

Case No. 896092124Dept. No. V1**FILED**

DEC 16 2013

Tracie K. Lindeman
CLERK OF COURTElectronically Filed
Dec 18 2013 03:00 p.m.
Tracie K. Lindeman
Clerk of Supreme CourtIN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADAIN AND FOR THE COUNTY OF CLARK

* * * * *

Roy D. MORAGA)

Petitioner,)

-vs-)

NOTICE OF APPEALTHE STATE OF NEVADA)

Respondent.)

NOTICE IS GIVEN that Petitioner, Roy D. MORAGA
in pro se, hereby appeals to the Nevada Supreme Court the
Findings of Fact, Conclusions of Law and Order denying /
dismissing Petition for Writ of Habeas Corpus, which was filed /
entered on the 27th day of November, 2013.

Dated this 16th day of December, 2013.

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

Petitioner In Pro Se

RECEIVED

DEC 16 2013

CLERK OF THE COURT

89C092174
NOASC
Notice of Appeal (criminal)
3266223



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CERTIFICATE OF SERVICE

I do certify that I mailed a true and correct copy of the foregoing NOTICE OF APPEAL to the below address(es) on this 10th day of December, 2013, by placing same in the U.S. Mail via prison law library staff:

STEVEN B. WOLFSON, D.A.
200 LEWIS Ave.
LAS VEGAS, NV 89155-2212

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

Petitioner In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding NOTICE OF APPEAL filed in District Court Case No. 89C092174 does not contain the social security number of any person.

Dated this 10th day of December, 2013.

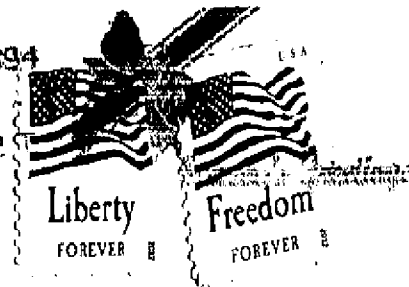
Roy D. Moraga
Roy D. MORAGA

Petitioner In Pro Se

ROY D. KAGA #31584
LOVELOCK CORRECTIONAL CENTER
1200 PRISON ROAD
LOVELOCK, NEV. 89419

RENO NV 894

11 DEC 2013 PM 2



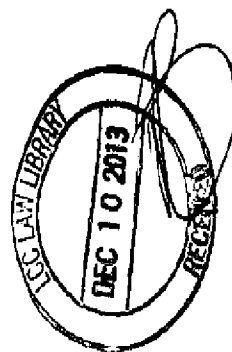
INMATE LEGAL
MAIL CONFIDENTIAL

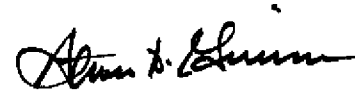
STEVEN D. GRIERSON, Clerk

200 Lewis Ave., 3rd Floor

89101#6300

LAS VEGAS, NEVADA 89155-1160





CLERK OF THE COURT

ASTA

**DISTRICT COURT
CLARK COUNTY, NEVADA**

STATE OF NEVADA,

Plaintiff(s),

vs.

ROY D. MORAGA,

Defendant(s),

Case No: 89C092174

Dept No: VI

CASE APPEAL STATEMENT

1. Appellant(s): Roy D. Moraga

2. Judge: Elissa Cadish

3. Appellant(s): Roy D. Moraga

Counsel:

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

4. Respondent: The State of Nevada

Counsel:

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

5. Respondent's Attorney Licensed in Nevada: Yes

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

- 1 7. Appellant Represented by Appointed Counsel On Appeal: N/A
2 8. Appellant Granted Leave to Proceed in Forma Pauperis: Yes, September 9, 1993 &
3 January 23, 2006
4 9. Date Commenced in District Court: December 28, 1989
5 10. Brief Description of the Nature of the Action: Criminal
6 Type of Judgment or Order Being Appealed: Post-Conviction Relief
7 11. Previous Appeal: Yes
8 Supreme Court Docket Number(s): 21488, 22901, 29321, 32542, 33099, 42828, 44685,
9 49049, 61734
10 12. Child Custody or Visitation: N/A
11

12 Dated This 17 day of December 2013.

13 Steven D. Grierson, Clerk of the Court

14 

15 _____
16 Teodora Jones, Deputy Clerk
17 200 Lewis Ave
18 PO Box 551601
19 Las Vegas, Nevada 89155-1601
20 (702) 671-0512
21
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DEPARTMENT 6
CASE SUMMARY
CASE NO. 89C092174

The State of Nevada vs Roy D Moraga

§	Location:	Department 6
§	Judicial Officer:	Cadish, Elissa F.
§	Filed on:	12/28/1989
§	Case Number History:	
§	Cross-Reference Case	C092174
§	Number:	
§	Defendant's Scope ID #:	0938554
§	Lower Court Case Number:	89F07220
§	Supreme Court No.:	61734

CASE INFORMATION

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

Related Cases

89F07220X (Bind Over Related Case)

Statistical Closures

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

DATE

CASE ASSIGNMENT

Current Case Assignment

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



PARTY INFORMATION

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


















DATE

EVENTS & ORDERS OF THE COURT

INDEX















12/28/1989	 Criminal Bindover
01/09/1990	 Information

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01/11/1990	Initial Arraignment (9:00 AM) Events: 12/28/1989 Criminal Bindover <i>INITIAL ARRAIGNMENT Heard By: Carl Christensen</i>
01/24/1990	 Reporters Transcript <i>Reporter's Transcript of December 26, 1989</i>
02/05/1990	 Motion <i>Motion and Notice of Motion to Endorse Names on Information</i>
02/12/1990	 Reporters Transcript <i>Reporter's Transcript of January 11, 1990</i>
02/15/1990	 Order <i>Order to Endorse Names on Information</i>
03/13/1990	 Jury List
03/15/1990	 Instructions to the Jury
03/15/1990	 Verdict <i>Verdict Count I</i>
03/15/1990	 Verdict <i>Verdict Count II</i>
03/15/1990	 Verdict <i>Verdict Count III</i>
03/15/1990	 Verdict <i>Verdict Count VI</i>
06/04/1990	 Motion <i>Motion and Notice of Motion to Amend Information</i>
06/13/1990	Sentencing (9:00 AM) <i>SENTENCING Heard By: Michael Wendell</i>
06/13/1990	 Amended Information
06/13/1990	 Order <i>Order to Amend Information</i>
06/27/1990	 Designation of Record on Appeal
06/27/1990	 Notice of Appeal
06/29/1990	 Order
07/07/1990	 Judgment of Conviction

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Judgment of Conviction (Jury Trial)

08/02/1990	 Order
10/11/1990	 Reporters Transcript <i>Reporter's Transcript of March 15, 1990</i>
10/11/1990	 Reporters Transcript <i>Reporter's Transcript of March 13, 1990</i>
10/11/1990	 Reporters Transcript <i>Reporter's Transcript of March 12, 1990</i>
01/09/1991	 Petition for Release of Evidence
01/09/1991	 Order <i>Order Releasing Evidence</i>
09/13/1991	Motion <i>REMAND FROM SUPREME COURT FOR RE-SENTENCING</i>
09/13/1991	 Order <i>Order for Production of Inmate</i>
09/23/1991	Motion (9:00 AM) Events: 09/13/1991 Motion <i>REMAND FROM SUPREME COURT FOR RE-SENTENCING Court Clerk: DEBRA VINSON Reporter/Recorder: SHARLEEN NICHOLSON Heard By: LEHMAN, JACK</i>
09/26/1991	 Motion <i>Motion to Transfer Sentencing Back to Department VII</i>
10/03/1991	 Motion for Leave to Proceed in Forma Pauperis
10/03/1991	 Motion for Withdrawal <i>Notice of Motion Motion for Withdrawal of Attorney of Record and Transfer of Records</i>
10/03/1991	 Affidavit in Support <i>Affidavit in support of Motion for Withdrawal of Attorney of Record and Transfer of Records</i>
10/03/1991	 Affidavit in Support <i>Affidavit in Support of of Request to Proceed in Forma Pauperis</i>
10/03/1991	 Certificate <i>Financial Certificate</i>
10/04/1991	 NV Supreme Court Clerks Certificate/Judgment -Remanded USJR <i>Nevada Supreme Court Clerk's Certificate Judgment - Remand</i>
10/09/1991	Motion (9:00 AM) Events: 09/26/1991 Motion <i>MOTION TO TRANSFER SENTENCING BACK TO DEPT VIII Heard By: Jack Lehman</i>

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CASE NO. 89C092174

10/09/1991	Petition (9:00 AM) Events: 10/03/1991 Motion for Leave to Proceed in Forma Pauperis <i>PROPER PERSON MOTION TO PROCEED IN FORMAPAUPERIS Heard By: Jack Lehman</i>
10/09/1991	Petition (9:00 AM) Events: 10/03/1991 Motion for Withdrawal <i>PROPER PERSON MOTION FOR WITHDRAWAL OF ATTORNEY OF RECORD AND TRANSFER OF Heard By: Jack Lehman</i>
10/09/1991	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS Court Clerk: DEBRA VINSON Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman</i>
10/11/1991	Motion (9:00 AM) <i>REMAND FROM SUPREME COURT FOR RE-SENTENCING Court Clerk: DEBRA VINSON Reporter/Recorder: SHARLEEN NICHOLSON Heard By: LEHMAN, JACK</i>
10/14/1991	Motion (9:00 AM) <i>REMAND FROM SUPREME COURT FOR RE-SENTENCING Court Clerk: DEBRA VINSON Reporter/Recorder: SHARLEEN NICHOLSON Heard By: LEHMAN, JACK</i>
10/21/1991	Motion (9:00 AM) <i>REMAND FROM SUPREME COURT FOR RE-SENTENCING Court Clerk: DEBRA VINSON Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman</i>
10/21/1991	Disposition (Judicial Officer: User, Conversion) 1. BURGLARY. Guilty
10/21/1991	Disposition (Judicial Officer: User, Conversion)
10/21/1991	Disposition (Judicial Officer: User, Conversion) 2. BURGLARY. Guilty
10/21/1991	Disposition (Judicial Officer: User, Conversion)
10/21/1991	Disposition (Judicial Officer: User, Conversion) 3. SEXUAL ASSAULT Guilty
10/21/1991	Disposition (Judicial Officer: User, Conversion)
10/21/1991	Disposition (Judicial Officer: User, Conversion) 4. SEXUAL ASSAULT Guilty
10/21/1991	Disposition (Judicial Officer: User, Conversion)
10/21/1991	Disposition (Judicial Officer: User, Conversion) 4. HABITUAL CRIMINAL Guilty
10/21/1991	Sentence (Judicial Officer: User, Conversion) 1. BURGLARY. Adult Adjudication Converted Disposition: Sentence# 0001: LIFE WITHOUT POSSIBILITY OF PAROLE Converted Disposition:

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Sentence# 0002: ADMINISTRATION FEE
Amount: \$20.00
Converted Disposition:
Sentence# 0003: SENTENCE SET ASIDE
Converted Disposition:
Sentence# 0004:
Minimum 10 Years to Maximum 10 Years
Placement: NSP
Converted Disposition:
Sentence# 0005: CREDIT FOR TIME SERVED
Converted Disposition:
Sentence# 0006: ADMINISTRATION FEE
Amount: \$25.00
Converted Disposition:
Sentence# 0007: SENTENCE AMENDED
Converted Disposition:
Sentence# 0008: CREDIT FOR TIME SERVED
Minimum 180 Days to Maximum 180 Days

10/21/1991 **Sentence** (Judicial Officer: User, Conversion)


2. BURGLARY.
Adult Adjudication
Converted Disposition:
Sentence# 0001:
Minimum 10 Years to Maximum 10 Years
Placement: NSP
Cons/Conc: Consecutive
w/Charge Item: 0001
and Sentence#: 0004

10/21/1991 **Sentence** (Judicial Officer: User, Conversion)


3. SEXUAL ASSAULT
Adult Adjudication
Converted Disposition:
Sentence# 0001: LIFE WITH POSSIBILITY OF PAROLE
Cons/Conc: Consecutive
w/Charge Item: 0002
and Sentence#: 0001

10/21/1991 **Sentence** (Judicial Officer: User, Conversion)

4. SEXUAL ASSAULT
Adult Adjudication
Converted Disposition:
Sentence# 0001: LIFE WITHOUT POSSIBILITY OF PAROLE
Cons/Conc: Consecutive
w/Charge Item: 0003
and Sentence#: 0001

10/23/1991  Order

Filed By: Defendant Moraga, Roy D
Order for Appointment of Counsel

10/30/1991  Notice of Appeal (criminal)

Notice of Appeal













11/13/1991  Amended Judgment of Conviction

Amended Judgment of Conviction (Jury Trial)

















11/13/1991  Designation of Record on Appeal

Filed By: Defendant Moraga, Roy D

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01/02/1992	 Motion <i>Motion to Appoint Counsel for Appeal</i>
01/15/1992	Motion for Appointment of Attorney (9:00 AM) Events: 01/02/1992 Motion <i>MOTION FOR APPOINT COUNSEL FOR APPEAL Court Clerk: DEBRA VINSON</i> <i>Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman</i>
01/27/1992	 Hearing <i>Criminal Setting Slip</i>
01/29/1992	Motion for Confirmation of Counsel (9:00 AM) Events: 01/27/1992 Hearing <i>CONFIRMATION OF COUNSEL (BAILUS M) (CRM STNG SLP) Court Clerk: DEBRA VINSON</i> <i>Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman</i>
02/10/1992	 Order <i>Order Appointing Counsel</i>
02/13/1992	 Designation of Record on Appeal Filed By: Defendant Moraga, Roy D
02/20/1992	 Order <i>Order Re: Preparation of Transcripts</i>
02/20/1992	 Ex Parte <i>Ex Parte Application for Preparation of Transcripts</i>
02/20/1992	 Order <i>Order Re: Preparation of Transcripts</i>
02/20/1992	 Order <i>Order Re: Preparation of Transcripts</i>
02/20/1992	 Order <i>Order Re: Preparation of Transcripts</i>
02/20/1992	 Order <i>Order Re: Preparation of Transcripts</i>
02/20/1992	 Order <i>Order Re: Preparation of Transcripts</i>
02/26/1992	 Receipt of Copy Filed by: Defendant Moraga, Roy D
02/26/1992	 Receipt of Copy Filed by: Defendant Moraga, Roy D
02/28/1992	 Receipt of Copy
03/02/1992	 Receipt of Copy

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03/02/1992	 Receipt of Copy
03/04/1992	 Reporters Transcript <i>Reporter's Transcript of September 23, 1991</i>
03/04/1992	 Reporters Transcript <i>Reporter's Transcript of October 11, 1991</i>
03/04/1992	 Reporters Transcript <i>Reporter's Transcript of October 21, 1991</i>
03/04/1992	 Reporters Transcript <i>Reporter's Transcript of October 14, 1991</i>
03/04/1992	 Reporters Transcript <i>Reporter's Transcript of February 15, 1990</i>
03/04/1992	 Reporters Transcript <i>Reporter's Transcript of October 9, 1991</i>
03/27/1992	 Reporters Transcript <i>Reporter's Transcript of March 12, 1990</i>
04/14/1992	 Reporters Transcript <i>Reporter's Transcript of March 9, 1990</i>
04/14/1992	 Reporters Transcript <i>Reporter's Transcript of March 7, 1990</i>
05/26/1992	 Request Filed by: Defendant Moraga, Roy D <i>Request for Records</i>
07/21/1992	 Petition <i>Motion for Returning Seized Property</i>
07/31/1992	 Answer <i>Answer in Opposition to Motion for Returning Seized Property</i>
08/03/1992	Petition (9:00 AM) Events: 07/21/1992 Petition <i>PROPER MOTION FOR RETURNING SEIZED PROPERTY Court Clerk: DEBRA VINSON Reporter/Recorder: SHIRLEY PARRAGUIRRE Heard By: Addelmar Guy, III</i>
08/17/1992	 Order
08/26/1993	 Motion <i>Motion for Leave to Proceed in Forma Pauperis; Affidavit in Support of Request to Proceed in Forma Pauperis; Motion for Amended Judgment of Conviction to Include Jail Time Credits and Affidavit of Petition</i>
08/27/1993	 Receipt of Copy

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Filed by: Defendant Moraga, Roy D

09/08/1993	Motion (9:00 AM) Events: 08/26/1993 Motion <i>MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS Court Clerk: DEBRA VINSON Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman</i>
09/08/1993	Hearing <i>STATUS CHECK RE: CREDIT FOR TIME SERVED</i>
09/15/1993	Status Check (9:00 AM) Events: 09/08/1993 Hearing <i>STATUS CHECK RE: CREDIT FOR TIME SERVED Court Clerk: DEBRA VINSON Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman</i>
09/29/1993	 Amended Judgment of Conviction <i>Second Amended Judgment of Conviction (Jury Trial)</i>
10/30/1995	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>Nevada Supreme Court Clerk's Certificate Judgment - Dismissed</i>
02/20/1996	 Affidavit <i>Affidavit of Defendant</i>
02/20/1996	 Points and Authorities <i>Supplemental Brief and Points and Authorities in Support of Petition for Writ of Habeas Corpus</i>
02/20/1996	 Ex Parte Motion <i>Ex Parte Motion for Fees for Expert Services</i>
02/20/1996	 Motion for Leave to Proceed in Forma Pauperis
02/20/1996	 Motion <i>Motion and Notice of Motion to Compel, Production of Semen and Blood</i>
02/20/1996	 Petition for Writ of Habeas Corpus <i>Petition for Writ of Habeas Corpus (Post-Conviction)</i>
02/20/1996	Request Filed by: Defendant Moraga, Roy D <i>MOTION AND NOTICE OF MOTION TO COMPEL PRODUCTION OF SEMAN AND BLOOD</i>
02/20/1996	 Affidavit in Support Filed By: Defendant Moraga, Roy D <i>Affidavit in Support of Motion to Proceed in Forma Pauperis</i>
03/05/1996	Motion <i>DEFT'S PROPER MOTION FOR WITHDRAWAL OF ATTORNEY/TRANSFER OF RECORDS (03-06-96)</i>
03/05/1996	 Motion for Leave to Proceed in Forma Pauperis
03/05/1996	 Affidavit in Support

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CASE NO. 89C092174

Affidavit in Support of Motion for Withdrawal of Attorney of Record and Transfer of Records

03/05/1996



Notice

Filed By: Defendant Moraga, Roy D

Notice of Motion Motion for Withdrawal of Attorney of Record and Transfer of Records

03/06/1996

Motion (9:00 AM)

Events: 02/20/1996 Ex Parte Motion

DEFT'S PRO PER MOTION FOR FEES FOR EXPERT SERVICE Heard By: Jack Lehman

03/06/1996

Petition to Proceed in Forma Pauperis (9:00 AM)

Events: 02/20/1996 Motion for Leave to Proceed in Forma Pauperis

DEFT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS Heard By: Jack Lehman

03/06/1996

Motion to Compel (9:00 AM)

Events: 02/20/1996 Motion

DEFT'S PRO PER MOTION TO COMPEL PRODUCTION OF SEMAN/BLOOD Heard By: Jack Lehman

03/06/1996

Petition for Writ of Habeas Corpus (9:00 AM)

Events: 02/20/1996 Petition for Writ of Habeas Corpus

DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS Heard By: Jack Lehman

03/06/1996

All Pending Motions (9:00 AM)

*ALL PENDING MOTIONS (3/06/96) Relief Clerk: LARRY SNYDER/LS
Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman*

03/06/1996

Hearing

HEARING: SUPPLEMENTAL PLEADINGS

03/11/1996



Motion for Leave to Proceed in Forma Pauperis

03/11/1996



Motion

Motion for Returning Seized Property

03/11/1996



Affidavit

Affidavit of Petitioner

03/11/1996



Affidavit in Support

Filed By: Defendant Moraga, Roy D

Affidavit in Support of Motion to Proceed in Forma Pauperis

03/18/1996

CANCELED Motion to Withdraw as Counsel (9:00 AM)

Events: 03/05/1996 Motion

Vacated

03/18/1996

CANCELED Petition to Proceed in Forma Pauperis (9:00 AM)

Events: 03/05/1996 Motion for Leave to Proceed in Forma Pauperis

Vacated





04/01/1996



Opposition










*State's Opposition to Defendant's Motion to Compel Production of Seman and Blood,
Petition for Writ of Habeas Corpus (Post-Conviction) and Motion to Proceed in Forma
Pauperis*

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04/09/1996	 Motion <i>Motion to Withdraw as Counsel</i>
04/09/1996	 Receipt of Copy Filed by: Defendant Moraga, Roy D <i>Receipt of Copy and Certificate of Mailing</i>
04/11/1996	Motion <i>DEFT'S MOTION FOR EXTENSION OF TIME</i>
04/11/1996	 Request Filed by: Defendant Moraga, Roy D <i>Motion for Extension of Time to File Supplemental Points and Authorities</i>
04/15/1996	 Receipt of Copy Filed by: Defendant Moraga, Roy D <i>Receipt of Copy of Motion for Extension of Time to File Supplemental Points and Authorities</i>
04/17/1996	Motion (9:00 AM) <i>DEFT'S PROPER MOTION FOR FEES FOR EXPERT SERVICE Heard By: Jack Lehman</i>
04/17/1996	Petition to Proceed in Forma Pauperis (9:00 AM) <i>DEFT'S PROPER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS Heard By: Jack Lehman</i>
04/17/1996	Motion to Compel (9:00 AM) <i>DEFT'S PROPER MOTION TO COMPEL PRODUCTION OF SEMAN/BLOOD Heard By: Jack Lehman</i>
04/17/1996	Petition for Writ of Habeas Corpus (9:00 AM) <i>DEFT'S PROPER PETITION FOR WRIT OF HABEAS CORPUS Court Clerk: NANCY NOBLE Reporter/Recorder: HELENE KARP Heard By: Jack Lehman</i>
04/17/1996	Hearing (9:00 AM) Events: 03/06/1996 Hearing <i>HEARING: SUPPLEMENTAL PLEADINGS Heard By: Jack Lehman</i>
04/17/1996	Petition to Proceed in Forma Pauperis (9:00 AM) Events: 03/11/1996 Motion for Leave to Proceed in Forma Pauperis <i>DEFT'S PROPER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS Heard By: Jack Lehman</i>
04/17/1996	Motion (9:00 AM) Events: 03/11/1996 Motion <i>DEFT'S PROPER MOTION FOR RETURNING SEIZED PROPERTY Heard By: Jack Lehman</i>
04/17/1996	Motion to Withdraw as Counsel (9:00 AM) Events: 04/09/1996 Motion <i>MARK BAILUS' MOTION TO WITHDRAW AS COUNSEL Heard By: Jack Lehman</i>
04/17/1996	Motion (9:00 AM) Events: 04/11/1996 Motion <i>DEFT'S MOTION FOR EXTENSION OF TIME Heard By: Jack Lehman</i>
04/17/1996	All Pending Motions (9:00 AM)

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ALL PENDING MOTIONS (4/17/96) Court Clerk: NANCY NOBLE Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman

04/17/1996	 Order Filed By: Defendant Moraga, Roy D <i>Order to Withdraw as Attorney of Record</i>
04/17/1996	 Notice of Entry of Order Filed By: Defendant Moraga, Roy D
05/20/1996	 Substitution of Attorney Filed by: Defendant Moraga, Roy D <i>Substitution of Attorneys</i>
05/24/1996	Petition for Writ of Habeas Corpus (9:00 AM) <i>DEFT'S PROPER PETITION FOR WRIT OF HABEAS CORPUS Court Clerk: NANCY NOBLE Reporter/Recorder: HELENE KARP Heard By: Sally Loehrer</i>
06/13/1996	 Points and Authorities Filed by: Defendant Moraga, Roy D <i>Supplemental Points and Authorities in Support of Petition for Writ of Habeas Corpus</i>
06/27/1996	 Supplement <i>State's Supplemental Opposition to Petitioner's for Writ of Habeas Corpus (Post-Conviction)</i>
07/15/1996	Hearing (9:00 AM) <i>ARGUMENT AND DECISION Court Clerk: CINDY LORY Reporter/Recorder: SHARLEEN NICHOLSON Heard By: LEHMAN, JACK</i>
07/16/1996	 Reply Filed by: Defendant Moraga, Roy D <i>Supplement Reply and Opposition for Writ of Habeas Corpus</i>
07/19/1996	Hearing (9:00 AM) <i>ARGUMENT AND DECISION Court Clerk: CINDY LORY Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman</i>
08/02/1996	 Motion <i>Motion to Withdraw as Counsel</i>
08/05/1996	 Receipt of Copy Filed by: Defendant Moraga, Roy D <i>Receipt of Copy of Motion to Withdraw as Counsel</i>
08/05/1996	 Certificate of Mailing Filed By: Defendant Moraga, Roy D <i>Certificate of Mailing of Motion to Withdraw as Counsel</i>
08/12/1996	Motion to Withdraw as Counsel (9:00 AM) Events: 08/02/1996 Motion <i>DAVID SCHIECK'S MOTION TO WITHDRAW AS COUNSEL Court Clerk: MELISSA DAVIS Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman</i>
08/12/1996	Petition <i>APPOINTMENT OF COUNSEL</i>

DEPARTMENT 6
CASE SUMMARY
CASE NO. 89C092174













08/12/1996	Hearing <i>STATUS CHECK: FINDINGS OF FACTS AND CONCLUSION</i>
08/21/1996	Motion for Appointment (9:00 AM) Events: 08/12/1996 Petition <i>APPOINTMENT OF COUNSEL</i>
08/21/1996	Status Check (9:00 AM) Events: 08/12/1996 Hearing <i>STATUS CHECK: FINDINGS OF FACTS AND CONCLUSION Heard By: Jack Lehman</i>
08/21/1996	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS (8/21/96) Court Clerk: NANCY NOBLE Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman</i>
08/22/1996	Hearing <i>CONFIRMATION OF COUNSEL (JACKSON)</i>
08/26/1996	Petition to Proceed in Forma Pauperis (9:00 AM) <i>DEFT'S PROPER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS Heard By: Jack Lehman</i>
08/26/1996	Status Check (9:00 AM) <i>STATUS CHECK: FINDINGS OF FACTS AND CONCLUSION Heard By: Jack Lehman</i>
08/26/1996	Motion for Confirmation of Counsel (9:00 AM) Events: 08/22/1996 Hearing <i>CONFIRMATION OF COUNSEL (JACKSON) Heard By: Jack Lehman</i>
08/26/1996	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS (08-26-96) Court Clerk: CINDY LORY Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman</i>
08/27/1996	 Order <i>Order for Transcripts</i>
08/28/1996	Status Check (9:00 AM) <i>STATUS CHECK: FINDINGS OF FACTS AND CONCLUSION Heard By: Jack Lehman</i>
08/28/1996	Motion for Confirmation of Counsel (9:00 AM) <i>CONFIRMATION OF COUNSEL (JACKSON) Heard By: Jack Lehman</i>
08/28/1996	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS (08-28-96) Court Clerk: CINDY LORY Reporter/Recorder: SHARLEEN NICHOLSON Heard By: Jack Lehman</i>
09/06/1996	 Findings of Fact, Conclusions of Law and Order
09/20/1996	 Notice of Entry of Order
09/27/1996	 Notice of Appeal (criminal) Party: Defendant Moraga, Roy D <i>Notice of Appeal</i>
10/07/1996	 Designation of Record on Appeal Filed By: Defendant Moraga, Roy D

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DEPARTMENT 6
CASE SUMMARY
CASE NO. 89C092174

10/28/1996	 Notice of Entry of Order
10/29/1996	 Case Appeal Statement Filed By: Defendant Moraga, Roy D
01/13/1997	 Reporters Transcript <i>Reporter's Transcript of March 6, 1996</i>
01/13/1997	 Reporters Transcript <i>Reporter's Transcript of August 21, 1996</i>
01/13/1997	 Reporters Transcript <i>Reporter's Transcript of April 17, 1996</i>
01/13/1997	 Reporters Transcript <i>Reporter's Transcript of July 15, 1996</i>
01/13/1997	 Reporters Transcript <i>Reporter's Transcript of August 12, 1996</i>
01/13/1997	 Reporters Transcript <i>Reporter's Transcript of July 19, 1996</i>
01/17/1997	 Certificate of Mailing Filed By: Defendant Moraga, Roy D
04/30/1998	 Motion <i>Motion to Modify or in the Alternative Correct Illegal Sentence</i>
04/30/1998	 Affidavit Filed By: Defendant Moraga, Roy D <i>Affidavit of Roy D. Moraga</i>
05/08/1998	 Opposition <i>State's Opposition to Defendant's Motion to Modify or in the Alternative Correct Illegal Sentence</i>
05/11/1998	Motion to Modify Sentence (9:00 AM) Events: 04/30/1998 Motion <i>DEFT'S PRO PER MOTION TO MODIFY OR CORRECT ILLEGAL SENTENCE Court Clerk: DOROTHY KELLY Relief Clerk: NORMA CHATY/NC Reporter/Recorder: MARILYN WAGGONER Heard By: Don Chairez</i>
05/28/1998	 Order Denying <i>Order Denying Defendant's Pro Per Motion to Modify or in Alternative Correct Illegal Sentence</i>
05/29/1998	 Notice of Entry of Order
06/01/1998	 Motion <i>Motion for Enlargement of Time</i>
06/13/1998	







DEPARTMENT 6
CASE SUMMARY
CASE NO. 89C092174

	 Notice of Appeal Filed By: Defendant Moraga, Roy D
06/13/1998	 Designation of Record on Appeal Filed By: Defendant Moraga, Roy D
06/15/1998	Motion (9:00 AM) Events: 06/01/1998 Motion <i>DEFT'S PRO PER MOTION FOR ENLARGEMENT OF TIME Heard By: Don Chairez</i>
06/15/1998	 Case Appeal Statement
06/17/1998	Motion (9:00 AM) <i>DEFT'S PRO PER MOTION FOR ENLARGEMENT OF TIME Court Clerk: DOROTHY KELLY Relief Clerk: CYNTHIA NAVARRETTE-LORY/CNL Reporter/Recorder: SHAWN OTT Heard By: Mark Gibbons</i>
06/30/1998	 Order Denying <i>Order Denying Defendant's Motion for Enlargement of Time</i>
07/07/1998	 Notice of Entry of Order
08/06/1998	 Motion to Strike
08/17/1998	 Response <i>State's Response to Defendant's Motion to Strike</i>
08/18/1998	Motion to Strike (9:00 AM) Events: 08/06/1998 Motion to Strike <i>DEFT'S PRO PER MOTION TO STRIKE Court Clerk: RITA LOPEZ Reporter/Recorder: YVONNE VALENTIN Heard By: Lee Gates</i>
08/18/1998	Hearing <i>STATUS CHECK: ORDER</i>
08/27/1998	 Order Denying <i>Order Denying Defendant's Pro Per Motion to Strike</i>
09/01/1998	Status Check (9:00 AM) Events: 08/18/1998 Hearing <i>STATUS CHECK: ORDER Court Clerk: RITA LOPEZ Reporter/Recorder: YVONNE VALENTIN Heard By: Lee Gates</i>
09/22/1998	 Notice of Appeal Filed By: Defendant Moraga, Roy D
09/22/1998	 Designation of Record on Appeal Filed By: Defendant Moraga, Roy D
09/28/1998	 Case Appeal Statement
04/30/1999	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>Nevada Supreme Court Clerk's Certificate Judgment - Dismissed</i>














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CASE NO. 89C092174

06/01/1999	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>Nevada Supreme Court Clerk's Certificate Judgment - Dismissed</i>
06/01/1999	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>Nevada Supreme Court Clerk's Certificate Judgment - Dismissed</i>
02/25/2002	 Motion for Leave to Proceed in Forma Pauperis
02/25/2002	 Motion <i>Motion to Preserve Evidence and Order</i>
02/25/2002	 Certificate Filed By: Defendant Moraga, Roy D <i>Certificate of Inmate's Institutional Account</i>
02/26/2002	 Notice of Hearing <i>Notice of Hearing - Criminal</i>
03/11/2002	CANCELED Petition to Proceed in Forma Pauperis (9:00 AM) Events: 02/25/2002 Motion for Leave to Proceed in Forma Pauperis <i>Vacated</i>
03/11/2002	CANCELED Motion (9:00 AM) Events: 02/25/2002 Motion <i>Vacated</i>
10/31/2002	 Motion <i>Motion to Vacate and/or Amend Judgment</i>
11/13/2002	Motion to Vacate (9:00 AM) Events: 10/31/2002 Motion <i>DEFT'S PROPER MTN TO VACATE AMEND JUDGMNT/40 Court Clerk: Sharon Coffman Reporter/Recorder: Sonja Riley-Bennett Heard By: Lee Gates</i>
11/13/2002	Hearing <i>CONFIRMATION OF COUNSEL (HINDS)</i>
11/18/2002	Motion for Confirmation of Counsel (9:00 AM) Events: 11/13/2002 Hearing <i>CONFIRMATION OF COUNSEL (HINDS) Court Clerk: Sharon Coffman Reporter/Recorder: Sonja Riley-Bennett Heard By: Lee Gates</i>
11/18/2002	Hearing <i>STATUS CHECK: PETITION</i>
11/21/2002	 Order Filed By: Defendant Moraga, Roy D <i>Order for Appointment of Counsel for Post-Conviction Relief</i>
11/27/2002	 Opposition <i>State's Opposition to Defendant's Motion to Vacate and/or Amend Judgment</i>
12/02/2002	Status Check (9:00 AM) Events: 11/18/2002 Hearing <i>STATUS CHECK: PETITION Court Clerk: Sharon Coffman Heard By: Gates, Lee A</i>














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CASE NO. 89C092174

12/18/2002	Status Check (9:00 AM) <i>STATUS CHECK: PETITION Relief Clerk: April Watkins Reporter/Recorder: Sonia Riley-Bennett Heard By: Gates, Lee A</i>
12/23/2002	Status Check (9:00 AM) <i>STATUS CHECK: PETITION Court Clerk: Sharon Coffman Reporter/Recorder: Sonia Riley-Bennett Heard By: Gates, Lee A</i>
01/08/2003	Status Check (9:00 AM) <i>STATUS CHECK: PETITION Court Clerk: Sharon Coffman Reporter/Recorder: Sonia Riley-Bennett Heard By: Gates, Lee A</i>
02/03/2003	Status Check (9:00 AM) <i>STATUS CHECK: PETITION Court Clerk: Sharon Coffman Reporter/Recorder: Sonia Riley-Bennett Heard By: Gates, Lee A</i>
02/05/2003	Status Check (9:00 AM) <i>STATUS CHECK: PETITION Court Clerk: Sharon Coffman Reporter/Recorder: Sonia Riley-Bennett Heard By: Lee Gates</i>
02/05/2003	Conversion Case Event Type <i>ARGUMENT: POST CONVICTION RELIEF VE 6/12</i>
06/11/2003	 Stipulation and Order Filed by: Defendant Moraga, Roy D
07/23/2003	CANCELED Hearing (9:00 AM) Events: 02/05/2003 Conversion Case Event Type <i>Vacated</i>
12/16/2003	 Motion <i>Motion for Release of DNA Evidence Under Nevada Open Records Act</i>
12/17/2003	 Receipt of Copy Filed by: Defendant Moraga, Roy D
12/26/2003	 Opposition <i>State's Opposition to Defendant's Motion for Release of DNA Evidence Under Nevada Open Records Act</i>
12/29/2003	Motion (9:00 AM) Events: 12/16/2003 Motion <i>DEFT'S MTN FOR RELEASE OF DNA EVID UNDER NV OPEN RECORDS ACT/44</i> <i>Court Clerk: Sharon Coffman Reporter/Recorder: Shawna Craig Heard By: Gates, Lee A</i>
01/05/2004	Motion (9:00 AM) <i>DEFT'S MTN FOR RELEASE OF DNA EVID UNDER NV OPEN RECORDS ACT/44</i> <i>Court Clerk: Sharon Coffman Reporter/Recorder: Sonia Riley Heard By: Lee Gates</i>
01/05/2004	 Reply Filed by: Defendant Moraga, Roy D <i>Reply to State's Opposition to Defendant's Motion for Release of DNA Evidence Under Nevada Open Records Act</i>
01/07/2004	 Order <i>Order Denying Defendant's Motion for Release of DNA Evidence Under Nevada Open Records Act</i>









DEPARTMENT 6
CASE SUMMARY
CASE NO. 89C092174

02/09/2004	 Request Filed by: Defendant Moraga, Roy D <i>Ex Parte Motion for Excess Fees</i>
02/11/2004	 Order Filed By: Defendant Moraga, Roy D <i>Order for Payment of Excess Fees</i>
02/17/2004	 Notice of Appeal
02/17/2004	 Brief Filed By: Defendant Moraga, Roy D <i>Supplemental Brief to States Opposition to Defendant's Motion for Release of DNA Evidence Under Nevada Open Records Act</i>
02/18/2004	 Case Appeal Statement
05/04/2004	 Reporters Transcript <i>Reporter's Transcript of November 13, 2002</i>
05/04/2004	 Reporters Transcript <i>Reporter's Transcript of January 5, 2004</i>
05/14/2004	 Reporters Transcript <i>Reporter's Transcript of May 11, 1998</i>
09/27/2004	 Writ of Mandamus <i>Extraordinary Writ of Mandamus</i>
09/27/2004	 Affidavit <i>Affidavit of Roy D. Moraga</i>
09/27/2004	 Supplement Filed by: Defendant Moraga, Roy D <i>Supplemental Act</i>
10/13/2004	Motion (9:00 AM) Events: 09/27/2004 Writ of Mandamus <i>DEFT'S PROPER MTN FOR EXTRAORDINARY WRIT/45 Court Clerk: Sharon Coffman</i> <i>Reporter/Recorder: Sonia Riley Heard By: Lee Gates</i>
10/18/2004	 Motion <i>Motion and Order for Failure to Prosecute and Reinstate Motion to Vacate and/or Amend Judgment</i>
10/19/2004	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed</i>
11/01/2004	Motion (9:00 AM) Events: 10/18/2004 Motion <i>DEFT'S PROPER MTN FOR ORDER FOR FAILURE TO PROSECUTE/REINSTATE MTN TO VACATE/47 Court Clerk: Sharon Coffman Relief Clerk: Michelle Jones/mj</i> <i>Reporter/Recorder: Sonia Riley Heard By: Gates, Lee A</i>

DEPARTMENT 6
CASE SUMMARY
CASE NO. 89C092174












12/15/2004	 Response Filed by: Defendant Moraga, Roy D <i>State's Response to Extraordinary Writ of Mandamus</i>
01/05/2005	 Reply Filed by: Defendant Moraga, Roy D <i>Reply to State's Response to Extraordinary Writ of Mandamus and Motion to Dismiss</i>
01/31/2005	Hearing (9:00 AM) <i>ARGUMENT: DEFT MTN FOR EXTRAORDINARY WRIT Heard By: Lee Gates</i>
01/31/2005	Motion (9:00 AM) <i>DEFT'S PROPER MTN FOR ORDER FOR FAILURE TO PROSECUTE/REINSTATE MTN TO VACATE/47 Heard By: Lee Gates</i>
01/31/2005	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS (1-31-05) Court Clerk: Sharon Coffman Reporter/Recorder: Sonia Riley Heard By: Lee Gates</i>
02/10/2005	 Case Appeal Statement
02/10/2005	 Notice of Appeal
02/10/2005	 Designation of Record on Appeal Filed By: Defendant Moraga, Roy D
03/30/2005	 Order Filed By: Defendant Moraga, Roy D
04/08/2005	 Notice of Entry of Order Filed By: Defendant Moraga, Roy D
05/02/2005	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>Nevada Supreme Court Clerk's Certificate Judgment - Dismissed</i>
01/10/2006	 Motion <i>Motion for Leave to Proceed in Forma Pauperis and for Appointment of Counsel</i>
01/10/2006	 Petition for Writ of Habeas Corpus Filed by: Defendant Moraga, Roy D <i>Petition for Writ of Habeas Corpus (Post-Conviction)</i>
01/10/2006	 Certificate Filed By: Defendant Moraga, Roy D <i>Financial Certificate</i>
01/10/2006	 Affidavit in Support Filed By: Defendant Moraga, Roy D <i>Affidavit in Support of Motion for Leave to Proceed in Forma Pauperis and for Appointment of Counsel</i>
01/10/2006	 Affidavit Filed By: Defendant Moraga, Roy D <i>Affidavit of Petitioner</i>

DEPARTMENT 6
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CASE NO. 89C092174

01/12/2006	 Order for Petition for Writ of Habeas Corpus
01/19/2006	 Opposition <i>State's Opposition to Motion for Appointment of Counsel</i>
01/23/2006	Petition to Proceed in Forma Pauperis (9:00 AM) Events: 01/10/2006 Motion <i>DEFT'S PROPER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND FOR /49 Court Clerk: Sharon Coffman Reporter/Recorder: Sonia Riley Heard By: Lee Gates</i>
01/27/2006	 Order <i>Order Granting Defendant's Pro Per Motion for Leave to Proceed in Forma Pauperis and Order Denying Defendant's Pro Per Motion for Appointment of Counsel</i>
02/22/2006	 Motion <i>Motion and Order to Transport and Produce Inmate for Hearing</i>
02/22/2006	 Notice of Change of Address Filed By: Defendant Moraga, Roy D
02/27/2006	 Opposition <i>State's Opposition to Defendant's Motion for Transport</i>
02/27/2006	 Response <i>State's Response and Motion to Dismiss Petition for Writ of Habeas Corpus (Post-Conviction)</i>
03/22/2006	Motion (9:00 AM) Events: 02/22/2006 Motion <i>DEFT'S PROPER MTN AND ORDER TO TRANSPORT AND PRODUCE INMATE FOR /51 Court Clerk: Sharon Coffman Reporter/Recorder: Sonia Riley Heard By: Lee Gates</i>
03/22/2006	Hearing <i>STATUS CHECK: PETITION HEARING / ORDER TO TRANSPORT</i>
03/29/2006	Petition for Writ of Habeas Corpus (9:00 AM) Events: 01/12/2006 Order for Petition for Writ of Habeas Corpus <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /50</i>
04/19/2006	Status Check (9:00 AM) Events: 03/22/2006 Hearing <i>STATUS CHECK: PETITION HEARING / ORDER TO TRANSPORT Court Clerk: Sharon Coffman/sc Relief Clerk: Phyllis Irby Reporter/Recorder: Jackie Nelson Heard By: Bonaventure, Joseph T.</i>
04/21/2006	 Order for Production of Inmate <i>Order for Production of Inmate Roy D. Moraga, BAC # 31584</i>
04/26/2006	Petition for Writ of Habeas Corpus (9:00 AM) <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /50</i>
05/01/2006	Status Check (9:00 AM) <i>STATUS CHECK: PETITION HEARING / ORDER TO TRANSPORT Court Clerk: Sharon Coffman/sc Relief Clerk: Phyllis Irby Reporter/Recorder: Sonia Riley Heard By:</i>

DEPARTMENT 6
CASE SUMMARY
CASE NO. 89C092174

Gates, Lee A














05/05/2006	 Order for Production of Inmate <i>Order for Production of Inmate Roy D. Moraga, BAC # 31584</i>
05/24/2006	 Reply Filed by: Defendant Moraga, Roy D <i>Reply to State's Response and Opposition to Motion to Dismiss Petition for Writ of Habeas Corpus (Post-Conviction)</i>
05/31/2006	Status Check (9:00 AM) <i>STATUS CHECK: PETITION HEARING / ORDER TO TRANSPORT Court Clerk: Sharon Coffman/sc Relief Clerk: Phyllis Irby Reporter/Recorder: Sonia Riley Heard By: Lee Gates</i>
05/31/2006	Conversion Case Event Type <i>ARGUMENT: PETITION FOR WRIT OF HABEAS CORPUS</i>
06/05/2006	 Order for Production of Inmate <i>Order for Production of Inmate Roy D. Moraga, BAC # 31584</i>
06/26/2006	Hearing (9:00 AM) Events: 05/31/2006 Conversion Case Event Type <i>ARGUMENT: PETITION FOR WRIT OF HABEAS CORPUS Court Clerk: Sharon Coffman/sc Relief Clerk: Phyllis Irby Reporter/Recorder: Sonia Riley Heard By: Lee Gates</i>
07/06/2006	Minute Order (9:00 AM) <i>MINUTE ORDER RE: PETITION FOR WRIT OF HABEAS CORPUS Court Clerk: Connie Gleason Relief Clerk: Phyllis Irby/pi Heard By: Lee Gates</i>
07/06/2006	Hearing <i>MINUTE ORDER RE: PETITION FOR WRIT OF HABEAS CORPUS</i>
02/08/2007	 Finding of Fact and Conclusions of Law
02/13/2007	 Notice of Entry of Decision and Order
03/02/2007	 Notice of Appeal Filed By: Defendant Moraga, Roy D
03/02/2007	 Case Appeal Statement Filed By: Defendant Moraga, Roy D
03/05/2007	 Case Appeal Statement
03/05/2007	 Motion <i>Motion for Appointment of Counsel on Appeal</i>
03/12/2007	 Reporters Transcript <i>Reporter's Transcript of January 23, 2006</i>
03/12/2007	 Reporters Transcript <i>Reporter's Transcript of June 26, 2006</i>

DEPARTMENT 6
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CASE NO. 89C092174

03/16/2007	 Opposition <i>State's Opposition to Defendant's Motion for Appointment of Counsel</i>
03/19/2007	Motion (9:00 AM) Events: 03/05/2007 Motion <i>DEFT'S PRO PER MTN FOR APPOINTMENT OF COUNSEL ON APPEAL/55 Court Clerk: Sharon Coffman Reporter/Recorder: Sonia Riley Heard By: Lee Gates</i>
03/23/2007	 Order <i>Order Denying Defendant's Motion for Appointment of Counsel</i>
09/13/2007	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed</i>
04/29/2011	 Order for Change of Venue <i>Order</i>
09/19/2011	 Notice of Change of Address
11/04/2011	 Supplemental Brief <i>Supplemental Brief In Support of The Petition for Writ of Habeas Corpus and Illegal Sentence Pursuant to NRS 126.555</i>
02/15/2012	 Motion <i>Motion for Judicial Action on Petition</i>
02/15/2012	 Ex Parte Motion <i>Ex Parte Motion for Appointment of Counsel</i>
02/15/2012	 Affidavit <i>Affidavit of Petitioner</i>
03/14/2012	 Notice of Motion
03/23/2012	 Response <i>Response to Defendant's Motion for Judicial Action and Opposition to Defendant's Motion to Appoint Counsel</i>
04/09/2012	 Motion <i>Motion for Enlargement of Time</i>
04/17/2012	 Opposition to Motion <i>State's Opposition to Defendant Motion for Enlargement of Time</i>
04/17/2012	 Opposition to Motion <i>State's Opposition to Defendant Motion for Enlargement of Time</i>
04/25/2012	 Status Check (8:30 AM) (Judicial Officer: Cadish, Elissa F.) <i>Further Proceedings (Def't's Pro per Mtn for Judicial Action on Petition, Exparte Mtn for Appointment of Counsel filed in A640265)</i>
05/16/2012	 Response

DEPARTMENT 6
CASE SUMMARY
CASE NO. 89C092174

Filed by: Plaintiff State of Nevada
State's Response and Motion to Dismiss Defendant's Petition for Writ of Habeas Corpus (Post-Conviction)

07/16/2012	Hearing (8:30 AM) (Judicial Officer: Cadish, Elissa F.) <i>HEARING: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS</i>
07/16/2012	Motion (8:30 AM) (Judicial Officer: Cadish, Elissa F.) <i>DEFT'S EXPARTE MOTION FOR APPOINTMENT OF COUNSEL</i>
07/16/2012	 All Pending Motions (8:30 AM) (Judicial Officer: Cadish, Elissa F.)
08/06/2012	 Motion Filed By: Defendant Moraga, Roy D <i>Motion for Reconsideration</i>
08/09/2012	 Opposition to Motion Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Motion to Reconsider</i>
08/13/2012	 Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff State of Nevada
08/21/2012	 Notice of Entry Filed By: Plaintiff State of Nevada <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
08/27/2012	 Motion (8:30 AM) (Judicial Officer: Cadish, Elissa F.) Events: 08/06/2012 Motion <i>Motion for Reconsideration</i>
08/28/2012	 Reply to Opposition Filed by: Defendant Moraga, Roy D <i>Reply to State's Opposition to Petitioner's Motion for Reconsideration</i>
08/28/2012	 Request Filed by: Defendant Moraga, Roy D <i>Request to File Exhibit 1</i>
09/17/2012	 Notice of Appeal (criminal) Party: Defendant Moraga, Roy D <i>Notice of Appeal</i>
09/18/2012	 Case Appeal Statement Filed By: Defendant Moraga, Roy D
10/05/2012	 Order Denying Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Motion to Reconsider</i>
08/14/2013	 Petition for Writ of Habeas Corpus Filed by: Defendant Moraga, Roy D
08/14/2013	 Memorandum of Points and Authorities

DEPARTMENT 6
CASE SUMMARY
CASE NO. 89C092174

	Filed By: Defendant Moraga, Roy D <i>Petition for writ of habeas corpus post-conviction</i>
08/14/2013	 Motion for Appointment of Attorney Filed By: Defendant Moraga, Roy D
08/14/2013	 Application to Proceed in Forma Pauperis Filed By: Defendant Moraga, Roy D
08/26/2013	 Order for Petition for Writ of Habeas Corpus
09/19/2013	 Response Filed by: Plaintiff State of Nevada <i>Response to Defendant's Petition for Writ of Habeas Corpus (Post-Conviction) and Motion for Appointment of Counsel</i>
09/27/2013	 Notice of Change of Hearing
10/21/2013	 Petition for Writ of Habeas Corpus (8:30 AM) (Judicial Officer: Cadish, Elissa F.) Events: 08/26/2013 Order for Petition for Writ of Habeas Corpus
10/30/2013	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed; Rehearing Denied</i>
12/04/2013	 Finding of Fact and Conclusions of Law Filed By: Plaintiff State of Nevada <i>Findings of Fact, Conclusions of Law and Order</i>
12/09/2013	 Notice of Entry Filed By: Plaintiff State of Nevada <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
12/16/2013	 Notice of Appeal (criminal)
12/17/2013	 Case Appeal Statement Filed By: Defendant Moraga, Roy D <i>Case Appeal Statement</i>

DATE

FINANCIAL INFORMATION

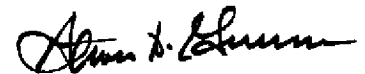
Defendant Moraga, Roy D	
Total Charges	8.00
Total Payments and Credits	8.00
Balance Due as of 12/17/2013	0.00

ORIGINAL

Electronically Filed
12/04/2013 10:16:07 AM

ORDR

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
ERIKA WIBORG
Deputy District Attorney
Nevada Bar #13260
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff



CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

ROY MORAGA,
#0938554

Defendant.

CASE NO: 89C092174

DEPT NO: VI

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER

DATE OF HEARING: October 21, 2013
TIME OF HEARING: 8:30 am

THIS CAUSE having come on for hearing before the Honorable ELISSA CADISH, District Judge, on the 21st day of October, 2013, the Petitioner not being present, PROCEEDING IN FORMA PAUPERIS, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through ERIKA WIBORG, Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, no arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. On January 9, 1990, Roy Moraga (hereinafter "Defendant") was charged by way of Information with two (2) counts of Burglary (Felony – NRS 205.060) and two (2) counts of Sexual Assault (Felony – NRS 200.364, 200.366). On January 11, 1990, Defendant entered a plea of not guilty and his case proceeded to trial. On March 15, 1990, the jury

1 found Defendant guilty of all counts. On June 4, 1990, the State filed a Notice of Motion to
2 Amend Information in order to seek habitual offender treatment. On June 13, 1990, pursuant
3 to an Amended Information filed the same day, Defendant was sentenced to life
4 imprisonment without the possibility of parole under the "large" habitual criminal statute,
5 NRS 207.010. Defendant filed a Notice of Appeal on June 27, 1990. Judgment of Conviction
6 was filed on July 7, 1990.

7 2. On August 27, 1991, the Nevada Supreme Court affirmed Defendant's
8 conviction but remanded for the district court to resentence Defendant separately on the
9 underlying counts rather than giving him a single life sentence under the habitual criminal
10 statute. Remittitur issued on September 17, 1991. On October 21, 1991, the district court
11 took notice of the felony convictions entered at Defendant's initial sentencing and
12 resented Defendant to the following: as to Count I – ten (10) years in the Nevada
13 Department of Corrections ("NDC"); as to Count II – ten (10) years in NDC consecutive to
14 Count I; as to Count III – life imprisonment with parole eligibility beginning after five (5)
15 years, consecutive to Count II; and as to Count IV – pursuant to NRS 207.010, life without
16 the possibility of parole, consecutive to Count III. The Amended Judgment of Conviction
17 was filed on November 13, 1991. Defendant filed a Notice of Appeal on October 30, 1991.
18 On October 4, 1995, the Nevada Supreme Court dismissed Defendant's appeal. Remittitur
19 issued on October 24, 1995.

20 3. On February 20, 1996, Defendant filed his first Petition for Writ of Habeas
21 Corpus (Post-Conviction). The State filed its Response on April 4, 1996. Defendant filed a
22 Supplement on June 13, 1996. The State filed its Response on June 27, 1996. On July 16,
23 1996, Defendant filed a Reply to the State's Response. On July 19, 1996, the district court
24 denied Defendant's Petition. On September 6, 1996, the district court filed its Findings of
25 Fact, Conclusions of Law and Order. The Notice of Entry of Order was filed on September
26 20, 1996. Defendant filed a Notice of Appeal on September 27, 1996.

27 4. On April 30, 1998, Defendant filed a Motion to Modify or in the Alternative
28 Correct Illegal Sentence. The State filed an Opposition on May 8, 1998. On May 28, 1998,

1 the district court entered an Order Denying Defendant's Motion to Modify or Correct Illegal
2 Sentence. On June 13, 1998, Defendant filed a Notice of Appeal from the Order denying his
3 motion. On April 20, 1999, the Nevada Supreme Court consolidated the appeal from the
4 orders denying Defendant's Petition for Writ of Habeas Corpus and Defendant's Motion to
5 Modify Sentence or Correct Illegal Sentence. Both decisions were affirmed. Remittitur
6 issued on May 18, 1999.

7 5. Defendant filed his second Petition for Writ of Habeas Corpus (Post-
8 Conviction) on January 10, 2006. The State filed a Response and Motion to Dismiss on
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13 a Notice of Appeal. On August 16, 2007, the Nevada Supreme Court issued an Order of
14 Affirmance. Remittitur issued on September 11, 2007.

15 6. Defendant filed his third Petition for Writ of Habeas Corpus (Post-Conviction)
16 on December 8, 2010, in Pershing County. After the Petition came before this Court, the
17 State filed its Response and Motion to Dismiss on May 16, 2012. On July 16, 2012, this
18 Court denied third Defendant's Petition for Writ of Habeas Corpus. On August 6, 2012,
19 Defendant filed a Motion to Reconsider. The State filed an Opposition to Motion to
20 Reconsider on August 9, 2012. On August 13, 2012, the district court issued a Findings of
21 Fact, Conclusions of Law and Order denying Defendant's Petition. A Notice of Entry of
22 Order was filed on August 21, 2012. On September 17, 2012, Defendant filed a Notice of
23 Appeal from the order denying his Petition. The district court issued an Order denying
24 Defendant's Motion to Reconsider on October 5, 2012. The Nevada Supreme Court issued
25 an Order of Affirmance on July 23, 2013. Defendant filed a Petition for Rehearing on
26 August 6, 2013. On September 25, 2013, the Nevada Supreme Court denied Defendant's
27 Motion for Rehearing. Remittitur issued on October 24, 2013.

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1 7. Defendant filed the instant Petition for Writ of Habeas Corpus and Motion for
2 Appointment of Counsel on August 14, 2013. The State's Response and Motion to Dismiss
3 was filed on September 19, 2013. On October 21, 2013, this Court made the following
4 findings.

5 8. Defendant's Petition is time-barred. Remittitur issued from the Nevada
6 Supreme Court's affirmance of Defendant's Judgment of Conviction on September 17, 1991.
7 Thus, Defendant had one year from that date, or until September 17, 1992, to file a timely
8 petition. The instant Petition was not filed until August 14, 2013. This is nearly twenty-one
9 (21) years beyond the one year time frame.

10 9. Defendant's Petition is barred as successive. This is Defendant's fourth post-
11 conviction Petition for Writ of Habeas Corpus.

12 10. Defendant's argument that he was improperly sentenced as a habitual offender
13 does not establish good cause for the filing of his late, successive Petition. This argument has
14 already been addressed by the Nevada Supreme Court and it is the law of the case that
15 Defendant was properly sentenced as a habitual offender.

16 11. Defendant has failed to provide any evidence of actual innocence which would
17 support the filing of a late, successive Petition.

18 12. Defendant's sentence is not illegal. Any argument to the contrary has already
19 been addressed by the Nevada Supreme Court and cannot provide good cause for the filing
20 of a late, successive Petition.

21 13. The State has pled laches and Defendant has not overcome the statutory
22 presumption that his delay of more than five years in filing the instant Petition has
23 prejudiced the State.

24 14. As Defendant's Petition is untimely and successive with no good cause shown,
25 Defendant is not entitled to the appointment of counsel in connection with his Petition.

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CONCLUSIONS OF LAW

1. The mandatory provisions of NRS 34.726 state:

1. Unless there is good cause shown for delay, a petition that challenges the validity of a judgment or sentence must be filed within 1 year 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:

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

NRS 34.726(1).

2. The Nevada Supreme Court has justified the one-year rule with regard to the filing of post-conviction petitions in Colley v. State, 105 Nev. 235, 773 P.2d 1229 (1989), when it upheld a district court's dismissal of a petition based on NRS 34.726(1). The Court reasoned that:

At some point, we must give finality to criminal cases. Darnell v. State, 98 Nev. 518, 521, 654 P.2d 1009, 1011 (1982). Should we allow Colley's post-conviction relief proceeding to go forward, we would encourage offenders to file groundless petitions for federal habeas corpus relief, secure in the knowledge that a petition for post-conviction relief remained indefinitely available to them. This situation would prejudice both the accused and the State since the interest of both the petitioner and the government are best served if post-conviction claims are raised while the evidence is still fresh.

Id. at 236, 773 P.2d at 1230.

3. Furthermore, the one-year time bar is strictly construed and enforced. In Gonzales v. State, 118 Nev. 590, 53 P.3d 901 (2002), the Nevada Supreme Court rejected a habeas petition that was filed two (2) days late. The Court reiterated that the "clear and unambiguous" provisions of NRS 34.726(1) mandate dismissal absent a showing of "good cause" for the delay in filing. Id. at 593, 53 P.3d at 902.

4. To show good cause for delay under NRS 34.726(1), a petitioner must demonstrate the following: 1) "[t]hat the delay is not the fault of the petitioner" and 2) that the petitioner will be "unduly prejudice[d]" if the petition is dismissed as untimely. Under

1 the first requirement, "a petitioner must show that an impediment external to the defense
2 prevented him or her from complying with the state procedural default rules." Hathaway v.
3 State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (citing Pellegrini v. State, 117 Nev. 860,
4 886-87, 34 P.3d 519, 537 (2001); Lozada v. State, 110 Nev. 349, 353, 871 P.2d 944, 946
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8 officials, made compliance impracticable.'" Id. (quoting Murray v. Carrier, 477 U.S. 478,
9 488, 106 S. Ct. 2639 (1986) (citations and quotations omitted)). Clearly, any delay in filing
10 of the petition must not be the fault of the petitioner. NRS 34.726(1)(a). Once a petitioner
11 has established cause, he must show actual prejudice resulting from the errors of which he
12 complains, i.e., "a petitioner must show that errors in the proceedings underlying the
13 judgment worked to the petitioner's actual and substantial disadvantage." State v. Huebler,
14 __ Nev. __, 275 P.3d 91, 94-95 (2012) (citing Hogan v. Warden, 109 Nev. 952, 959-60, 860
15 P.2d 710, 716 (1993)).

16 5. NRS 34.810 forbids the filing of successive petitions. NRS 34.810(2) reads:

17 A second or successive petition *must* be dismissed if the judge or
18 justice determines that it fails to allege new or different grounds
19 for relief and that the prior determination was on the merits or, if
20 new and different grounds are alleged, the judge or justice finds
that the failure of the petitioner to assert those grounds in a prior
petition constituted an abuse of the writ. (emphasis added).

21 Second or successive petitions are petitions that either fail to allege new or different grounds
22 for relief and the grounds have already been decided on the merits or that allege new or
23 different grounds but a judge or justice finds that the petitioner's failure to assert those
24 grounds in a prior petition would constitute an abuse of the writ. Second or successive
25 petitions will only be decided on the merits if the petitioner can show good cause and
26 prejudice. NRS 34.810(3); Lozada v. State, 110 Nev. 349, 358, 871 P.2d 944, 950 (1994).

27 The Nevada Supreme Court has stated: "Without such limitations on the availability
28 of post-conviction remedies, prisoners could petition for relief in perpetuity and thus abuse

1 post-conviction remedies. In addition, meritless, successive and untimely petitions clog the
2 court system and undermine the finality of convictions.” Lozada, 110 Nev. at 358, 871 P.2d
3 at 950. The Nevada Supreme Court recognizes that “[u]nlike initial petitions which certainly
4 require a careful review of the record, successive petitions may be dismissed based solely on
5 the face of the petition.” Ford v. Warden, 111 Nev. 872, 882, 901 P.2d 123, 129 (1995). In
6 other words, if the claim or allegation was previously available with reasonable diligence, it
7 is an abuse of the writ to wait to assert it in a later petition. McClesky v. Zant, 499 U.S. 467,
8 497-498 (1991). Application of NRS 34.810(2) is mandatory. See State v. Eighth Judicial
9 Dist. Court (Riker), 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005).

10 6. In Calderon v. Thompson, 523 U.S. 538, 560, 118 S. Ct. 1489, 1503 (1998),
11 the U.S. Supreme Court held that in order for a defendant to obtain a reversal of his
12 conviction based on a claim of actual innocence, he must prove that “‘it is more likely than
13 not that no reasonable juror would have convicted him in light of the new evidence’
14 presented in habeas proceedings” (quoting Schlup v. Delo, 513 U.S. 298, 327, 115 S. Ct.
15 851, 867 (1995)). A defendant’s bare claim of actual innocence is insufficient to meet the
16 Calderon test.

17 7. In Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984), the Nevada
18 Supreme Court held that claims asserted in a petition for post-conviction relief must be
19 supported with specific factual allegations, which if true, would entitle the petitioner to
20 relief. “Bare” and “naked” allegations are not sufficient, nor are those belied and repelled by
21 the record. Id. “A claim is ‘belied’ when it is contradicted or proven to be false by the
22 record as it existed at the time the claim was made.” Mann, 118 Nev. at 354, 46 P.3d at
23 1230 (2002).

24 8. NRS 176.555 states that “[t]he court may correct an illegal sentence at
25 anytime.” See also Passanisi v. State, 108 Nev. 318, 321, 831 P.2d 1371, 1372 (1992).
26 However, the grounds to correct an illegal sentence are interpreted narrowly under a limited
27 scope. See Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996); see also Haney
28 v. State, 124 Nev. 408, 411, 185 P.3d 350, 352 (2008). “A motion to correct an illegal

1 sentence is an appropriate vehicle for raising the claim that a sentence is facially illegal at
2 any time; such a motion cannot be used as a vehicle for challenging the validity of a
3 judgment of conviction or sentence based on alleged errors occurring at trial or sentencing.”
4 Edwards, 112 Nev. at 708, 918 P.2d at 324.

5 9. “The law of a first appeal is law of the case on all subsequent appeals in which
6 the facts are substantially the same.” Hall v. State, 91 Nev. 314, 315, 535 P.2d 797, 798
7 (1975) (quoting Walker v. State, 85 Nev. 337, 343, 455 P.2d 34, 38 (1969)). “The doctrine
8 of the law of the case cannot be avoided by a more detailed and precisely focused argument
9 subsequently made after reflection upon the previous proceedings.” Hall, 91 Nev. at 316,
10 535 P.2d at 799. Under the law of the case doctrine, issues previously decided on direct
11 appeal may not be reargued in a habeas petition. Pellegrini v. State, 117 Nev. 860, 34 P.3d
12 519 (2001) (citing McNelson v. State, 115 Nev. 396, 414-15, 990 P.2d 1263, 1275 (1999)).

13 10. NRS 34.800 creates a rebuttable presumption of prejudice to the State if “[a]
14 period exceeding five years [elapses] between the filing of a judgment of conviction, an
15 order imposing a sentence of imprisonment or a decision on direct appeal of a judgment of
16 conviction and the filing of a petition challenging the validity of a judgment of
17 conviction...” The Nevada Supreme Court observed in Groesbeck v. Warden, “[P]etitions
18 that are filed many years after conviction are an unreasonable burden on the criminal justice
19 system. The necessity for a workable system dictates that there must exist a time when a
20 criminal conviction is final.” 100 Nev. 259, 261, 679 P.2d 1268, 1269 (1984). To invoke
21 the presumption, the statute requires the State plead laches in its motion to dismiss the
22 petition. NRS 34.800(2).

23 11. Under the U.S. Constitution, the Sixth Amendment provides no right to
24 counsel in post-conviction proceedings. Coleman v. Thompson, 501 U.S. 722, 752, 111 S.
25 Ct. 2546, 2566 (1991). In McKague v. Warden, 112 Nev. 159, 163, 912 P.2d 255, 258
26 (1996), the Nevada Supreme Court similarly observed that “[t]he Nevada
27 Constitution...does not guarantee a right to counsel in post-conviction proceedings, as we
28 interpret the Nevada Constitution’s right to counsel provision as being coextensive with the

1 Sixth Amendment to the United States Constitution.” McKague specifically held that with
2 the exception of NRS 34.820(1)(a) (entitling appointed counsel when petitioner is under a
3 sentence of death), one does not have “any constitutional or statutory right to counsel at all”
4 in post-conviction proceedings. Id. at 164, 912 P.2d at 258.

5 12. The Nevada Legislature has given courts the discretion to appoint post-
6 conviction counsel so long as “the court is satisfied that the allegation of indigency is true
7 and the petition is not dismissed summarily.” NRS 34.750. NRS 34.750 reads:

8 A petition may allege that the Defendant is unable to pay the
9 costs of the proceedings or employ counsel. If the court is
10 satisfied that the allegation of indigency is true and the petition is
11 **not dismissed summarily**, the court may appoint counsel at the
12 time the court orders the filing of an answer and a return. In
13 making its determination, the court may consider whether:

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

14 (emphasis added). Under NRS 34.750, it is clear that the court has discretion in determining
15 whether to appoint counsel. To have an attorney appointed the defendant “must show that
16 the requested review is not frivolous.” Peterson v. Warden, Nevada State Prison, 87 Nev.
17 134, 136, 483 P.2d 204, 205 (1971).

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ORDER

THEREFORE, IT IS HEREBY ORDERED that the Defendant's Petition for Post-Conviction Relief and Motion to Appoint Counsel shall be, and are hereby denied.

DATED this 27 day of November, 2013.


DISTRICT JUDGE

WSH

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

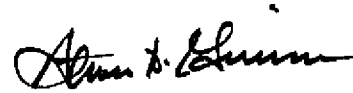
BY  FOR

ERIKA WIBORG
Deputy District Attorney
Nevada Bar #12520

Certificate of Service

I J. MOTL certify that on the 8th day of November, 2013, I mailed a copy of the foregoing proposed Findings of Fact, Conclusions of Law, and Order to Roy Moraga # 31584, Lovelock Correctional Center, 1200 Prison Road, Lovelock, NV 89149, for his review.

jm/SVU



CLERK OF THE COURT

NEO

**DISTRICT COURT
CLARK COUNTY, NEVADA**

ROY D. MORAGA,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent,

Case No: 89C092174

Dept No: VI

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

PLEASE TAKE NOTICE that on December 4, 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 December 9, 2013.

STEVEN D. GRIERSON, CLERK OF THE COURT



Teodora Jones, Deputy Clerk

CERTIFICATE OF MAILING

I hereby certify that on this 9 day of December 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:

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



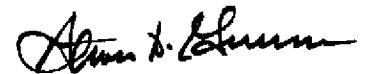
Teodora Jones, Deputy Clerk

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ORDR

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
ERIKA WIBORG
Deputy District Attorney
Nevada Bar #13260
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff



CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

ROY MORAGA,
#0938554

Defendant.

CASE NO: 89C092174

DEPT NO: VI

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER

DATE OF HEARING: October 21, 2013
TIME OF HEARING: 8:30 am

THIS CAUSE having come on for hearing before the Honorable ELISSA CADISH, District Judge, on the 21st day of October, 2013, the Petitioner not being present, PROCEEDING IN FORMA PAUPERIS, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through ERIKA WIBORG, Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, no arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. On January 9, 1990, Roy Moraga (hereinafter "Defendant") was charged by way of Information with two (2) counts of Burglary (Felony – NRS 205.060) and two (2) counts of Sexual Assault (Felony – NRS 200.364, 200.366). On January 11, 1990, Defendant entered a plea of not guilty and his case proceeded to trial. On March 15, 1990, the jury

1 found Defendant guilty of all counts. On June 4, 1990, the State filed a Notice of Motion to
2 Amend Information in order to seek habitual offender treatment. On June 13, 1990, pursuant
3 to an Amended Information filed the same day, Defendant was sentenced to life
4 imprisonment without the possibility of parole under the "large" habitual criminal statute,
5 NRS 207.010. Defendant filed a Notice of Appeal on June 27, 1990. Judgment of Conviction
6 was filed on July 7, 1990.

7 2. On August 27, 1991, the Nevada Supreme Court affirmed Defendant's
8 conviction but remanded for the district court to resentence Defendant separately on the
9 underlying counts rather than giving him a single life sentence under the habitual criminal
10 statute. Remittitur issued on September 17, 1991. On October 21, 1991, the district court
11 took notice of the felony convictions entered at Defendant's initial sentencing and
12 resented Defendant to the following: as to Count I – ten (10) years in the Nevada
13 Department of Corrections ("NDC"); as to Count II – ten (10) years in NDC consecutive to
14 Count I; as to Count III – life imprisonment with parole eligibility beginning after five (5)
15 years, consecutive to Count II; and as to Count IV – pursuant to NRS 207.010, life without
16 the possibility of parole, consecutive to Count III. The Amended Judgment of Conviction
17 was filed on November 13, 1991. Defendant filed a Notice of Appeal on October 30, 1991.
18 On October 4, 1995, the Nevada Supreme Court dismissed Defendant's appeal. Remittitur
19 issued on October 24, 1995.

20 3. On February 20, 1996, Defendant filed his first Petition for Writ of Habeas
21 Corpus (Post-Conviction). The State filed its Response on April 4, 1996. Defendant filed a
22 Supplement on June 13, 1996. The State filed its Response on June 27, 1996. On July 16,
23 1996, Defendant filed a Reply to the State's Response. On July 19, 1996, the district court
24 denied Defendant's Petition. On September 6, 1996, the district court filed its Findings of
25 Fact, Conclusions of Law and Order. The Notice of Entry of Order was filed on September
26 20, 1996. Defendant filed a Notice of Appeal on September 27, 1996.

27 4. On April 30, 1998, Defendant filed a Motion to Modify or in the Alternative
28 Correct Illegal Sentence. The State filed an Opposition on May 8, 1998. On May 28, 1998,

1 the district court entered an Order Denying Defendant's Motion to Modify or Correct Illegal
2 Sentence. On June 13, 1998, Defendant filed a Notice of Appeal from the Order denying his
3 motion. On April 20, 1999, the Nevada Supreme Court consolidated the appeal from the
4 orders denying Defendant's Petition for Writ of Habeas Corpus and Defendant's Motion to
5 Modify Sentence or Correct Illegal Sentence. Both decisions were affirmed. Remittitur
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7 5. Defendant filed his second Petition for Writ of Habeas Corpus (Post-
8 Conviction) on January 10, 2006. The State filed a Response and Motion to Dismiss on
9 February 27, 2006. Defendant filed a Reply to the State's Response on May 24, 2006. On
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11 district court filed its Findings of Fact, Conclusions of Law and Order on February 8, 2007.
12 Notice of Entry of Order was filed on February 13, 2007. On March 2, 2007, Defendant filed
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15 6. Defendant filed his third Petition for Writ of Habeas Corpus (Post-Conviction)
16 on December 8, 2010, in Pershing County. After the Petition came before this Court, the
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19 Defendant filed a Motion to Reconsider. The State filed an Opposition to Motion to
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2 Appointment of Counsel on August 14, 2013. The State's Response and Motion to Dismiss
3 was filed on September 19, 2013. On October 21, 2013, this Court made the following
4 findings.

5 8. Defendant's Petition is time-barred. Remittitur issued from the Nevada
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7 Thus, Defendant had one year from that date, or until September 17, 1992, to file a timely
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CONCLUSIONS OF LAW

1. The mandatory provisions of NRS 34.726 state:

1. Unless there is good cause shown for delay, a petition that challenges the validity of a judgment or sentence must be filed within 1 year 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:

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At some point, we must give finality to criminal cases. Darnell v. State, 98 Nev. 518, 521, 654 P.2d 1009, 1011 (1982). Should we allow Colley's post-conviction relief proceeding to go forward, we would encourage offenders to file groundless petitions for federal habeas corpus relief, secure in the knowledge that a petition for post-conviction relief remained indefinitely available to them. This situation would prejudice both the accused and the State since the interest of both the petitioner and the government are best served if post-conviction claims are raised while the evidence is still fresh.

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28 of post-conviction remedies, prisoners could petition for relief in perpetuity and thus abuse

1 post-conviction remedies. In addition, meritless, successive and untimely petitions clog the
2 court system and undermine the finality of convictions.” Lozada, 110 Nev. at 358, 871 P.2d
3 at 950. The Nevada Supreme Court recognizes that “[u]nlike initial petitions which certainly
4 require a careful review of the record, successive petitions may be dismissed based solely on
5 the face of the petition.” Ford v. Warden, 111 Nev. 872, 882, 901 P.2d 123, 129 (1995). In
6 other words, if the claim or allegation was previously available with reasonable diligence, it
7 is an abuse of the writ to wait to assert it in a later petition. McClesky v. Zant, 499 U.S. 467,
8 497-498 (1991). Application of NRS 34.810(2) is mandatory. See State v. Eighth Judicial
9 Dist. Court (Riker), 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005).

10 6. In Calderon v. Thompson, 523 U.S. 538, 560, 118 S. Ct. 1489, 1503 (1998),
11 the U.S. Supreme Court held that in order for a defendant to obtain a reversal of his
12 conviction based on a claim of actual innocence, he must prove that “‘it is more likely than
13 not that no reasonable juror would have convicted him in light of the new evidence’
14 presented in habeas proceedings” (quoting Schlup v. Delo, 513 U.S. 298, 327, 115 S. Ct.
15 851, 867 (1995)). A defendant’s bare claim of actual innocence is insufficient to meet the
16 Calderon test.

17 7. In Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984), the Nevada
18 Supreme Court held that claims asserted in a petition for post-conviction relief must be
19 supported with specific factual allegations, which if true, would entitle the petitioner to
20 relief. “Bare” and “naked” allegations are not sufficient, nor are those belied and repelled by
21 the record. Id. “A claim is ‘belied’ when it is contradicted or proven to be false by the
22 record as it existed at the time the claim was made.” Mann, 118 Nev. at 354, 46 P.3d at
23 1230 (2002).

24 8. NRS 176.555 states that “[t]he court may correct an illegal sentence at
25 anytime.” See also Passanisi v. State, 108 Nev. 318, 321, 831 P.2d 1371, 1372 (1992).
26 However, the grounds to correct an illegal sentence are interpreted narrowly under a limited
27 scope. See Edwards v. State, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996); see also Haney
28 v. State, 124 Nev. 408, 411, 185 P.3d 350, 352 (2008). “A motion to correct an illegal

1 sentence is an appropriate vehicle for raising the claim that a sentence is facially illegal at
2 any time; such a motion cannot be used as a vehicle for challenging the validity of a
3 judgment of conviction or sentence based on alleged errors occurring at trial or sentencing.”
4 Edwards, 112 Nev. at 708, 918 P.2d at 324.

5 9. “The law of a first appeal is law of the case on all subsequent appeals in which
6 the facts are substantially the same.” Hall v. State, 91 Nev. 314, 315, 535 P.2d 797, 798
7 (1975) (quoting Walker v. State, 85 Nev. 337, 343, 455 P.2d 34, 38 (1969)). “The doctrine
8 of the law of the case cannot be avoided by a more detailed and precisely focused argument
9 subsequently made after reflection upon the previous proceedings.” Hall, 91 Nev. at 316,
10 535 P.2d at 799. Under the law of the case doctrine, issues previously decided on direct
11 appeal may not be reargued in a habeas petition. Pellegrini v. State, 117 Nev. 860, 34 P.3d
12 519 (2001) (citing McNelson v. State, 115 Nev. 396, 414-15, 990 P.2d 1263, 1275 (1999)).

13 10. NRS 34.800 creates a rebuttable presumption of prejudice to the State if “[a]
14 period exceeding five years [elapses] between the filing of a judgment of conviction, an
15 order imposing a sentence of imprisonment or a decision on direct appeal of a judgment of
16 conviction and the filing of a petition challenging the validity of a judgment of
17 conviction...” The Nevada Supreme Court observed in Groesbeck v. Warden, “[P]etitions
18 that are filed many years after conviction are an unreasonable burden on the criminal justice
19 system. The necessity for a workable system dictates that there must exist a time when a
20 criminal conviction is final.” 100 Nev. 259, 261, 679 P.2d 1268, 1269 (1984). To invoke
21 the presumption, the statute requires the State plead laches in its motion to dismiss the
22 petition. NRS 34.800(2).

23 11. Under the U.S. Constitution, the Sixth Amendment provides no right to
24 counsel in post-conviction proceedings. Coleman v. Thompson, 501 U.S. 722, 752, 111 S.
25 Ct. 2546, 2566 (1991). In McKague v. Warden, 112 Nev. 159, 163, 912 P.2d 255, 258
26 (1996), the Nevada Supreme Court similarly observed that “[t]he Nevada
27 Constitution...does not guarantee a right to counsel in post-conviction proceedings, as we
28 interpret the Nevada Constitution’s right to counsel provision as being coextensive with the

1 Sixth Amendment to the United States Constitution.” McKague specifically held that with
2 the exception of NRS 34.820(1)(a) (entitling appointed counsel when petitioner is under a
3 sentence of death), one does not have “any constitutional or statutory right to counsel at all”
4 in post-conviction proceedings. Id. at 164, 912 P.2d at 258.

5 12. The Nevada Legislature has given courts the discretion to appoint post-
6 conviction counsel so long as “the court is satisfied that the allegation of indigency is true
7 and the petition is not dismissed summarily.” NRS 34.750. NRS 34.750 reads:

8 A petition may allege that the Defendant is unable to pay the
9 costs of the proceedings or employ counsel. If the court is
10 satisfied that the allegation of indigency is true and the petition is
11 **not dismissed summarily**, the court may appoint counsel at the
12 time the court orders the filing of an answer and a return. In
13 making its determination, the court may consider whether:

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

14 (emphasis added). Under NRS 34.750, it is clear that the court has discretion in determining
15 whether to appoint counsel. To have an attorney appointed the defendant “must show that
16 the requested review is not frivolous.” Peterson v. Warden, Nevada State Prison, 87 Nev.
17 134, 136, 483 P.2d 204, 205 (1971).

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1 ORDER

2 THEREFORE, IT IS HEREBY ORDERED that the Defendant's Petition for Post-
3 Conviction Relief and Motion to Appoint Counsel shall be, and are hereby denied.

4 DATED this 27 day of November, 2013.

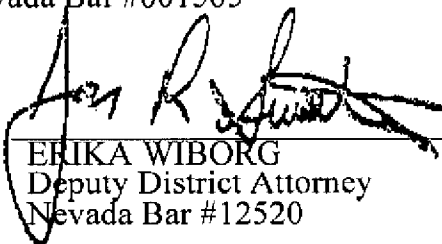
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6 
DISTRICT JUDGE

WSH

7
8 STEVEN B. WOLFSON
9 Clark County District Attorney
10 Nevada Bar #001565

11 BY

FOR

12 
ERIKA WIBORG
13 Deputy District Attorney
14 Nevada Bar #12520
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Certificate of Service

I J. MOTL certify that on the 8th day of November, 2013, I mailed a copy of the foregoing proposed Findings of Fact, Conclusions of Law, and Order to Roy Moraga # 31584, Lovelock Correctional Center, 1200 Prison Road, Lovelock, NV 89149, for his review.

jm/SVU

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 25, 2012

89C092174

The State of Nevada vs Roy D Moraga

April 25, 2012

8:30 AM

Status Check

HEARD BY: Cadish, Elissa F.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES**PRESENT:**Ferreira, Amy L.
State of NevadaAttorney
Plaintiff

JOURNAL ENTRIES

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

NDC

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

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 16, 2012

89C092174

The State of Nevada vs Roy D Moraga

July 16, 2012

8:30 AM

All Pending Motions

HEARD BY: Cadish, Elissa F.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES**PRESENT:**Rinetti, Dena I.
State of NevadaAttorney
Plaintiff

JOURNAL ENTRIES

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

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

NDC

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 27, 2012

89C092174

The State of Nevada vs Roy D Moraga

August 27, 2012

8:30 AM

Motion

HEARD BY: Cadish, Elissa F.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES**PRESENT:**Rinetti, Dena I.
State of NevadaAttorney
Plaintiff

JOURNAL ENTRIES

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

NDC

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 21, 2013

89C092174

The State of Nevada vs Roy D Moraga

October 21, 2013

8:30 AM

Petition for Writ of Habeas
Corpus

HEARD BY: Cadish, Elissa F.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES**PRESENT:**State of Nevada
Wiborg, Erika L.Plaintiff
Attorney

JOURNAL ENTRIES

- In the absence of the Deft., Court stated there will not be any argument. Court stated findings noting the petition is untimely, successive, no good cause has been shown for the procedural defaults, there is no showing in evidence of actual innocence, the sentence is not illegal and ORDERED, Deft's Pro Se Petition For Writ of Habeas Corpus DENIED. FURTHER ORDERED, due to the ruling of the Court, Defendant's request for counsel is DENIED; State to prepare the order.

NDC

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

Certification of Copy

State of Nevada }
County of Clark } SS:

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

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

STATE OF NEVADA,

Plaintiff(s),

vs.

ROY D. MORAGA,

Defendant(s).

Case No: C092174
Dept No: VI

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 17 day of December 2013.

Steven D. Grierson, Clerk of the Court



Teodora Jones, Deputy Clerk