing. Id. at 593, 590 P.3d at 902. The one-year time bar is therefore strictly
23 construed.

24 3. "In order to demonstrate good cause, a petitioner must show that an impediment
25 external to the defense prevented him or her from complying with the state procedural
26 default rules." Hathaway v. State, 119 Nev. 30, 71 P.3d 503, 506 (2003); citing
27 Pellegrini v. State, 117 Nev. 860, 886-87, 34 P.3d 519, 537 (2001); Lozada v. State,
28 110 Nev. 349, 353, 871 P.2d 944, 946 (1994); Passanisi v. Director, 105 Nev. 63, 769

1 P.2d 72 (1989); see also Crump v. Warden, 113 Nev. 293, 295, 934 P.2d 247, 252
2 (1997); Phelps v. Director, 104 Nev. 656, 764 P.2d 1303 (1988).

3 4. Such an external impediment could be “that the factual or legal basis for a claim was
4 not reasonably available to counsel, or that ‘some interference by officials’ made
5 compliance impracticable.” Hathaway, 71 P.3d at 506; quoting Murray v. Carrier,
6 477 U.S. 478, 488, 106 S.Ct. 2639, 2645 (1986); see also Gonzales, 118 Nev. at 595,
7 53 P.3d at 904; citing Harris v. Warden, 114 Nev. 956, 959-60 n. 4, 964 P.2d 785 n. 4
8 (1998).

9 5. In addition, to find good cause there must be a “substantial reason; one that affords a
10 legal excuse.” Hathaway, 71 P.3d at 506; quoting Colley v. State, 105 Nev. 235, 236,
11 773 P.2d 1229, 1230 (1989), quoting State v. Estencion, 625 P.2d 1040, 1042 (Haw.
12 1981).

13 6. The Nevada Supreme Court has specifically held that the district court has a duty to
14 consider whether the procedural bars apply to a post-conviction petition and not
15 arbitrarily disregard them. In State v. Eighth Judicial District Court, 121 Nev. 225,
16 112 P.3d 1070 (2005), the Nevada Supreme Court held as follows:

17 Given the untimely and successive nature of [defendant’s]
18 petition, the district court ***had a duty imposed by law*** to consider
19 whether any or all of [defendant’s] claims were barred under
20 NRS 34.726, NRS 34.810, NRS 34.800, or by the law of the case
... [and] the court’s failure to make this determination here
constituted an arbitrary and unreasonable exercise of discretion.

21 7. [Emphasis added.] 121 Nev. at 234. (See also State v. Haberstroh, 119 Nev. 173,
22 180-81, 69 P.3d 676, 681-82 (2003) wherein the Nevada Supreme Court held that
23 parties cannot stipulate to waive, ignore or disregard the mandatory procedural default
24 rules nor can they empower a court to disregard them.) A defendant’s petition will
25 not be considered on the merits if it is subject to the procedural bars and no good
26 cause is shown. Id.

27 //

28 //

- 1 8. The lack of the assistance of counsel when preparing a petition, and even the failure
2 of trial counsel to forward a copy of the file to a petitioner, have been found to not
3 constitute good cause. See Phelps v. Director Nevada Department of Prisons, 104
4 Nev. 656, 660, 764 P.2d 1303 (1988); Hood v. State, 111 Nev. 335, 890 P.2d 797
5 (1995). Also, the failure of counsel to inform the petitioner of his right to direct
6 appeal did not rise to good cause for overcoming the time bar. Dickerson v. State,
7 114 Nev. 1084, 967 P.2d 1132 (1998).
- 8 9. In Harris v. Warden, Southern Desert Correctional Center, 114 Nev. 956, 964 P.2d
9 785 (1998) the Court addressed this specific issue and held, “[w]e now reaffirm our
10 conclusion and hold that an allegation that trial counsel was ineffective in failing to
11 inform a claimant of the right to appeal from the judgment of conviction, or any other
12 allegation that a claimant was deprived of a direct appeal without his or her consent,
13 does not constitute good cause to excuse the untimely filing of a petition pursuant to
14 N.R.S. 34.726.” Id. at 959, 964 P.2d at 787.
- 15 10. Additionally, the Nevada Supreme Court has specifically held that “there is no
16 constitutional requirement that counsel must always inform a defendant who pleads
17 guilty of the right to pursue a direct appeal.” Thomas v. State, 115 Nev. 148, 150,
18 979 P.2d 222, 223 (1999).
- 19 11. Finally, the Nevada Supreme Court has held:

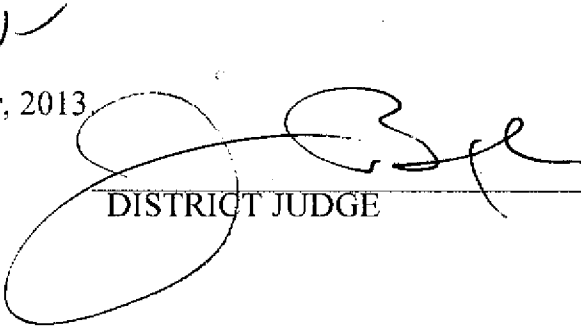
20 The court in Loveland v. Hatcher, 231 F.3d 640 (9th Cir.2000)]
21 held that a petitioner's reliance upon his counsel to file a direct
22 appeal is sufficient cause to excuse a procedural default if the
23 petitioner demonstrates: “(1) he actually believed his counsel
24 was pursuing his direct appeal, (2) his belief was objectively
25 reasonable, and (3) he filed his state post-conviction relief
26 petition within a reasonable time after he should have known
27 that his counsel was not pursuing his direct appeal.” We
28 conclude that the test set forth in Loveland is a reasonable test
for evaluating an allegation of good cause based upon a
petitioner's mistaken belief that counsel had filed a direct appeal.
Thus, a petitioner can establish good cause for the delay under
NRS 34.726(1) if the petitioner establishes that the petitioner
reasonably believed that counsel had filed an appeal and that the
petitioner filed a habeas corpus petition within a reasonable time
after learning that a direct appeal had not been filed.

Hathaway v. State, 119 Nev. 248, 254-55, 71 P.3d 503, 507-08 (2003).

ORDER


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

DATED this 8th day of October, 2013


DISTRICT JUDGE

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

BY


LISA LUZAICH
Chief Deputy District Attorney
Nevada Bar #005056

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KEITH BROWER, ESQ.
e-mail: ~~browerlawoffice~~@aol.com

hjc/SVU

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 17, 2010

07C232494-1

The State of Nevada vs Delarian K Wilson

August 17, 2010

8:30 AM

Motion for Order

HEARD BY: Bixler, James

COURTROOM: RJC Courtroom 10C

COURT CLERK: Melissa Benson

RECORDER:

REPORTER: Bill Nelson

PARTIES

PRESENT:

JOURNAL ENTRIES

- Mr. Nones present on behalf of Deft. Mr. Fattig present on behalf of State.

COURT ORDERED, motion GRANTED. Counsel to provide files to Deft. directly as he is pro per.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****October 19, 2010**

07C232494-1

The State of Nevada vs Delarian K Wilson

October 19, 2010**8:30 AM****Request****HEARD BY:** Bixler, James**COURTROOM:** RJC Courtroom 10C**COURT CLERK:** Theresa Lee**RECORDER:****REPORTER:** Bill Nelson**PARTIES****PRESENT:**Fattig, John T
State of NevadaAttorney
Plaintiff**JOURNAL ENTRIES**

- Deft not present, incarcerated NDC. Record Reflect, Mr. Oronoz is off the case and sent deft his file. Deft is now in proper person and has filed a motion for transcripts. He is serving a 20 year sentence in NDC. Court stated, deft needs to identify what possible writ issues he is pursuing and needs to explain in his motion why these transcripts will benefit him in pursuing his issues in support of the Writ. COURT ORDERED, motion DENIED WITHOUT PREJUDICE. Clerk to send deft a copy of the court minutes from today.

NDC

CLERK'S NOTE: A copy of this minute order is placed in the U.S. Mail to Deft at Delarian Wilson; ID Number 1022177; Ely State Prison; P.O.Box 1989; Ely, Nevada 89301

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****November 30, 2010**

07C232494-1

The State of Nevada vs Delarian K Wilson

November 30, 2010 8:30 AM Motion**HEARD BY:** Bixler, James**COURTROOM:** RJC Courtroom 10C**COURT CLERK:** Theresa Lee**RECORDER:****REPORTER:** Bill Nelson**PARTIES**

PRESENT:	Kramer, Kristen B.	Attorney
	Oronoz, James A	Attorney
	State of Nevada	Plaintiff
	Wilson, Delarian K	Defendant

JOURNAL ENTRIES

- Deft not present, incarcerated NDC. Mr. Oronoz requested permission to approach the Bench, COURT SO ORDERED. Court noted, no direct appeal was taken on this case, and the time has expired. Court stated, independent counsel may want to review this case and ORDERED, matter CONTINUED two weeks, Clerk to contact Drew Christensen's office to appoint counsel to review the file and determine if a Lozada hearing is necessary.

NDC

12/14/10 8:30 A.M. CONFIRMATION OF COUNSEL (COURT APPOINTED APPELLATE COUNSEL),...DEFT'S MOTION TO APPOINT POST CONVICTION RELIEF COUNSEL

CLERK'S NOTE: Clerk notified Drew Christensen's office via e-mail. (tl)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****December 14, 2010**

07C232494-1

The State of Nevada vs Delarian K Wilson

December 14, 2010 8:30 AM All Pending Motions**HEARD BY:** Bixler, James**COURTROOM:** RJC Courtroom 10C**COURT CLERK:** Phyllis Irby**RECORDER:****REPORTER:** Bill Nelson**PARTIES**

PRESENT:	Fattig, John T	Attorney
	Oronoz, James A	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFENDANT'S MOTION TO APPOINT POST CONVICTION RELIEF
COUNSEL...CONFIRMATION OF COUNSEL (COURT APPOINTMENT)

Deft not present. Court noted, Deft doesn't need to be present, Mr. Brower is going to be here to take a look at this matter; he will be appointed at that time. Mr. Oronoz is WITHDRAWN AS COUNSEL. Mr. Brower doesn't have any conflicts and can accept APPOINTMENT. Therefore, Mr. Brower is hereby APPOINTED AS COUNSEL. Mr. Brower to obtain file and look over. COURT ORDERED, MATTER CONTINUED for status check on briefing schedule.

NDC

1-13-11 8:30 AM STATUS CHECK: BRIEFING SCHEDULE (DEPT. XXIV)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 13, 2011**

07C232494-1

The State of Nevada vs Delarian K Wilson

January 13, 2011**8:30 AM****Status Check****HEARD BY:** Bixler, James**COURTROOM:** RJC Courtroom 10C**COURT CLERK:** Tia Everett**RECORDER:****REPORTER:****PARTIES****PRESENT:**

Brower, Keith

Attorney

Schifalacqua, Barbara

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Bob Cangemi, Court Report, present.

Colloquy regarding scheduling. COURT ORDERED, Briefing Schedule set as follows; Defendant's Opening Brief shall be due on or before 4/25/2011; State's Response shall be due on or before 7/25/2011; Defendant's Reply shall be due on or before 9/26/2011 and matter Set for Argument.

NDC

10/04/2011 8:30 AM ARGUMENT/DECISION

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 04, 2011**

07C232494-1

The State of Nevada vs Delarian K Wilson

October 04, 2011**8:30 AM****Decision****HEARD BY:** Bixler, James**COURTROOM:** RJC Courtroom 10C**COURT CLERK:** Theresa Lee**RECORDER:****REPORTER:** Bill Nelson**PARTIES****PRESENT:**

Brower, Keith

Attorney

Fattig, John T

Attorney

Luzaich, Elissa

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Deft not present, incarcerated NDC. CONFERENCE AT THE BENCH at the request of Mr. Brower. Court stated in Ms. Luzaich's absence, the Court will set an abbreviated briefing schedule. Mr. Brower stated he has one issue to brief on Deft's motion to withdraw his guilty plea. COURT ORDERED, Mr. Brower to file Deft's Post Conviction Writ of Habeas Corpus to be filed by 10/10/11, State will have 45 days to file their response by 11/28/11, one week for Mr. Brower to file a reply by 12/5/11 and the matter is set for argument on 12/13/11.

Ms. Luzaich now present and was given the dates of the briefing schedule.

NDC

12/13/11 AT 8:30 A.M. DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 29, 2011

07C232494-1

The State of Nevada vs Delarian K Wilson

November 29, 2011 8:30 AM

**Petition for Writ of Habeas
Corpus**

HEARD BY: Bixler, James

COURTROOM: RJC Courtroom 10C

COURT CLERK: Theresa Lee

RECORDER:

REPORTER: Robert Cangemi

PARTIES

PRESENT:	Schwartzter, Michael J.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft neither present nor represented by counsel. COURT ORDERED, matter TRAILED for Mr. Brower's presence.

LATER, Court recalled matter and due to the hour and Court's calendar, COURT ORDERED, matter CONTINUED. Court Staff to notify counsel.

NDC

12/13/11 AT 8:30 A.M. SAME

CLERK'S NOTE: Court's Law Clerk notified Mr. Brower this date and spoke to him personally regarding the continuance date. (tl)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****December 13, 2011**

07C232494-1

The State of Nevada vs Delarian K Wilson

December 13, 2011 8:30 AM**Petition for Writ of Habeas
Corpus****HEARD BY:** Bixler, James**COURTROOM:** RJC Courtroom 10C**COURT CLERK:** Theresa Lee**RECORDER:****REPORTER:** Robert Cangemi**PARTIES****PRESENT:**

Brower, Keith

Attorney

Luzaich, Elissa

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Deft not present. Arguments by counsel. COURT ORDERED, the Court FINDS the writ is time barred, and on the merits deft does not prevail, therefore, the Writ is DENIED. Mr. Brower requested the record reflect the Writ was already time barred before he ever was appointed on the case. Further comment by the Court regarding the facts of the case. Upon Inquiry by Mr. Brower, COURT ORDERED, Mr. Brower is to continue is APPOINTMENT on this case for the appeal.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 14, 2012**

07C232494-1

The State of Nevada vs Delarian K Wilson

February 14, 2012**8:30 AM****Motion****HEARD BY:** Bixler, James**COURTROOM:** RJC Courtroom 10C**COURT CLERK:** Theresa Lee**RECORDER:****REPORTER:** Bill Nelson**PARTIES****PRESENT:**

Brower, Keith

Attorney

Fattig, John T

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Deft neither present nor represented. Court noted, an Order to Transport deft was signed, however, deft was not brought to court. Court queried the State if they could have him present on Thursday. Mr. Fattig stated Mr. Brower did not serve him with the motion, therefore, State is asking for three weeks to file a written response, and is not sure deft needs to be present. COURT ORDERED, State will have until 3/6/12 to file a response, and the motion is CONTINUED. Clerk to notify Mr. Brower. FURTHER ORDERED, State to prepare an Order to Transport deft.

LATER, Court recalled matter, Keith Brower now present, and informed the Court he has to file his Appeal by next Tuesday, and not sure if a motion to reconsider stays the running of the appeal time. He will research the matter. COURT ORDERED, motion CONTINUED 30 days, State will file their response by 3/6/12. Court advised Mr. Brower if he has any issues with regard to time frames and has to calendar the matter, he may do so with one days notice.

NDC

3/13/12 AT 8:30 A.M. SAME

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 13, 2012**

07C232494-1

The State of Nevada vs Delarian K Wilson

March 13, 2012**8:30 AM****Motion****HEARD BY:** Bixler, James**COURTROOM:** RJC Courtroom 10C**COURT CLERK:** Theresa Lee**RECORDER:****REPORTER:** Robert Cangemi**PARTIES****PRESENT:**

Brower, Keith

Attorney

Heap, Hilary

Attorney

Luzaich, Elissa

Attorney

State of Nevada

Plaintiff

Wilson, Delarian K

Defendant

JOURNAL ENTRIES

- Deft Wilson present in custody. Court noted this is on to deft's motion to clarify denial of his Writ. Mr. Brower stated deft was not present at the hearing on the Writ. In reviewing some of the procedural issues, a Stay may not work. The Appeal filed with the Supreme Court has not directed him to consider staying the final decision. State's position is that until the Supreme Court makes a decision on the appeal, this Court cannot reconsider its' ruling. Mr. Brower stated deft was not present when the Writ was heard. He has had difficulty getting deft transported to District Court, and requested Court order deft transported for all hearings. Deft was represented by Mr. Oronoz, and he never notified deft when his Writ was denied. Argument by deft. Court informed deft the Court will make sure he is present at all hearings. COURT ORDERED, matter taken OFF CALENDAR until Mr. Brower has an order from the Supreme Court on what to do. Mr. Brower stated his original thought was to have this Court reconsider. Upon inquiry by deft., Court informed deft this Court has to wait until the Supreme Court sends this matter back to District Court to reconsider. Ms. Luzaich appeared after court and advised of the proceedings.

NDC

PRINT DATE: 12/12/2013

Page 49 of 54

Minutes Date:

May 09, 2007

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 04, 2013**

07C232494-1

The State of Nevada vs Delarian K Wilson

June 04, 2013**8:30 AM****Motion****HEARD BY:** Bixler, James**COURTROOM:** RJC Courtroom 10C**COURT CLERK:** Theresa Lee**RECORDER:****REPORTER:** Bill Nelson**PARTIES****PRESENT:**

Brooks, Parker
Brower, Keith
State of Nevada

Attorney
Attorney
Plaintiff

JOURNAL ENTRIES

- Deft not present, incarcerated NDC. Statement by Mr. Brower regarding the history of this case. This case needs to be set for evidentiary hearing on Deft's Writ of Habeas Corpus. The Court ruled on Deft's petition without him being present. Mr. Brooks stated this is Ms. Luzaich's case, and she takes no position on the matter. This Court STAYED the Findings of Fact, and Conclusions of Law because deft was not present, and ORDERED, matter set for hearing on Deft's Petition for Writ of Habeas Corpus. State to prepare an Order to Transport deft.

NDC

7/11/13 @ 10:30 A.M. HEARING: Deft's Petition for Writ of Habeas Corpus

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 11, 2013**

07C232494-1

The State of Nevada vs Delarian K Wilson

July 11, 2013**10:30 AM****Hearing****HEARD BY:** Bixler, James**COURTROOM:** RJC Courtroom 10C**COURT CLERK:** Theresa Lee**RECORDER:****REPORTER:** Bill Nelson**PARTIES****PRESENT:**

Brower, Keith

Attorney

Luzaich, Elissa

Attorney

State of Nevada

Plaintiff

Wilson, Delarian K

Defendant

JOURNAL ENTRIES

- Deft present in custody, incarcerated NDC. Court noted, deft filed this Writ alleging ineffective assistance of counsel. Argument by Mr. Brower in support of deft's Writ. Mr. Brower stated deft does not wish to withdraw his plea, but the co-deft went to trial, and statements were made at the time of his sentencing that deft Wilson could not counter because he did not take his case to trial. Both depts were sentenced at the same time. Mr. Brower stated Mr. Oronoz represented deft up through sentencing. The reason for the Writ is the "time bar delay" issue. The Court based it's decision at the sentencing, based upon what was presented at the co-deft's trial. Ms. Luzaich argued that deft should appeal the "time bar issue", and if the Supreme Court agrees with the deft, then counsel can come back and argue the merits. She further argued, that this Court cannot rule on the merits, deft has to appeal to the Supreme Court and let them make the decision. Mr. Brower called Delarian Kameron Wilson as a witness, sworn and testified. Court stated its findings and ORDERED, the Writ is DENIED. Mr. Brower requested the Findings updated based on the testimony presented today, and requested a copy of the transcript, and remain on the case, COURT SO ORDERED. Mr. Brower stated he would prepare an order to that effect.

NDC

PRINT DATE: 12/12/2013

Page 52 of 54

Minutes Date:

May 09, 2007

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 21, 2013

07C232494-1

The State of Nevada vs Delarian K Wilson

November 21, 2013 8:30 AM Request

HEARD BY: Bixler, James

COURTROOM: RJC Courtroom 10C

COURT CLERK: Theresa Lee; Teresa Slade

RECORDER:

REPORTER: Bill Nelson

PARTIES

PRESENT:	Brower, Keith	Attorney
	State of Nevada	Plaintiff
	Zadrowski, Bernard B.	Attorney

JOURNAL ENTRIES

- Order for Transcript FILED and SIGNED IN OPEN COURT.

Defendant not present. Mr. Brower advised, he filed a reply to the Supreme Court and attached the wrong Pre-sentence Investigation (PSI) report in error. COURT directed counsel the PSI will be deleted, then the reply can be re-filed, and ORDERED, matter OFF CALENDAR.

NDC

CLERKS NOTE: Subsequent to Court the attachment was stricken.

Exhibit List

Case: 07C232494-1 Party: Sort Order: Status Defendant Name: Wilson, Delarian K DOB

Exhibit ID	On Behalf Of	Status/Date	Return/Destroy Date	Type and Description	Exhibit Flag	Source	In Custody Of	Location
P22	Plaintiff			PHOTO		State of Nevada	District Court Criminal/Civil 01/01/1900	Evidence Vault
		Comment: ExhibitID : 185567						
DA	Defendant			SEARCH WARRANT		Wilson, Delarian K	District Court Criminal/Civil 01/01/1900	Evidence Vault
		Comment: ExhibitID : 185589						
DF	Defendant			CD WILSON'S INTERVIEW		Wilson, Delarian K	District Court Criminal/Civil 01/01/1900	Evidence Vault
		Comment: ExhibitID : 185594						
PCT1	Plaintiff			TRANSCRIPT OF CD DEFT INTERVIEW #43		State of Nevada	District Court Criminal/Civil 04/15/2009	Evidence Vault
		Comment: ExhibitID : 185597						
PCT2	Plaintiff			JURY NOTE #11		State of Nevada	District Court Criminal/Civil 04/16/2009	Evidence Vault
		Comment: ExhibitID : 185598						
PCT3	Plaintiff			JURY NOTE JUROR #10		State of Nevada	District Court Criminal/Civil 04/17/2009	Evidence Vault
		Comment: ExhibitID : 185599						
PCT4	Plaintiff			JURY NOTE DURING DELIBERATION		State of Nevada	District Court Criminal/Civil 04/17/2009	Evidence Vault
		Comment: ExhibitID : 185600						

Exhibit List

Case: 07C232494-1 Party: Sort Order: **Status** Defendant Name: **Wilson, Delarian K** DOB

Exhibit ID	On Behalf Of	Status/Date	Return/Destroy Date	Type and Description	Exhibit Flag	Source	In Custody Of	Location
P1-20	Plaintiff	Admitted 01/11/2009		PHOTO		State of Nevada	District Court Criminal/Civil 01/11/2009	Evidence Vault
Comment: ExhibitID : 185565 NO OBJECTION								
P21	Plaintiff	Admitted 04/14/2009		CD- 911 CALL		State of Nevada	District Court Criminal/Civil 04/14/2009	Evidence Vault
Comment: ExhibitID : 185566 NO OBJECTION								
P23-25	Plaintiff	Admitted 04/14/2009		PHOTO		State of Nevada	District Court Criminal/Civil 04/14/2009	Evidence Vault
Comment: ExhibitID : 185568 NO OBJECTION								
P26	Plaintiff	Admitted 04/14/2009		ENVELOPE, SEXUAL ASSAULT KIT		State of Nevada	District Court Criminal/Civil 04/14/2009	Evidence Vault
Comment: ExhibitID : 185569 NO OBJECTION								
P27	Plaintiff	Admitted 04/14/2009		ENVELOPE: FINGERPRINT LIFTS FROM BOTTLE		State of Nevada	District Court Criminal/Civil 04/14/2009	Evidence Vault
Comment: ExhibitID : 185570 NO OBJECTION								
P28	Plaintiff	Admitted 04/14/2009		BAG: LOTION BOTTLE		State of Nevada	District Court Criminal/Civil 04/14/2009	Evidence Vault
Comment: ExhibitID : 185571 NO OBJECTION								

Exhibit List

Case: 07C232494-1 Party: Sort Order: **Status** Defendant Name: **Wilson, Delarian K** DOB

Exhibit ID	On Behalf Of	Status/Date	Return/Destroy Date	Type and Description	Exhibit Flag	Source	In Custody Of	Location
P29	Plaintiff	Admitted 04/15/2009		PHOTO ATM DRIVE THROUGH		State of Nevada	District Court Criminal/Civil 04/15/2009	Evidence Vault
Comment: ExhibitID : 185572 NO OBJECTION								
P30	Plaintiff	Admitted 04/15/2009		PHOTO W/NUMBER 8744		State of Nevada	District Court Criminal/Civil 04/15/2009	Evidence Vault
Comment: ExhibitID : 185573 NO OBJECTION								
P31	Plaintiff	Admitted 04/15/2009		PHOTO W/IRONING BOARD AND IRON		State of Nevada	District Court Criminal/Civil 04/15/2009	Evidence Vault
Comment: ExhibitID : 185574 NO OBJECTION								
P32	Plaintiff	Admitted 04/15/2009		PHOTO W/SUITCASE AND COAT		State of Nevada	District Court Criminal/Civil 04/15/2009	Evidence Vault
Comment: ExhibitID : 185575 NO OBJECTION								
P33	Plaintiff	Admitted 04/15/2009		PHOTO W/HATS		State of Nevada	District Court Criminal/Civil 04/15/2009	Evidence Vault
Comment: ExhibitID : 185576 NO OBJECTION								
P34	Plaintiff	Admitted 04/15/2009		PHOTO W/ARM & HAMMER & CONDOM		State of Nevada	District Court Criminal/Civil 04/15/2009	Evidence Vault
Comment: ExhibitID : 185577 NO OBJECTION								

Exhibit List

Case: 07C232494-1 Party: Sort Order: Status Defendant Name: Wilson, Delarian DOB
K

Exhibit ID	On Behalf Of	Status/Date	Return/Destroy Date	Type and Description	Exhibit Flag	Source	In Custody Of	Location
P35	Plaintiff	Admitted 04/15/2009		PHOTO W/TROJAN CONDOM		State of Nevada	District Court Criminal/Civil 04/15/2009	Evidence Vault
Comment: ExhibitID : 185578 NO OBJECTION								
P36	Plaintiff	Admitted 04/15/2009		PHOTO OF EXPEDIA.COM INTINERARY		State of Nevada	District Court Criminal/Civil 04/15/2009	Evidence Vault
Comment: ExhibitID : 185579 NO OBJECTION								
P37	Plaintiff	Admitted 04/15/2009		PHOTO OF CASH VOUCHER 55066096		State of Nevada	District Court Criminal/Civil 04/15/2009	Evidence Vault
Comment: ExhibitID : 185580 NO OBJECTION								
P38	Plaintiff	Admitted 04/15/2009		PHOTO OF CASE VOUCHER 55066097		State of Nevada	District Court Criminal/Civil 04/15/2009	Evidence Vault
Comment: ExhibitID : 185581 NO OBJECTION								
P39	Plaintiff	Admitted 04/15/2009		PHOTO OF BLACK T SHIRT		State of Nevada	District Court Criminal/Civil 04/15/2009	Evidence Vault
Comment: ExhibitID : 185582 NO OBJECTION								

Exhibit List

Case: 07C232494-1 Party: Sort Order: **Status** Defendant Name: **Wilson, Delarian** DOB: **K**

Exhibit ID	On Behalf Of	Status/Date	Return/Destroy Date	Type and Description	Exhibit Flag	Source	In Custody Of	Location
P40	Plaintiff	Admitted 04/15/2009		CIRCUS-CIRCUS ROOM PAPERWORK		State of Nevada	District Court Criminal/Civil 04/15/2009	Evidence Vault
Comment: ExhibitID : 185583 NO OBJECTION								
P41	Plaintiff	Admitted 04/15/2009		LATENT PRINT- LEFT MIDDLE & RING FINGER		State of Nevada	District Court Criminal/Civil 04/15/2009	Evidence Vault
Comment: ExhibitID : 185584 NO OBJECTION								
P42	Plaintiff	Admitted 04/15/2009		EVIDENCE BAG AND CONTENTS		State of Nevada	District Court Criminal/Civil 04/15/2009	Evidence Vault
Comment: ExhibitID : 185585 NO OBJECTION								
P43	Plaintiff	Admitted 04/15/2009		CD-DEFT INTERVIEW		State of Nevada	District Court Criminal/Civil 04/15/2009	Evidence Vault
Comment: ExhibitID : 185586 NO OBJECTION								
P44	Plaintiff	Admitted 04/15/2009		PHOTO OF DELARIAN WILSON		State of Nevada	District Court Criminal/Civil 04/15/2009	Evidence Vault
Comment: ExhibitID : 185587 NO OBJECTION								

Exhibit List

Case: 07C232494-1 Party: Sort Order: Status Defendant Name: Wilson, Delarian K DOB

Exhibit ID	On Behalf Of	Status/Date	Return/Destroy Date	Type and Description	Exhibit Flag	Source	In Custody Of	Location
P45	Plaintiff	Admitted 04/16/2009		CD LAST TRACK OF DEFT INTERVIEW		State of Nevada	District Court Criminal/Civil 04/16/2009	Evidence Vault
Comment: ExhibitID : 185588 NO OBJECTION								
DB	Defendant	Admitted 04/09/2009		SUBPOENA		Wilson, Delarian K	District Court Criminal/Civil 04/09/2009	Evidence Vault
Comment: ExhibitID : 185590 NO OBJECTION								
DC	Defendant	Admitted 04/09/2009		NEVADA POWER INFO CARDS (COPIES)		Wilson, Delarian K	District Court Criminal/Civil 04/09/2009	Evidence Vault
Comment: ExhibitID : 185591 NO OBJECTION								
DD	Defendant	Admitted 04/15/2009		GLOBAL CASH RECEIPT		Wilson, Delarian K	District Court Criminal/Civil 04/15/2009	Evidence Vault
Comment: ExhibitID : 185592 NO OBJECTION								
DE	Defendant	Admitted 04/15/2009		GREYHOUND TICKET		Wilson, Delarian K	District Court Criminal/Civil 04/15/2009	Evidence Vault
Comment: ExhibitID : 185593 NO OBJECTION								
DF1	Defendant	Admitted 04/16/2009		CD REDATED WILSON'S INTERVIEW		Wilson, Delarian K	District Court Criminal/Civil 04/16/2009	Evidence Vault
Comment: ExhibitID : 185595 NO OBJECTION								

Exhibit List

Case: 07C232494-1 Party: Sort Order: **Status** Defendant Name: **Wilson, Delarian K** DOB

Exhibit ID	On Behalf Of	Status/Date	Return/Destroy Date	Type and Description	Exhibit Flag	Source	In Custody Of	Location
DG	Defendant	Admitted 04/16/2009		GPA DELARIAN WILSON		Wilson, Delarian K	District Court Criminal/Civil 04/16/2009	Evidence Vault
Comment: ExhibitID : 185596 NO OBJECTION								
P-1	Plaintiff	Admitted 04/09/2008		HENDERSON POLICE DEPT ADMIN REQUEST		State of Nevada	District Court Criminal/Civil 04/09/2008	Evidence Vault
Comment: ExhibitID : 185636 NO OBJECTION								
P-2 & 3	Plaintiff	Admitted 04/09/2009		NEVADA POWER INFORMATION SHEET		State of Nevada	District Court Criminal/Civil 04/09/2009	Evidence Vault
Comment: ExhibitID : 185637 NO OBJECTION								
P-4	Plaintiff	Admitted 04/09/2009		TELEPHONE INFO (HOME AND CELLULAR)		State of Nevada	District Court Criminal/Civil 04/09/2009	Evidence Vault
Comment: ExhibitID : 185638 NO OBJECTION								

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; ORDER FOR
TRANSCRIPT; 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.

DELARIAN K. WILSON,

Defendant(s).

Case No: C232494-1
Dept No: XXIV

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 12 day of December 2013.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk