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Gregory Scott Hermanski #69140
NMCC, P.O. Box 7000
Carson City, NV 89702

MAY 14 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

Tracie K. Lindeman
CLERK OF THE COURT

District Court
Clark County, Nevada

~~Electronically Filed~~
~~Apr 10 2014 11:54 a.m.~~
~~Tracie K. Lindeman~~
~~Clerk of Supreme Court~~

The State of Nevada,
 plaintiff,

-VS-

Case No. DDC167783

Dept. No. VI

Gregory Scott Hermanski,
 defendant.

Notice of Appeal

Notice is hereby given that defendant Gregory Scott Hermanski, appeals to the Supreme Court of Nevada from Order entered in the above styled cause on February 26, 2014 denying "Defendant's Pro Se Renewed Motion to Extend Prison Copy Work Limit"; "Petitioner's Objection and Motion to Strike Respondent's Opposition to Motion to Extend Prison Copy-Work Limit"; "Petition for Writ of Habeas Corpus"; "Motion for Reconsideration and requests for counsel and an Evidentiary Hearing; and, Granting "State's Motion to Dismiss".

Respectfully Submitted,

dated this 31 day of March, 2014

Gregory S. Hermanski
Gregory Scott Hermanski

RECEIVED
APR 04 2014
CLERK OF THE COURT

Transferred from docket no. 65389
to docket no. 65298 per order
filed 5-14-14.

Gregory S. Herman
N/E 1/4 Robert Jones Day # 19140
N.M.C.C., P.O. Box 7000
Carson City, NV 89702

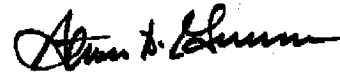
Jerald M. D.

Steven D. Dierksen, Clerk
Circuit Judicial District Court
200 Lewis Ave., 3rd Floor
Las Vegas, NV 89155-1160

8915533500

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POSTAGE

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CLERK OF THE COURT

ASTA

**DISTRICT COURT
CLARK COUNTY, NEVADA**

STATE OF NEVADA,

Plaintiff(s),

vs.

GREGORY S. HERMANSKI aka ROBERT J.
DAY,

Defendant(s),

Case No: 00C167783
Dept No: VI

CASE APPEAL STATEMENT

1. Appellant(s): Gregory Scott Hermanski

2. Judge: Elissa Cadish

3. Appellant(s): Gregory Scott Hermanski

Counsel:

Gregory Scott Hermanski #69140
P.O. Box 7000
Carson City, NV 89702

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
2 7. Appellant Represented by Appointed Counsel On Appeal: N/A

3 8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

4 9. Date Commenced in District Court: June 8, 2000

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): 38028, 41405, 47011, 47963, 55718, 58688, 58871,
9 64951, 65298

10 12. Child Custody or Visitation: N/A

11
12 Dated This 7 day of April 2014.

13 Steven D. Grierson, Clerk of the Court

14
15 

16 Heather Ungermann, Deputy Clerk
17 200 Lewis Ave
18 PO Box 551601
19 Las Vegas, Nevada 89155-1601
20 (702) 671-0512
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DROA

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04/04/2014 02:22:20 PM

Gregory Scott Hermanski, #69140
NMCC, P.O. Box 7000
Carson City, NV 89702
Defendant, pro se.

Ann L. Lamm
CLERK OF THE COURT

District Court
Clark County, Nevada

The State of Nevada,
plaintiff,

-VS-

Case No. DDC167783

Dept. No. VI

Gregory Scott Hermanski,
defendant.

Designation of Record on Appeal

TO: Steven D. Grierson, Clerk
Eight Judicial District Court
200 Lewis Ave., 3rd Floor
Las Vegas, NV 89155-1160

The above named defendant, Gregory Scott Hermanski, pro se,
herby designates the entire record of the above entitled case, to include
all papers, documents, pleadings and transcripts thereof, as well as all
exhibits contained in the vault, as and for the record on appeal.

dated this 31 day of ^{March} ~~April~~, 2014.

Gregory Scott Hermanski
Gregory Scott Hermanski

Certificate of Service

I, Gregory Scott Hermanski, do hereby certify, pursuant to NCCP
5(b) that on this 1st day of April, 2014. I mailed a true and
correct copy of the foregoing "Notice of Appeal" and "Designation of Record
on Appeal" by depositing same in the Northern Nevada Correctional
Center Legal Library, first-class postage fully pre-paid and addressed to:

Steven P. Wolfson, District Attorney

200 Lewis Ave

P.O. Box 552212

Las Vegas, NV 89155-2212

dated this 31st day of March, 2014

Gregory S. Hermanski
Gregory Scott Hermanski

DEPARTMENT 6
CASE SUMMARY
CASE No. 00C167783

The State of Nevada vs Gregory S Hermanski

Location: Department 6
 Judicial Officer: Cadish, Elissa F.
 Filed on: 06/08/2000
 Case Number History:
 Cross-Reference Case Number: C167783
 Defendant's Scope ID #: 1679345
 Lower Court Case Number: 00F06978
 Supreme Court No.: 55718
 58688
 58871
 64951
 65298

CASE INFORMATION

Offense	Deg	Date	Case Type:
1. ROBBERY WITH A DEADLY WEAPON	F	01/01/1900	Felony/Gross Misdemeanor
2. BURGLARY WITH A DEADLY WEAPON	F	01/01/1900	Case Flags: Appealed to Supreme Court Custody Status - Nevada Department of Corrections
3. HABITUAL CRIMINAL	F	01/01/1900	

Related Cases
 00F06978X (Bind Over Related Case)

Statistical Closures

03/31/2014	Other Manner of Disposition - Criminal
01/11/2012	Other Manner of Disposition - Criminal
06/01/2010	USJR Reporting Statistical Closure
03/16/2006	USJR Reporting Statistical Closure
01/13/2005	USJR Reporting Statistical Closure
06/20/2002	USJR Reporting Statistical Closure
12/05/2000	USJR Reporting Statistical Closure
01/31/2005	USJR Reporting Statistical Closure
05/06/2003	USJR Reporting Statistical Closure
03/15/2010	USJR Reporting Statistical Closure
05/11/2001	USJR Reporting Statistical Closure
05/10/2006	USJR Reporting Statistical Closure

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	00C167783
Court	Department 6
Date Assigned	12/10/2010
Judicial Officer	Cadish, Elissa F.

PARTY INFORMATION

Defendant Hermanski, Gregory S

Lead Attorneys

Pro Se

Plaintiff State of Nevada

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












DATE

EVENTS & ORDERS OF THE COURT












INDEX

01/01/1900	Plea (Judicial Officer: User, Conversion) 1. ROBBERY WITH A DEADLY WEAPON
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CASE SUMMARY
CASE No. 00C167783

Date	Event
	Not Guilty
01/01/1900	Plea (Judicial Officer: User, Conversion) 2. BURGLARY, WITH A DEADLY WEAPON Not Guilty
06/08/2000	 Criminal Bindover
06/09/2000	 Information
06/13/2000	Initial Arraignment (9:00 AM) <i>INITIAL ARRAIGNMENT Relief Clerk: BILLIE JO CRAIG Reporter/Recorder: TINA SMITH Heard By: Kathy Hardcastle</i>
06/19/2000	 Order <i>Order (Commitment)</i>
06/21/2000	 Reporters Transcript <i>Transcript of Hearing Held on June 6, 2000</i>
08/25/2000	 Order
09/27/2000	 Order
10/04/2000	Status Check (9:00 AM) <i>COURT ADMINISTRATIONS' REQUEST FOR STATUS CHECK Relief Clerk: BILLIE JO CRAIG Reporter/Recorder: TINA SMITH Heard By: Hardcastle, Kathy</i>
10/04/2000	 Order to Transport Defendant <i>Order to Transport Defendant (Found Competent per NRS 178.460)</i>
10/04/2000	 Judgment <i>Findings (of Competency)</i>
10/25/2000	Status Check (9:00 AM) <i>COURT ADMINISTRATIONS' REQUEST FOR STATUS CHECK Court Clerk: DOROTHY KELLY Reporter/Recorder: TINA SMITH Heard By: Hardcastle, Kathy</i>
11/08/2000	Status Check (9:00 AM) <i>COURT ADMINISTRATIONS' REQUEST FOR STATUS CHECK Court Clerk: DOROTHY KELLY Reporter/Recorder: TINA SMITH Heard By: Hardcastle, Kathy</i>
11/14/2000	Status Check (9:00 AM) <i>COURT ADMINISTRATIONS' REQUEST FOR STATUS CHECK Relief Clerk: BILLIE JO CRAIG Reporter/Recorder: TINA SMITH Heard By: Kathy Hardcastle</i>
11/15/2000	 Remittitur to the Lower Court <i>Remittitur</i>
11/17/2000	 Order <i>Order (Remand)</i>
12/06/2000	 Criminal Bindover
12/07/2000	














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	 Information
12/11/2000	Initial Arraignment (9:00 AM) <i>INITIAL ARRAIGNMENT Relief Clerk: GREER JENNISON Reporter/Recorder: TINA SMITH Heard By: Kathy Hardcastle</i>
01/09/2001	 Reporters Transcript <i>Transcript of Hearing Held on December 4, 2000</i>
01/23/2001	 Notice of Witnesses <i>Notice of Witnesses [NRS 174.234(1)(b)]</i>
02/21/2001	Calendar Call (9:00 AM) <i>CALENDAR CALL Court Clerk: DOROTHY KELLY Reporter/Recorder: TINA SMITH Heard By: Kathy Hardcastle</i>
02/21/2001	 Amended Information
02/21/2001	 Request <i>Motion and Notice of Motion to Amend Information</i>
02/21/2001	 Order <i>Order to Amend Information</i>
02/21/2001	 Amended Information <i>Amended Information Amended by Interlineation on 03/12/2001</i>
02/21/2001	 Amended Information <i>Amended Information Amended by Interlineation on 03/13/2001</i>
02/22/2001	 Motion to Dismiss <i>Motion to Dismiss Information</i>
02/22/2001	 Expert Witness List <i>Filed By: Defendant Hermanski, Gregory S Witness List</i>
02/23/2001	Status Check (9:00 AM) <i>STATUS CHECK: FINAL TRIAL ORDER Court Clerk: DOROTHY KELLY Reporter/Recorder: TINA SMITH Heard By: Kathy Hardcastle</i>
02/26/2001	CANCELLED Jury Trial (10:30 AM) <i>Vacated</i>
02/27/2001	 Notice of Witnesses <i>Notice of Witnesses [NRS 174.234 (1)(b)]</i>
02/28/2001	Calendar Call (9:00 AM) <i>CALENDAR CALL Court Clerk: DOROTHY KELLY Reporter/Recorder: TINA SMITH Heard By: Kathy Hardcastle</i>
03/05/2001	Motion to Dismiss (9:00 AM) <i>Events: 02/22/2001 Motion to Dismiss DEFT'S MOTION TO DISMISS INFORMATION Heard By: Kathy Hardcastle</i>





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03/09/2001	 Motion to Dismiss Filed By: Defendant Hermanski, Gregory S <i>Motion to Dismiss for Failure to Preserve Evidence</i>
03/12/2001	Motion to Dismiss (9:00 AM) <i>DEPT'S MOTION TO DISMISS INFORMATION Heard By: Kathy Hardcastle</i>
03/12/2001	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS FOR 3/12/01 Relief Clerk: BILLIE JO CRAIG Reporter/Recorder: LIZ GARCIA Heard By: Kathy Hardcastle</i>
03/12/2001	Jury Trial (10:30 AM) <i>TRIAL BY JURY Heard By: Kathy Hardcastle</i>
03/13/2001	Jury Trial (10:30 AM) <i>TRIAL BY JURY Relief Clerk: BILLIE JO CRAIG Reporter/Recorder: LIZ GARCIA Heard By: Hardcastle, Kathy</i>
03/14/2001	Jury Trial (10:30 AM) <i>TRIAL BY JURY Relief Clerk: BILLIE JO CRAIG Reporter/Recorder: LIZ GARCIA Heard By: Hardcastle, Kathy</i>
03/14/2001	 Jury List
03/15/2001	Jury Trial (10:30 AM) <i>TRIAL BY JURY Relief Clerk: BILLIE JO CRAIG Reporter/Recorder: LIZ GARCIA Heard By: Kathy Hardcastle</i>
03/15/2001	 Verdict
03/15/2001	 Proposed Jury Instructions Not Used At Trial
03/15/2001	 Instructions to the Jury
03/20/2001	 Motion <i>Motion and Notice of Motion to Amend Information</i>
03/26/2001	Motion to Amend Information (9:00 AM) Events: 03/20/2001 Motion <i>STATE'S MOTION TO AMEND INFORMATION Relief Clerk: BILLIE JO CRAIG Reporter/Recorder: TINA SMITH Heard By: Kathy Hardcastle</i>
03/26/2001	 Amended Information <i>Second Amended Information</i>
03/26/2001	 Order <i>Order to Amended Information</i>
05/02/2001	Sentencing (9:00 AM) <i>SENTENCING Court Clerk: DOROTHY KELLY Relief Clerk: KEITH REED/kar Reporter/Recorder: TINA SMITH Heard By: Hardcastle, Kathy</i>
05/09/2001	Sentencing (9:00 AM) <i>SENTENCING Relief Clerk: BILLIE JO CRAIG Reporter/Recorder: TINA SMITH Heard By: Kathy Hardcastle</i>
05/18/2001	

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	 Judgment of Conviction <i>Judgment of Conviction (Plea of Guilty)</i>
05/18/2001	 Judgment of Conviction <i>Judgment of Conviction Amended by Interlineation on 10/02/2002</i>
06/08/2001	 Request Filed by: Defendant Hermanski, Gregory S <i>Request for Rough Draft Transcript</i>
06/08/2001	 Notice of Appeal Filed By: Defendant Hermanski, Gregory S
06/08/2001	 Case Appeal Statement Filed By: Defendant Hermanski, Gregory S
07/02/2001	 Reporters Transcript <i>Transcript of Hearing Held on March 13, 2001</i>
07/02/2001	 Reporters Transcript <i>Transcript of Hearing Held on March 14, 2001</i>
07/02/2001	 Reporters Transcript <i>Transcript of Hearing Held on May 9, 2001</i>
07/02/2001	 Reporters Transcript <i>Transcript of Hearing Held on March 12, 2001</i>
09/25/2001	 Order Filed By: Defendant Hermanski, Gregory S <i>Order for Transcript</i>
11/01/2001	 Reporters Transcript <i>Transcript of Hearing Held on February 21, 2001</i>
02/06/2002	Request of Court (9:00 AM) <i>AT THE REQUEST OF THE COURT CLARIFICATN SENTENCE/SUPREME CT VR 2/7</i> <i>Court Clerk: Dorothy Kelly Reporter/Recorder: Tina Smith Heard By: Hardcastle, Kathy</i>
02/15/2002	 Order for Production of Inmate <i>Order for Production of Inmate Robert James Day, BAC #69140</i>
02/27/2002	Request of Court (9:00 AM) <i>AT THE REQUEST OF THE COURT CLARIFICATN SENTENCE/SUPREME CT VR 2/7</i>
04/18/2002	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerks Certificate/Judgment - Affirmed in Part and Remand;</i> <i>Rehearing Denied</i>
06/26/2002	Request (9:00 AM) <i>DEFT'S REQUEST RESENTENCING PURSUANT TO ORDER OF SUPREME COURT /14</i> <i>Court Clerk: Dorothy Kelly Reporter/Recorder: Tina Smith Heard By: Hardcastle, Kathy</i>
07/19/2002	

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	 Motion <i>Motion for a New Trial</i>
07/19/2002	 Motion to Vacate <i>Motion to Vacate Sentence as an Habitual Criminal</i>
07/19/2002	 Order Filed By: Defendant Hermanski, Gregory S <i>Order for Transcript</i>
07/24/2002	Request (9:00 AM) <i>DEFT'S REQUEST RESENTENCING PURSUANT TO ORDER OF SUPREME COURT /14</i> <i>Heard By: Kathy Hardcastle</i>
07/24/2002	Motion for New Trial (9:00 AM) Events: 07/19/2002 Motion <i>DEFT'S MOTION FOR A NEW TRIAL /15 Heard By: Kathy Hardcastle</i>
07/24/2002	Motion to Vacate (9:00 AM) Events: 07/19/2002 Motion to Vacate <i>DEFT'S MOTION TO VACATE SENTENCE AS AN HABITUAL CRIMINAL /16 Heard By:</i> <i>Kathy Hardcastle</i>
07/25/2002	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 07-25-02 Court Clerk: Dorothy Kelly Reporter/Recorder: Debra</i> <i>Van Blaricom Heard By: Kathy Hardcastle</i>
08/14/2002	Request (9:00 AM) <i>DEFT'S REQUEST RESENTENCING PURSUANT TO ORDER OF SUPREME COURT /14</i> <i>Heard By: Kathy Hardcastle</i>
08/14/2002	Motion for New Trial (9:00 AM) <i>DEFT'S MOTION FOR A NEW TRIAL /15 Heard By: Kathy Hardcastle</i>
08/14/2002	Motion to Vacate (9:00 AM) <i>DEFT'S MOTION TO VACATE SENTENCE AS AN HABITUAL CRIMINAL /16 Heard By:</i> <i>Kathy Hardcastle</i>
08/14/2002	Request of Court (9:00 AM) <i>AT THE REQUEST OF THE COURT/TRANSCRIPT OF VOIR DIRE/18 Heard By: Kathy</i> <i>Hardcastle</i>
08/14/2002	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 08-14-02 Court Clerk: Dorothy Kelly Reporter/Recorder: Tina</i> <i>Smith Heard By: Kathy Hardcastle</i>
08/27/2002	 Statement Filed by: Defendant Hermanski, Gregory S <i>Declaration of Defendant</i>
08/28/2002	Request (9:00 AM) <i>DEFT'S REQUEST RESENTENCING PURSUANT TO ORDER OF SUPREME COURT /14</i> <i>Heard By: Kathy Hardcastle</i>
08/28/2002	Motion for New Trial (9:00 AM) <i>DEFT'S MOTION FOR A NEW TRIAL /15 Heard By: Kathy Hardcastle</i>
08/28/2002	Motion to Vacate (9:00 AM) <i>DEFT'S MOTION TO VACATE SENTENCE AS AN HABITUAL CRIMINAL /16 Heard By:</i>







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Kathy Hardcastle

08/28/2002	Request of Court (9:00 AM) <i>AT THE REQUEST OF THE COURT/TRANSCRIPT OF VOIR DIRE/18 Heard By: Kathy Hardcastle</i>
08/28/2002	Status Check (9:00 AM) <i>STATUS CHECK: 08/28/02</i>
08/28/2002	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 8-28-02 Relief Clerk: Alan Castle Reporter/Recorder: Tina Smith Heard By: Kathy Hardcastle</i>
08/28/2002	 Motion to Dismiss <i>Motion to Dismiss Count Pursuant to Habitual Criminal Statute, NRS 207.010</i>
08/30/2002	 Motion <i>Motion for a New Trial</i>
09/09/2002	Motion (9:00 AM) Events: 08/30/2002 Motion <i>DEPT'S MOTION FOR A NEW TRIAL/21 Relief Clerk: Denise Husted Reporter/Recorder: Tina Smith Heard By: Hardcastle, Kathy</i>
09/26/2002	 Order for Production of Inmate <i>Order for Production of Inmate Robert James Day, BAC #69140</i>
10/01/2002	 Motion for New Trial Filed By: Defendant Hermanski, Gregory S <i>Motion for a New Trial</i>
10/02/2002	Request (9:00 AM) <i>DEPT'S REQUEST RESENTENCING PURSUANT TO ORDER OF SUPREME COURT /14 Heard By: Kathy Hardcastle</i>
10/02/2002	Motion for New Trial (9:00 AM) <i>DEPT'S MOTION FOR A NEW TRIAL /15 Heard By: Kathy Hardcastle</i>
10/02/2002	Motion to Vacate (9:00 AM) <i>DEPT'S MOTION TO VACATE SENTENCE AS AN HABITUAL CRIMINAL /16 Heard By: Kathy Hardcastle</i>
10/02/2002	Request of Court (9:00 AM) <i>AT THE REQUEST OF THE COURT/TRANSCRIPT OF VOIR DIRE/18 Heard By: Kathy Hardcastle</i>
10/02/2002	Motion (9:00 AM) <i>DEPT'S MOTION FOR A NEW TRIAL/21 Heard By: Kathy Hardcastle</i>
10/02/2002	Motion to Dismiss (9:00 AM) Events: 08/28/2002 Motion to Dismiss <i>DEPT'S MOTION TO DISMISS PURSUANT TO HABITUAL CRIMINAL STATUTE, NRS 207.010 /23 Heard By: Kathy Hardcastle</i>
10/02/2002	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 10-02-02 Court Clerk: Dorothy Kelly Reporter/Recorder: Tina Smith Heard By: Kathy Hardcastle</i>
10/02/2002	 Opposition



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State's Opposition to Defendant's Motion to Vacate Sentence as an Habitual Criminal

10/02/2002	 Opposition <i>State's Opposition to Defendant's Motion for New Trial</i>
12/03/2002	 Motion <i>Motion to Dismiss Counsel and Appointment of Substitute Counsel</i>
12/03/2002	 Response <i>State's Response to Defendant's Motion for New Trial</i>
12/04/2002	Request (9:00 AM) <i>DEPT'S REQUEST RESENTENCING PURSUANT TO ORDER OF SUPREME COURT /14 Court Clerk: Dorothy Kelly Reporter/Recorder: Tina Smith Heard By: Kathy Hardcastle</i>
12/04/2002	Motion for New Trial (9:00 AM) <i>DEPT'S MOTION FOR A NEW TRIAL /15 Heard By: Kathy Hardcastle</i>
12/04/2002	Motion to Vacate (9:00 AM) <i>DEPT'S MOTION TO VACATE SENTENCE AS AN HABITUAL CRIMINAL /16 Heard By: Kathy Hardcastle</i>
12/04/2002	Request of Court (9:00 AM) <i>AT THE REQUEST OF THE COURT/TRANSCRIPT OF VOIR DIRE/18 Heard By: Kathy Hardcastle</i>
12/04/2002	Motion (9:00 AM) <i>DEPT'S MOTION FOR A NEW TRIAL/21 Relief Clerk: Denise Husted Reporter/Recorder: Tina Smith Heard By: Kathy Hardcastle</i>
12/04/2002	Motion to Dismiss (9:00 AM) <i>DEPT'S MOTION TO DISMISS PURSUANT TO HABITUAL CRIMINAL STATUTE, NRS 207.010 /23 Heard By: Kathy Hardcastle</i>
12/04/2002	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 12-04-02 Court Clerk: Dorothy Kelly Reporter/Recorder: Tina Smith Heard By: Kathy Hardcastle</i>
12/04/2002	 Objection <i>Filed By: Defendant Hermanski, Gregory S</i>
12/16/2002	Motion to Dismiss (9:00 AM) <i>Events: 12/03/2002 Motion DEPT'S PRO PER MOTION TO DISMISS COUNSEL/APPOINT COUNSEL/25 Relief Clerk: Denise Husted Reporter/Recorder: Tina Smith Heard By: Kathy Hardcastle</i>
12/23/2002	Motion for Confirmation of Counsel (9:00 AM) <i>CONFIRMATION OF COUNSEL/WOMMER Relief Clerk: Denise Husted Reporter/Recorder: Tina Smith Heard By: Hardcastle, Kathy</i>
12/26/2002	 Notice <i>Notice of Intent to Seek Punishment as a Habitual Criminal</i>
12/30/2002	 Order <i>Filed By: Defendant Hermanski, Gregory S Order Appointing Counsel</i>
01/22/2003	Sentencing (9:00 AM)

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SENTENCING


01/22/2003	Motion for Confirmation of Counsel (9:00 AM) <i>CONFIRMATION OF COUNSEL/WOMMER Heard By: Kathy Hardcastle</i>
01/22/2003	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 01-22-03 Court Clerk: Dorothy Kelly Heard By: Kathy Hardcastle</i>
02/11/2003	 Reporters Transcript <i>Transcript of Hearing Held on April 26, 2000</i>
02/26/2003	Sentencing (9:00 AM) <i>SENTENCING Court Clerk: Carole D'Aloia Reporter/Recorder: Carrie Hansen Heard By: Hardcastle, Kathy</i>
03/26/2003	Sentencing (9:00 AM) <i>SENTENCING Court Clerk: Dorothy Kelly Heard By: Hardcastle, Kathy</i>
04/01/2003	 Order for Production of Inmate <i>Order for Production of Inmate Robert James Day, aka, Gregory Scott Hermanski, BAC #69140</i>
04/30/2003	Sentencing (9:00 AM) <i>SENTENCING Court Clerk: Dorothy Kelly Reporter/Recorder: Carrie Hansen Heard By: Kathy Hardcastle</i>
04/30/2003	Disposition (Judicial Officer: User, Conversion) 1. ROBBERY WITH A DEADLY WEAPON Guilty
04/30/2003	Disposition (Judicial Officer: User, Conversion)
04/30/2003	Disposition (Judicial Officer: User, Conversion) 2. BURGLARY WITH A DEADLY WEAPON Guilty
04/30/2003	Disposition (Judicial Officer: User, Conversion)
04/30/2003	Disposition (Judicial Officer: User, Conversion) 3. HABITUAL CRIMINAL Guilty
04/30/2003	Sentence (Judicial Officer: User, Conversion) 1. ROBBERY WITH A DEADLY WEAPON Adult Adjudication Converted Disposition: Sentence# 0001: LAKES CROSSING Converted Disposition: Sentence# 0002: Minimum 120 Months to Maximum 300 Months Placement: NSP Converted Disposition: Sentence# 0003: CREDIT FOR TIME SERVED Minimum 382 Days to Maximum 382 Days Converted Disposition: Sentence# 0004: DNA FEE/GENETIC MARKERS ANALYSIS Amount: \$250.00 Converted Disposition: Sentence# 0005: ADMINISTRATION FEE Amount: \$25.00 Converted Disposition:


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Sentence# 0006: DEFENDANT RE-SENTENCED
Converted Disposition:
Sentence# 0007: LIFE WITHOUT POSSIBILITY OF PAROLE
Converted Disposition:
Sentence# 0008: DNA FEE/GENETIC MARKERS ANALYSIS
Amount: \$150.00
Converted Disposition:
Sentence# 0009: ADMINISTRATION FEE
Amount: \$25.00


04/30/2003 **Sentence** (Judicial Officer: User, Conversion)
2. BURGLARY, WITH A DEADLY WEAPON
Adult Adjudication
Converted Disposition:
Sentence# 0001: LIFE WITHOUT POSSIBILITY OF PAROLE
Cons/Conc: Concurrent
w/Charge Item: 0001
and Sentence#: 0001

05/07/2003  Notice of Appeal
Filed By: Defendant Hermanski, Gregory S


05/07/2003  Case Appeal Statement


05/08/2003  Notice of Appeal
Filed By: Defendant Hermanski, Gregory S


05/08/2003  Designation of Record on Appeal
Filed By: Defendant Hermanski, Gregory S


05/08/2003  Case Appeal Statement


05/12/2003 **Request** (9:00 AM)
*DEFT'S REQUEST TO CLARIFY APPOINTMENT OF COUNSEL/31 Relief Clerk: Billie Jo
Craig Reporter/Recorder: Carrie Hansen Heard By: Kathy Hardcastle*


05/16/2003  Amended Judgment of Conviction


05/20/2003  Notice of Appeal
Filed By: Defendant Hermanski, Gregory S


05/20/2003  Designation of Record on Appeal
Filed By: Defendant Hermanski, Gregory S

05/20/2003  Case Appeal Statement

05/22/2003  Notice of Appeal
Filed By: Defendant Hermanski, Gregory S












05/30/2003  Case Appeal Statement

02/27/2004  Reporters Transcript
Transcript of Hearing Held on April 30, 2003











08/02/2004  NV Supreme Court Clerks Certificate/Judgment - Affirmed

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CASE NO. 00C167783

Nevada Supreme Court Clerk's Certificate Judgment - Affirmed













08/26/2004	 Order Filed By: Defendant Hermanski, Gregory S <i>Order for Excess Fees</i>
01/14/2005	 Motion <i>Motion to Withdraw Counsel</i>
01/31/2005	Motion to Withdraw as Counsel (9:00 AM) Events: 01/14/2005 Motion <i>DEFT'S PRO PER MOTN TO WITHDRAW AS COUNSEL /32 Court Clerk: Alan Castle</i> <i>Reporter/Recorder: Loree Gallegos Heard By: Jennifer Togliatti</i>
02/08/2005	 Order <i>Order Granting Defendant's Motion to Withdraw Counsel</i>
07/13/2005	 Petition for Writ of Habeas Corpus Filed by: Defendant Hermanski, Gregory S
07/18/2005	 Order for Petition for Writ of Habeas Corpus
09/20/2005	 Opposition <i>State's Opposition to Defendant's Petition for Writ of Habeas Corpus (Post-Conviction)</i>
09/21/2005	Petition for Writ of Habeas Corpus (9:00 AM) <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /33 Court Clerk: Alan Castle</i> <i>Reporter/Recorder: Kristen Lunkwitz Heard By: Togliatti, Jennifer</i>
10/05/2005	 Motion <i>Motion for Prisoner Transportation Order</i>
10/05/2005	 Notice of Motion Filed By: Defendant Hermanski, Gregory S
10/24/2005	Petition for Writ of Habeas Corpus (9:00 AM) <i>DEFT'S PTN FOR WRIT OF HABEAS CORPUS /33</i>
10/24/2005	Motion (9:00 AM) Events: 10/05/2005 Motion <i>DEFT'S PRO PER MOTION FOR PRISONER TRANSPORTATION ORDER /34 Heard By:</i> <i>Jennifer Togliatti</i>
10/24/2005	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 10-24-05 Relief Clerk: Judy McIadden Reporter/Recorder:</i> <i>Kristen Lunkwitz Heard By: Jennifer Togliatti</i>
10/24/2005	 Opposition <i>State's Opposition to Defendant's Motion for Prisoner Transportation</i>
10/24/2005	 Opposition <i>State's Opposition to Defendant's Motion for Prisoner Transportation</i>
12/08/2005	 Response <i>State's Supplemental Response to Defendant's Petition for Writ of Habeas Corpus (Post-</i>

DEPARTMENT 6
CASE SUMMARY
CASE NO. 00C167783

	<i>Conviction)</i>
12/21/2005	Decision (9:00 AM) <i>DECISION: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS /36 Court Clerk: Alan Castle Reporter/Recorder: Kristen Lunkwitz Heard By: Brennan, James</i>
01/09/2006	Motion to Reconsider (9:00 AM) <i>DEFT'S PRO PER MOTION TO RECONSIDER TRANSPORT DEFT FOR ORAL ARGUMENTS /37 Court Clerk: Cheryl Case Relief Clerk: Cynthia Georgilas/cg Reporter/Recorder: Kristen Lunkwitz Heard By: Jennifer Togliatti</i>
01/18/2006	Status Check (9:00 AM) <i>STATUS CHECK: DEFT'S WRIT OF HABEAS CORPUS Court Clerk: Alan Castle Reporter/Recorder: Kristen Lunkwitz Heard By: Jennifer Togliatti</i>
01/19/2006	 Order <i>Order Denying Defendant's Pro Per Motion to Reconsider Motion for Prisoner Transportation</i>
01/30/2006	Decision (9:00 AM) <i>DECISION: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS /36 Court Clerk: Alan Castle/ac Relief Clerk: Kathy Streuber Reporter/Recorder: Kristen Lunkwitz Heard By: Togliatti, Jennifer</i>
02/03/2006	Decision (9:00 AM) <i>DECISION: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS /36 Court Clerk: Alan Castle Relief Clerk: Katherine Streuber/ks Reporter/Recorder: Kristen Lunkwitz Heard By: Jennifer Togliatti</i>
03/03/2006	 Findings of Fact, Conclusions of Law and Order
03/06/2006	 Notice of Entry of Decision and Order
03/16/2006	 Motion <i>Petitioner's Motion for Rehearing on Decision Entered March 3, 2006</i>
03/23/2006	 Opposition <i>State's Opposition to Defendant's Motion for Rehearing</i>
03/27/2006	Motion (9:00 AM) <i>Events: 03/16/2006 Motion</i> <i>PETITIONERS PRO PER MOTION FOR REHEARING ON DECISION ENTERED MARCH 3, 2006/39 Relief Clerk: Melissa Swinn Reporter/Recorder: Janice David Heard By: Stephen Huffaker</i>
03/27/2006	 Notice of Appeal <i>Filed By: Defendant Hermanski, Gregory S</i>
03/28/2006	 Case Appeal Statement
04/11/2006	 Order <i>Order Denying Petitioner's Motion for Rehearing on Decision Entered March 3, 2006</i>
07/27/2006	 Amended Judgment of Conviction <i>Second Amended Judgment of Conviction</i>
08/10/2006	 NV Supreme Court Clerks Certificate/Judgment - Affirmed

DEPARTMENT 6
CASE SUMMARY
CASE NO. 00C167783

Nevada Supreme Court Clerk's Certificate Judgment - Affirmed and Remand

08/11/2006	 Motion <i>Defendant's Motion to Stay Proceedings and Motion for Appointment of Counsel</i>
08/22/2006	 Opposition <i>State's Opposition to Defendant's Motion to Stay Proceedings and Motion for Appointment of Counsel</i>
08/23/2006	Motion to Stay (9:00 AM) Events: 08/11/2006 Motion <i>DEFT'S PRO PER MTN TO STAY PROCEEDINGS & MTN FOR APPOINTMENT OF COUNSEL /40 Court Clerk: Alan Castle Relief Clerk: Kathy Klein/kk Reporter/Recorder: Kristen Lunkwitz Heard By: Jennifer Togliatti</i>
08/28/2006	 Notice of Appeal Filed By: Defendant Hermanski, Gregory S
08/28/2006	 Case Appeal Statement
08/29/2006	 Order <i>Order Denying Defendant's Motion to Stay Proceedings and Motion for Appointment of Counsel</i>
11/02/2006	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>Nevada Supreme Court Clerk's Certificate Judgment - Dismissed</i>
02/09/2010	 Motion <i>Notice of Motion and Motion to Correct an Illegal Sentence or in the Alternative Motion for Modification of Sentence</i>
02/19/2010	 Opposition <i>State's Opposition to Defendant's Motion to Correct Illegal Sentence or in the Alternative Motion for Modification of Sentence</i>
02/22/2010	Motion (9:00 AM) Events: 02/09/2010 Motion <i>DEFT'S PRO PER MTN TO CORRECT AN ILLEGAL SENTENCE OR IN THE ALT MTN TO MODIFY/41 Court Clerk: Alan Paul Castle Reporter/Recorder: Cheryl Carpenter Heard By: Jennifer Togliatti</i>
03/09/2010	 Order <i>Order Denying Defendant's Motion to Correct Illegal Sentence or in the Alternative Motion for Modification of Sentence</i>
03/25/2010	 Motion <i>Motion for Reconsideration</i>
03/25/2010	 Notice of Appeal Filed By: Defendant Hermanski, Gregory S
03/27/2010	 Case Appeal Statement
04/05/2010	Motion to Reconsider (9:00 AM) Events: 03/25/2010 Motion












DEPARTMENT 6
CASE SUMMARY
CASE NO. 00C167783

DEFT'S PRO PER MTN TO RECONSIDER /42 Court Clerk: Alan Paul Castle/ac Relief
Clerk: Shelly Landwehr Reporter/Recorder: Yvette Lester Heard By: Jennifer Togliatti

















04/08/2010	 Order <i>Order Denying Defendant's Pro Per Motion to Reconsider</i>
10/11/2010	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed</i>
04/25/2011	 Motion Filed By: Defendant Hermanski, Gregory S <i>"Notice of Motion and Motion to Correct an Illegal Sentence or, in the Alternative, Motion for Modification of Sentence"</i>
05/06/2011	 Opposition to Motion <i>State's Opposition to Defendant's Pro Per Motion to Correct Illegal Sentence or in the Alternative Motion for Modification of Sentence</i>
05/09/2011	 Motion (8:30 AM) (Judicial Officer: Cadish, Elissa F.) Events: 04/25/2011 Motion <i>Notice of Motion and Motion to Correct an Illegal Sentence or, in the Alternative, Motion for Modification of Sentence</i>
05/19/2011	 Supplemental Filed by: Defendant Hermanski, Gregory S <i>Supplemental Points and Authorities in Support of Motion to Correct an Illegal Sentence or, in the Alternative, Motion for Modification of Sentence</i>
05/20/2011	 Order Denying Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Pro Per Motion to Correct Illegal Sentence or, in the Alternative, Motion for Modification of Sentence</i>
05/24/2011	 Motion Filed By: Defendant Hermanski, Gregory S <i>"Defendant's Motion for Leave to File Supplemental Points and Authorities in Support of Motion to Correct an Illegal Sentence or in the Alternative Motion for Modification of Sentence"</i>
05/24/2011	 Motion Filed By: Defendant Hermanski, Gregory S <i>Defendant's Motion for Leave to File "Defendant's Response to State's Opposition to Defendant's Pro Per Motion to Correct an Illegal Sentence or in the Alternative Motion for Modification of Sentence"</i>
05/24/2011	 Response Filed by: Defendant Hermanski, Gregory S <i>Defendant's Response to "State's Opposition to Defendant's Pro Per Motion to Correct an Illegal Sentence or in the Alternative, Motion for Modification of Sentence"</i>
06/02/2011	 Opposition <i>State's Opposition to Defendant's Motion for Leave to File Defendant's Response to State's Opposition to Defendant's Pro Per Motion to Correct Illegal Sentence or in the Alternative Motion for Modification of Sentence</i>
06/02/2011	 Opposition

DEPARTMENT 6
CASE SUMMARY
CASE NO. 00C167783

State's Opposition to Defendant's Motion for Leave to File Supplemental Points and Authorities in Support of Motion to Correct Illegal Sentence or in the Alternative Motion for Modification of Sentence


06/06/2011	Motion (8:30 AM) (Judicial Officer: Cadish, Elissa F.) Events: 05/24/2011 Motion <i>Defendant's Motion for Leave to File Supplemental Points and Authorities in Support of Motion to Correct an Illegal Sentence or in the Alternative Motion for Modification of Sentence</i>
06/06/2011	Motion (8:30 AM) (Judicial Officer: Cadish, Elissa F.) Events: 05/24/2011 Motion <i>Defendant's Motion for Leave to File Defendant's Response to State's Opposition to Defendant's Pro Per Motion to Correct an Illegal Sentence or in the Alternative Motion for Modification of Sentence</i>
06/06/2011	 All Pending Motions (8:30 AM) (Judicial Officer: Cadish, Elissa F.)
06/16/2011	 Motion Filed By: Defendant Hermanski, Gregory S <i>Notice of Motion/Motion for Extension of Time</i>
06/21/2011	 Motion Filed By: Defendant Hermanski, Gregory S <i>Motion for Reconsideration</i>
06/24/2011	 Notice of Appeal (criminal) Party: Defendant Hermanski, Gregory S <i>Notice of Appeal</i>
06/28/2011	 Case Appeal Statement
06/28/2011	 Opposition <i>State's Opposition to Defendant's Motion for Extension of Time</i>
06/29/2011	 Motion (8:30 AM) (Judicial Officer: Cadish, Elissa F.) Events: 06/16/2011 Motion <i>Notice of Motion/Motion for Extension of Time</i>
06/29/2011	 Opposition <i>State's Opposition to Defendant's Motion for Reconsideration</i>
07/06/2011	 Motion (8:30 AM) (Judicial Officer: Cadish, Elissa F.) Events: 06/21/2011 Motion <i>Pro Se Motion for Reconsideration</i>
07/07/2011	 Notice of Entry of Order
07/11/2011	 Order Denying Motion Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Pro Per Motion for Leave to File Supplemental Points and Authorities in Support of Motion to Correct an Illegal Sentence or in the Alternative Motion for Modification of Sentence and Defendant's Pro Per Motion for Leave to File Defendant's Response to State's Opposition to Defendant's Pro Per Motion to Correct an Illegal Sentence or in the Alternative Motion for Modification of Sentence</i>


DEPARTMENT 6
CASE SUMMARY
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07/12/2011	 Notice of Entry of Order
07/21/2011	 Notice of Motion Filed By: Defendant Hermanski, Gregory S <i>Notice of Motion/Motion for Leave to File Motion for Reconsideration</i>
07/21/2011	 Motion Filed By: Defendant Hermanski, Gregory S <i>Notice of Motion/Motion for Reconsideration</i>
07/22/2011	 Opposition <i>State's Opposition to Defendant's Notice of Motion/Motion for Leave to File Motion for Reconsideration</i>
07/25/2011	 Notice of Appeal (criminal) Party: Defendant Hermanski, Gregory S <i>Notice of Appeal</i>
07/26/2011	 Case Appeal Statement Filed By: Plaintiff State of Nevada
08/01/2011	 Motion For Reconsideration (8:30 AM) (Judicial Officer: Cadish, Elissa F.) Events: 07/21/2011 Motion <i>Notice of Motion/ Motion for Reconsideration</i>
08/09/2011	 Reply to Opposition Filed by: Defendant Hermanski, Gregory S <i>Defendant's Reply to State's Opposition'</i>
08/11/2011	 Order Denying Motion Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Pro Per Motion for Leave to File Motion for Reconsideration</i>
08/12/2011	 Notice of Entry of Order
10/04/2011	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>Nevada Supreme Court Clerk's Certificate Judgment - Dismissed</i>
12/20/2011	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed</i>
01/11/2012	 Criminal Order to Statistically Close Case Filed By: Plaintiff State of Nevada
09/11/2013	 At Request of Court (8:30 AM) (Judicial Officer: Cadish, Elissa F.) <i>Clarification of Sentence/Credit for Time Served</i>
12/12/2013	 Motion Filed By: Defendant Hermanski, Gregory S <i>Motion to Extend Prison Copy Work Limit</i>
12/12/2013	 Notice of Motion


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CASE SUMMARY
CASE NO. 00C167783


Filed By: Defendant Hermanski, Gregory S
Notice of Motion and Motion to Correct Illegal Sentence

12/16/2013  Motion for Leave to Proceed in Forma Pauperis

12/16/2013  Affidavit in Support
Affidavit in Support of Request to Proceed in Forma Pauperis


12/16/2013  Petition for Writ of Habeas Corpus
Petition for Writ of Habeas Corpus (Post Conviction)


12/24/2013  Order for Petition for Writ of Habeas Corpus


01/02/2014  Response
Filed by: Plaintiff State of Nevada
State's Response to Defendant's Motion to Correct Illegal Sentence and Motion to Extend Prison Copy Work Limit.


01/08/2014 **Motion (8:30 AM)** (Judicial Officer: Cadish, Elissa F.)
Defendant's Motion to Extend Prison Copy Work Limit


01/08/2014 **Motion to Correct Sentence (8:30 AM)** (Judicial Officer: Cadish, Elissa F.)
Defendant's Notice of Motion and Motion to Correct Illegal Sentence


01/08/2014  **All Pending Motions (8:30 AM)** (Judicial Officer: Cadish, Elissa F.)


01/13/2014  Motion
Filed By: Defendant Hermanski, Gregory S
Motion to Extend Prison Copy Work Limit


01/13/2014  Amended Petition
Filed By: Defendant Hermanski, Gregory S
"First Amended" Petition for Writ of Habeas Corpus (Post Conviction)

01/17/2014  Petition
Filed by: Defendant Hermanski, Gregory S
Petitioner's Statement of Cause for Delay














01/24/2014  Order
Filed By: Plaintiff State of Nevada
Order Denying Defendant's Pro Se Motion to Extend Prison Copy Work Limit and Defendant's Pro Se Motion to Correct Illegal Sentence

01/30/2014  Opposition
Filed By: Defendant Hermanski, Gregory S
Opposition to Motion to Extend Prison Copywork Limit












01/31/2014  Response
Filed by: Plaintiff State of Nevada
State's Response and Motion to Dismiss Defendant's Petition for Writ of Habeas Corpus and "First Amended" Petition for Writ of Habeas Corpus

02/03/2014  **Motion (8:30 AM)** (Judicial Officer: Cadish, Elissa F.)
Defendant's Motion to Extend Prison Copy Work Limit




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02/04/2014	 Motion Filed By: Defendant Hermanski, Gregory S <i>Renewed Motion to Extend Prison Copy-Work Limit</i>
02/04/2014	 Notice of Appeal (criminal) Party: Defendant Hermanski, Gregory S <i>Notice of Appeal</i>
02/04/2014	 Designation of Record on Appeal Filed By: Defendant Hermanski, Gregory S
02/05/2014	 Motion Filed By: Defendant Hermanski, Gregory S <i>Motion for Reconsideration</i>
02/05/2014	 Case Appeal Statement Filed By: Defendant Hermanski, Gregory S
02/05/2014	 Notice of Motion Filed By: Defendant Hermanski, Gregory S
02/11/2014	 Motion Filed By: Defendant Hermanski, Gregory S <i>Petitioner's Objection and Motion to Strike Respondent's Opposition to Motion to Extend Prison Copy-Work Limit</i>
02/18/2014	 Notice Filed By: Defendant Hermanski, Gregory S <i>Judicial Notice</i>
02/19/2014	 Opposition Filed By: Defendant Hermanski, Gregory S <i>"Petitioner's Opposition to State's Response and Motion to Dismiss Defendant's Petition for Writ of Habeas Corpus and First Amended Petition for Writ of Habeas Corpus".</i>
02/20/2014	 Opposition Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Motion for Reconsideration</i>
02/21/2014	 Response Filed by: Plaintiff State of Nevada <i>State's Response To New Claims Raised In Defendant's Reply To The State's Response To Defendant's Petition For Writ Of Habeas Corpus (Post-Conviction)</i>
02/21/2014	 Opposition Filed By: Plaintiff State of Nevada <i>Opposition to Renewed Motion to Extend Prison Copywork Limit</i>
02/25/2014	 Notice of Motion Filed By: Defendant Hermanski, Gregory S <i>Notice of Motion and Motion to Vacate Habitual Felon Adjudication and Sentence</i>
02/26/2014	Petition for Writ of Habeas Corpus (8:30 AM) (Judicial Officer: Cadish, Elissa F.)

DEPARTMENT 6
CASE SUMMARY
CASE NO. 00C167783

02/26/2014	Response and Countermotion (8:30 AM) (Judicial Officer: Cadish, Elissa F.) <i>State's Response And Motion To Dismiss Defendant's Petition For Writ Of Habeas Corpus And "First Amended" Petition For Writ Of Habeas Corpus</i>
02/26/2014	Motion (8:30 AM) (Judicial Officer: Cadish, Elissa F.) <i>Defendant - Renewed Motion to Extend Prison Copy-Work Limit</i>
02/26/2014	Motion For Reconsideration (8:30 AM) (Judicial Officer: Cadish, Elissa F.) <i>Defendant - Motion for Reconsideration</i>
02/26/2014	 All Pending Motions (8:30 AM) (Judicial Officer: Cadish, Elissa F.)
02/26/2014	CANCELED All Pending Motions (8:30 AM) (Judicial Officer: Cadish, Elissa F.) <i>Vacated - On In Error</i>
03/12/2014	 Opposition to Motion Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Motion to Vacate Habitual Offender Adjudication and Sentence</i>
03/17/2014	CANCELED Motion (8:30 AM) (Judicial Officer: Cadish, Elissa F.) <i>Vacated - per Judge</i> <i>Petitioner's Objection and Motion to Strike Respondent's Opposition to Motion to Extend Prison Copy-Work Limit</i>
03/19/2014	 Motion to Vacate (8:30 AM) (Judicial Officer: Cadish, Elissa F.) <i>Defendant's Motion to Vacate Habitual Felon Adjudication and Sentence</i>
03/24/2014	 Response Filed by: Defendant Hermanski, Gregory S <i>Defendant's Response to State's Opposition to Defendant's Motion to Vacate Habitual Felon Adjudication and Sentence</i>
03/24/2014	 Designation of Record on Appeal Filed By: Defendant Hermanski, Gregory S
03/24/2014	 Notice of Appeal (criminal) Party: Defendant Hermanski, Gregory S <i>Notice of Appeal</i>
03/27/2014	 Case Appeal Statement Filed By: Defendant Hermanski, Gregory S
03/31/2014	 Criminal Order to Statistically Close Case
03/31/2014	 Order Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Motion to Vacate Habitual Felon Adjudication and Sentence</i>
04/01/2014	 Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff State of Nevada
04/04/2014	 Notice of Appeal (criminal) Party: Defendant Hermanski, Gregory S

DEPARTMENT 6
CASE SUMMARY
CASE NO. 00C167783

<i>Notice of Appeal</i>	
04/04/2014	 Designation of Record on Appeal Filed By: Defendant Hermanski, Gregory S <i>Designation of Record on Appeal</i>
04/07/2014	 Notice of Entry Filed By: Plaintiff State of Nevada <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
04/07/2014	 Case Appeal Statement Filed By: Defendant Hermanski, Gregory S <i>Case Appeal Statement</i>
DATE	
FINANCIAL INFORMATION	
Defendant Hermanski, Gregory S	
Total Charges	275.00
Total Payments and Credits	0.00
Balance Due as of 4/7/2014	275.00

1 FCL
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 GWYNNETH SMITH
6 Deputy District Attorney
7 Nevada Bar #13021
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

Electronically Filed
04/01/2014 09:00:50 AM


CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

CASE NO: 00C167783

12 GREGORY SCOTT HERMANSKI,
13 aka Robert James Day, #16979345

DEPT NO: VI

14 Defendant.

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER

16 DATE OF HEARING: 2/26/14
17 TIME OF HEARING: 8:30 AM

18 THIS CAUSE having come on for hearing before the Honorable ELISSA F. CADISH,
19 District Judge, on the 26th day of February, 2014, the Petitioner not being present,
20 PROCEEDING IN FORMA PAUPERIS, the Respondent being represented by STEVEN B.
21 WOLFSON, Clark County District Attorney, by and through GWYNNETH SMITH, Deputy
22 District Attorney, and the Court having considered the matter, including briefs, transcripts, no
23 arguments of counsel, and documents on file herein, now therefore, the Court makes the
24 following findings of fact and conclusions of law:

25 FINDINGS OF FACT

26
27 1. On December 7, 2000, Gregory Scott Hermanski, aka Robert James Day, (hereinafter
28 "Defendant") was charged by way of Information with one (1) count of Robbery with Use of

1 a Deadly Weapon (Felony – NRS 200.380, 193.165), and one (1) count of Burglary while in
2 Possession of a Deadly Weapon (NRS – Felony 205.060). On February 21, 2001, the State
3 filed a Motion to Amend Information to include notice of its intent to seek treatment of
4 Defendant as a Habitual Criminal pursuant to NRS 207.010. The Amended Information was
5 filed in open court the same day.

6 2. Defendant's jury trial commenced on March 13, 2001. On March 15, 2001, the jury
7 returned a verdict of guilty as to both counts.

8 3. On March 20, 2001, the State filed a Notice of Motion to file Second Amended
9 Information. The State's Second Amended Information was filed on March 26, 2001, adding
10 an additional prior felony conviction and modifying the language in the State's habitual
11 offender notice.

12 4. On May 9, 2001, Defendant was adjudged guilty of the counts contained in the
13 Information and sentenced as a habitual offender as to both counts to a minimum of one
14 hundred twenty (120) months and a maximum of three hundred (300) months incarceration.
15 Defendant was given 382 days credit for time served. The Judgment of Conviction was filed
16 on May 18, 2001.

17 5. On June 8, 2001, Defendant filed a Notice of Appeal from his Judgment of Conviction
18 (docket no. 38028). On November 15, 2001, the Nevada Supreme Court affirmed Defendant's
19 conviction but remanded Defendant's case for the district court to correct errors in the
20 Judgment of Conviction. Defendant's Request for Rehearing was denied on March 27, 2002.
21 Remittitur issued on April 11, 2002.

22 6. On July 19, 2002, Defendant filed a Motion for New Trial and a Motion to Vacate
23 Sentence as a Habitual Criminal. On August 28, 2002, Defendant filed a Motion to Dismiss
24 Pursuant to Habitual Criminal Statute. Defendant then filed additional Motions for New Trial
25 on August 30, 2002 and October 1, 2002. On October 2, 2002, the State filed an Opposition to
26 Defendant's Motion to Vacate Sentence as a Habitual Criminal and an Opposition to
27 Defendant's Motion for New Trial.
28

1 7. While these motions were still pending, the court was informed that Defendant's birth
2 name was Gregory Hermanski. Therefore, on December 4, 2002, the court vacated
3 Defendant's sentence for a new sentencing hearing. That same day, the court denied
4 Defendant's Motion for New Trial, granted Defendant's Motion to Vacate Sentence as a
5 Habitual Criminal, and dismissed Defendant's Motion to Dismiss Pursuant to Habitual
6 Criminal Statute as moot.

7 8. On December 26, 2002, the State filed a Notice of Intent to Seek Habitual Treatment
8 pursuant to NRS 207.012, including Defendant's proper name and complete criminal history.
9 On April 30, 2003, the court adjudicated Defendant a violent habitual criminal and sentenced
10 him as follows: Count 1 -- LIFE in the Nevada Department of Corrections WITHOUT the
11 Possibility of Parole; Count 2 -- LIFE in the Nevada Department of Corrections WITHOUT
12 the Possibility of Parole; Count 2 to run CONCURRENT with Count 1. Defendant was given
13 no credit for time served. An Amended Judgment of Conviction was filed on May 16, 2003.

14 9. On May 22, 2003, Defendant filed a Notice of Appeal from the Amended Judgment of
15 Conviction. (docket no. 41405). On July 1, 2004, the Nevada Supreme Court affirmed
16 Defendant's conviction. Remittitur issued on July 27, 2004.

17 10. On July 13, 2005, Defendant filed a Petition for Writ of Habeas Corpus (Post-
18 Conviction). The State's Opposition was filed on September 20, 2005. On October 24, 2005,
19 the court ordered a supplemental response from the State regarding Defendant's Ground 3 of
20 his Petition which alleged ineffective assistance of counsel at his re-sentencing under his true
21 birth name. The State filed its Supplemental Response on December 8, 2005. On February 3,
22 2006, the court denied Defendant's Petition for Writ of Habeas Corpus (Post-Conviction). The
23 Findings of Fact, Conclusions of Law and Order was filed on March 3, 2006.

24 11. On March 27, 2006, Defendant filed a Notice of Appeal from the court's denial of his
25 Post-Conviction Petition for Writ of Habeas Corpus (docket no. 47011). On July 13, 2006,
26 the Nevada Supreme Court affirmed the court's denial of Defendant's Petition, but remanded
27 the case for the sole purpose of correcting a clerical error in the Amended Judgment of
28

1 Conviction, so that it was clear that Defendant was adjudicated a habitual offender pursuant to
2 NRS 207.012 for both the robbery and burglary counts. Remittitur issued on August 8, 2006.

3 12. Pursuant to the Supreme Court's Order, a Second Amended Judgment of Conviction
4 was filed on July 27, 2006.

5 13. On August 28, 2006, Defendant filed a Notice of Appeal from the Second Amended
6 Judgment of Conviction and the District Court's Order denying his Motion to Stay Proceedings
7 and Motion for Appointment of Counsel (docket no. 47963). On October 3, 2006, the Nevada
8 Supreme Court dismissed Defendant's appeal. Remittitur issued on October 31, 2006.

9 14. On December 16, 2013, Defendant filed the instant Petition for Writ of Habeas Corpus
10 (Post-Conviction). Defendant filed a "First Amended" Petition for Writ of Habeas Corpus on
11 January 13, 2014. On January 17, 2014, Defendant filed a "Petitioner's Statement of Cause for
12 Delay" to support his Petition and First Amended Petition. The State filed its Response and
13 Motion to Dismiss on January 31, 2014. Defendant filed an Opposition to the State's Response
14 and Motion to Dismiss on February 19, 2014. As Defendant had raised new arguments in his
15 Opposition, the State filed a Response to Defendant's New Claims on February 21, 2014.

16 15. On February 4, 2014, Defendant filed a Renewed Motion to Extend Prison Copy Work
17 Limit. The State, by and through the Attorney General's Office, filed its Opposition to
18 Renewed Motion to Extend Prison Copywork Limit on February 21, 2014.¹

19 16. On February 5, 2014, Defendant filed a Motion for Reconsideration, challenging the
20 court's January 24, 2014, Order Denying Defendant's Motion to correct Illegal Sentence. The
21 State filed its Opposition on February 20, 2014.

22 17. On February 26, 2014, this Court made the following findings on Defendant's pending
23 motions.

24 18. Defendant's Motion for Reconsideration is hereby DENIED.

25 19. Defendant's Petition for Writ of Habeas Corpus is time-barred. Remittitur issued from
26 the affirmance of Defendant's Second Amended Judgment of Conviction on August 8, 2006.

27 ¹ On February 26, 2014, Senior Deputy Attorney General Dennis Wilson was present in court on behalf of the Attorney
28 General's Office to address this Motion. The Order Denying Defendant's Renewed Motion to Extend Prison Copywork
Limit is forthcoming in a separate document to be prepared by the Attorney General.

1 As such, Defendant had until August 8, 2007, to file a timely post-conviction petition.
2 Defendant's instant Petition was filed on December 16, 2013, more than five years beyond the
3 one-year limit.

4 20. Defendant's Petition is successive, representing his second attempt at post-conviction
5 relief.

6 21. The State has pled laches under NRS 34.800 and Defendant has not overcome the
7 statutory presumption that his delay of more than five (5) years in filing the instant Petition
8 has prejudiced the State.

9 22. Defendant has failed to demonstrate good cause to overcome the procedural bars.

10 23. The district court did not exceed its jurisdiction when it entered a Second Amended
11 Judgment of Conviction pursuant to the Nevada Supreme Court's order of July 13, 2006. The
12 district court retained jurisdiction over Defendant's case to the extent necessary to correct
13 clerical errors.

14 24. Defendant's claim of ineffective assistance of counsel, alleging that Paul Wommer
15 suffered from diminished capacity, is barred by the law of the case and is further without merit.
16 Defendant had previously raised several specific claims of counsel's ineffectiveness and the
17 Nevada Supreme Court affirmed the district court's denial of these claims. Defendant's new
18 allegations are insufficient to supplant the law of the case and do not constitute good cause.

19 25. Defendant was not entitled to the assistance of counsel in his prior post-conviction
20 proceedings. The claim that he was not appointed counsel and that he was unfamiliar with
21 post-conviction proceedings is not an impediment external to the defense sufficient to
22 constitute good cause for the filing of a successive petition.

23 26. Defendant's claim of actual innocence is belied by the record and insufficient to
24 demonstrate that it is more likely than not that no reasonable juror would have convicted him
25 in light of his new evidence.

26 27. Defendant has failed to demonstrate that there is new constitutional law governing his
27 case and creating good cause to reach the merits of his untimely Petition.
28

1 28. As Defendant's Petition is time-barred and successive without good cause shown, the
2 State's Motion to Dismiss is granted.

3 29. Defendant has failed to make a nonfrivolous showing for relief and is not entitled to the
4 assistance of counsel.

5 30. As Defendant's Petition is untimely, successive and barred by statutory laches,
6 Defendant is not entitled to an evidentiary hearing on the matter.

7 CONCLUSIONS OF LAW

8 1. The mandatory provisions of NRS 34.726 state:

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

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

15 NRS 34.726(1).

16 2. The Nevada Supreme Court has justified the one-year rule with regard to the
17 filing of post-conviction petitions in Colley v. State, 105 Nev. 235, 773 P.2d 1229 (1989),
18 when it upheld a district court's dismissal of a petition based on NRS 34.726(1). The Court
19 reasoned that:
20

21 At some point, we must give finality to criminal cases. Darnell v.
22 State, 98 Nev. 518, 521, 654 P.2d 1009, 1011 (1982). Should we
23 allow Colley's post-conviction relief proceeding to go forward, we
24 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.
25 This situation would prejudice both the accused and the State since
the interest of both the petitioner and the government are best

26 served if post-conviction claims are raised while the evidence is
27 still fresh.

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

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

7 4. NRS 34.810(2) reads:

8 A second or successive petition *must* be dismissed if the judge or justice
9 determines that it fails to allege new or different grounds for relief and that
10 the prior determination was on the merits or, if new and different grounds
11 are alleged, the judge or justice finds that the failure of the petitioner to assert
12 those grounds in a prior petition constituted an abuse of the writ.

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

18 4. In Lozada, the Nevada Supreme Court stated: “Without such limitations on the
19 availability of post-conviction remedies, prisoners could petition for relief in perpetuity and
20 thus abuse post-conviction remedies. 110 Nev. at 358, 871 P.2d at 950. In addition, meritless,
21 successive and untimely petitions clog the court system and undermine the finality of
22 convictions.” Id. The Nevada Supreme Court recognizes that “[u]nlike initial petitions which
23 certainly require a careful review of the record, successive petitions may be dismissed based
24 solely on the face of the petition.” Ford v. Warden, 111 Nev. 872, 882, 901 P.2d 123, 129
25 (1995). In other words, if the claim or allegation was previously available with reasonable
26 diligence, it is an abuse of the writ to wait to assert it in a later petition. McClesky v. Zant,
27 499 U.S. 467, 497-498 (1991).

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

10 6. The Nevada Supreme Court has specifically found that the district court has a duty to
11 consider whether the procedural bars apply to a post-conviction petition and may not arbitrarily
12 disregard them. In State v. Dist. Court (Riker), 121 Nev. 225, 112 P.3d 1070 (2005), the Court
13 held that “[a]pplication of the statutory procedural default rules to post-conviction habeas
14 petitions is mandatory,” and “cannot be ignored when properly raised by the State.” Id. at 231,
15 233, 112 P.3d at 1074, 1075. There, the Court reversed the district court’s decision not to bar
16 the defendant’s untimely and successive petition:

17 Given the untimely and successive nature of [defendant’s] petition, the
18 district court *had a duty imposed by law* to consider whether any or all of
19 [defendant’s] claims were barred under NRS 34.726, NRS 34.810, NRS
20 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 Id. at 234, 112 P.3d at 1076 (emphasis added). The Court justified this holding by noting that
22 “[t]he necessity for a workable system dictates that there must exist a time when a criminal
23 conviction is final.” Id. at 231, 112 P.3d 1074 (citation omitted); see also State v. Haberstroh,
24 119 Nev. 173, 180-81, 69 P.3d 676, 681-82 (2003) (wherein the Nevada Supreme Court held
25 that parties cannot stipulate to waive, ignore or disregard the mandatory procedural default
26 rules nor can they empower a court to disregard them). A defendant’s petition will not be
27 considered on the merits if it is subject to the procedural bars and no good cause is shown. Id.

7. To show good cause for delay under NRS 34.726(1) or the filing of a successive petition under NRS 34.810, 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 the first requirement, “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. 248, 252, 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, Dep’t Prisons, 105 Nev. 63, 66, 769 P.2d 72, 74 (1989)). “An impediment external to the defense may be demonstrated by a showing ‘that the factual or legal basis for a claim was not reasonably available to counsel, or that some interference by officials, made compliance impracticable.’” Id. (quoting Murray v. Carrier, 477 U.S. 478, 488, 106 S. Ct. 2639 (1986) (citations and quotations omitted)). Any delay in filing of the petition must not be the fault of the petitioner. NRS 34.726(1)(a).

8. Once a petitioner has established cause to excuse the untimely filing of a petition, he must show actual prejudice resulting from the errors of which he complains, i.e., “a petitioner must show that errors in the proceedings underlying the judgment worked to the petitioner’s actual and substantial disadvantage.” State v. Huebler, 128 Nev. ___, 275 P.3d 91, 94-95 (2012) (citing Hogan v. Warden, 109 Nev. 952, 959-60, 860 P.2d 710, 716 (1993)).

9. A proper petition for post-conviction relief must set forth specific factual allegations. NRS 34.735(6) states, in pertinent part:

[Petitioner] must allege specific facts supporting the claims in the petition [he] file[s] seeking relief from any conviction or sentence. Failure to raise specific facts rather than just conclusions may cause [the] petition to be dismissed.

See also Hargrove v. State, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984) (holding that bare or naked allegations are insufficient to entitle a defendant to post-conviction relief).

10. Under the law of the case doctrine, issues previously decided on direct appeal may not be reargued in a habeas petition. Pellegrini v. State, 117 Nev. 860, 34 P.3d 519 (2001) (citing McNelson v. State, 115 Nev. 396, 414-15, 990 P.2d 1263, 1275 (1999)). “The law of a first

1 appeal is law of the case on all subsequent appeals in which the facts are substantially the
2 same.” Hall v. State, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975) (quoting Walker v. State, 85
3 Nev. 337, 343, 455 P.2d 34, 38 (1969)). “The doctrine of the law of the case cannot be avoided
4 by a more detailed and precisely focused argument subsequently made after reflection upon
5 the previous proceedings.” Hall, 91 Nev. at 316, 535 P.2d at 799.

6 11. Generally, once a defendant files a notice of appeal with the Nevada Supreme Court,
7 this divests the district court of jurisdiction to hear the matter until remittitur issues. See
8 Buffington v. State, 110 Nev. 124, 126, 868 P.2d 643, 644 (1994). However, pursuant to NRS
9 176.565, “Clerical mistakes in judgments, orders or other parts of the record and errors in the
10 record arising from oversight or omission may be corrected by the court at any time and after
11 such notice, if any, as the court orders.”

12 12. A defendant’s unfamiliarity with the habeas process is not an impediment external to
13 the defense and therefore cannot constitute good cause. See Phelps v. Director of Prisons, 104
14 Nev. 656, 764 P.2d 1303 (1988) (holding that defendant’s mental handicap was insufficient to
15 create good cause for untimely filing).

16 13. A defendant is entitled to the effective assistance of counsel only where the appointment
17 of counsel is statutorily mandated. Crump v. Warden, Nevada State Prison, 113 Nev. 293, 303,
18 n.5 934 P.2d 247, 253 n.5 (1997). Where a defendant does not have the right to counsel, he
19 may not seek relief because discretionarily appointed counsel was ineffective.

20 14. Furthermore, Martinez v. Ryan, 566 U.S. 1, ___, 132 S. Ct. 1309, 1320 (2012), applies
21 only in federal court as an equitable exception in the federal habeas context and has no
22 application to state habeas proceedings. The Martinez Court had before it the question of
23 whether there is a constitutional right to effective assistance of post-conviction counsel, but
24 specifically declined to answer that question, opting instead to hold that “ineffective assistance
25 in an initial-review collateral proceeding on a claim of ineffective assistance at trial may
26 provide cause for a procedural default in a federal habeas proceeding.” Martinez, 132 S. Ct.
27 at 1315. It bears highlighting that the U.S. Supreme Court did *not* do two things germane to
28 Nevada’s state habeas procedures: 1) the Supreme Court did *not* create a constitutional right

1 to post-conviction counsel—and therefore the right to the appointment and effective assistance
2 of that counsel—and 2) it did *not* apply this rule in the context of state habeas litigation:

3 This is but one of the differences between a constitutional ruling and the
4 equitable ruling of this case. A constitutional ruling would provide defendants
5 a freestanding constitutional claim to raise; it would require the appointment of
6 counsel in initial-review collateral proceedings; it would impose the same
7 system of appointing counsel in every State; and it would require a reversal in
all state collateral cases on direct review from state courts if the States' system
of appointing counsel did not conform to the constitutional rule.

8 Id. at 1319.

9
10 15. In Calderon v. Thompson, 523 U.S. 538, 560, 118 S. Ct. 1489, 1503 (1998), the U.S.
11 Supreme Court held that in order for a defendant to obtain a reversal of his conviction based
12 on a claim of actual innocence, he must prove that “it is more likely than not that no reasonable
13 juror would have convicted him in light of the new evidence’ presented in habeas proceedings”
14 (quoting Schlup v. Delo, 513 U.S. 298, 327, 115 S. Ct. 851, 867 (1995)).

15 16. In Coleman v. Thompson, 501 U.S. 722, 111 S. Ct. 2546 (1991), the United States Supreme
16 Court ruled that the Sixth Amendment provides no right to counsel in post-conviction
17 proceedings. In McKague v. Warden, 112 Nev. 159, 912 P.2d 255 (1996), the Nevada
18 Supreme Court similarly observed that “[t]he Nevada Constitution... does not guarantee a right
19 to counsel in post-conviction proceedings, as we interpret the Nevada Constitution’s right to
20 counsel provision as being coextensive with the Sixth Amendment to the United States
21 Constitution.”

22 17. NRS 34.750 provides, in pertinent part:

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

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

1 The Nevada Supreme Court has observed that a petitioner "must show that the requested
2 review is not frivolous before he may have an attorney appointed." Peterson v. Warden, 87
3 Nev. 134, 136, 483 P.2d 204, 205 (1971) (citing former statute NRS 177.345(2)).

4 18. NRS 34.770 determines when a defendant is entitled to an evidentiary hearing. It reads:

5 1. The judge or justice, upon review of the return, answer and
6 all supporting documents which are filed, shall determine whether
7 an evidentiary hearing is required. A petitioner must not be
8 discharged or committed to the custody of a person other than the
9 respondent *unless an evidentiary hearing is held*.

10 2. If the judge or justice determines that the petitioner is not
entitled to relief and an evidentiary hearing is not required, he shall
dismiss the petition without a hearing.

11 3. If the judge or justice determines that an evidentiary
hearing is required, he shall grant the writ and shall set a date for
the hearing.

12 The Nevada Supreme Court has held that if a petition can be resolved without expanding the
13 record, then no evidentiary hearing is necessary. Marshall v. State, 110 Nev. 1328, 885 P.2d
14 603 (1994); Mann v. State, 118 Nev. 351, 356, 46 P.3d 1228, 1231 (2002). A defendant is
15 entitled to an evidentiary hearing if his petition is supported by specific factual allegations,
16 which, if true, would entitle him to relief unless the factual allegations are repelled by the
17 record. Marshall, 110 Nev. at 1331, 885 P.2d at 605; See also Hargrove v. State, 100 Nev.
18 498, 503, 686 P.2d 222, 225 (1984) (1984) (holding that "[a] defendant seeking post-
19 conviction relief is not entitled to an evidentiary hearing on factual allegations belied or
20 repelled by the record"). "A claim is 'belied' when it is contradicted or proven to be false by
21 the record as it existed at the time the claim was made." Mann, 118 Nev. at 354, 46 P.3d at
22 1230 (2002).

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

ORDER

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

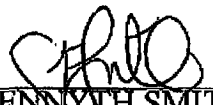
DATED this 27 day of March, 2014.


DISTRICT JUDGE

WSH

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

BY


GWENNYTH SMITH
Deputy District Attorney
Nevada Bar #13021

CERTIFICATE OF SERVICE

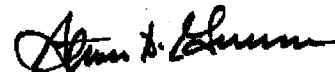
I certify that on the 1st day of April, 2014, I mailed a copy of the foregoing proposed Findings of Fact, Conclusions of Law, and Order to:

Gregory S. Hermanski, #69140
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, NV 89702

BY


C. Jimenez
Secretary for the District Attorney's Office

MS/cmj/L3



CLERK OF THE COURT

1 NEO

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

4
5 GREGORY S. HERMANSKI,

6 Petitioner,

7 vs.

8 THE STATE OF NEVADA,

9 Respondent,

Case No: 00C167783

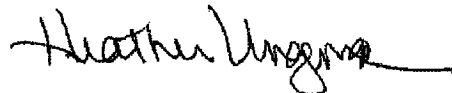
Dept No: VI

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

11 **PLEASE TAKE NOTICE** that on April 1, 2014, the court entered a decision or order in this matter, a
12 true and correct copy of which is attached to this notice.

13 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you
14 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is
15 mailed to you. This notice was mailed on April 7, 2014.

16 STEVEN D. GRIERSON, CLERK OF THE COURT



17
18 Heather Ungermann, Deputy Clerk

19 **CERTIFICATE OF MAILING**

20 I hereby certify that on this 7 day of April 2014, I placed a copy of this Notice of Entry in:

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

23 ☒ The United States mail addressed as follows:

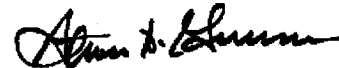
24 Gregory Scott Hermanski # 69140
25 P.O. Box 7000
Carson City, NV 89702



26
27 Heather Ungermann, Deputy Clerk
28

1 FCL
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 GWYNNETH SMITH
6 Deputy District Attorney
7 Nevada Bar #13021
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

Electronically Filed
04/01/2014 09:00:50 AM



CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 GREGORY SCOTT HERMANSKI,
13 aka Robert James Day, #16979345

14 Defendant.

CASE NO: 00C167783

DEPT NO: VI

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER

DATE OF HEARING: 2/26/14
TIME OF HEARING: 8:30 AM

18 THIS CAUSE having come on for hearing before the Honorable ELISSA F. CADISH,
19 District Judge, on the 26th day of February, 2014, the Petitioner not being present,
20 PROCEEDING IN FORMA PAUPERIS, the Respondent being represented by STEVEN B.
21 WOLFSON, Clark County District Attorney, by and through GWYNNETH SMITH, Deputy
22 District Attorney, and the Court having considered the matter, including briefs, transcripts, no
23 arguments of counsel, and documents on file herein, now therefore, the Court makes the
24 following findings of fact and conclusions of law:

25 FINDINGS OF FACT

26
27 1. On December 7, 2000, Gregory Scott Hermanski, aka Robert James Day, (hereinafter
28 "Defendant") was charged by way of Information with one (1) count of Robbery with Use of

1 a Deadly Weapon (Felony – NRS 200.380, 193.165), and one (1) count of Burglary while in
2 Possession of a Deadly Weapon (NRS – Felony 205.060). On February 21, 2001, the State
3 filed a Motion to Amend Information to include notice of its intent to seek treatment of
4 Defendant as a Habitual Criminal pursuant to NRS 207.010. The Amended Information was
5 filed in open court the same day.

6 2. Defendant's jury trial commenced on March 13, 2001. On March 15, 2001, the jury
7 returned a verdict of guilty as to both counts.

8 3. On March 20, 2001, the State filed a Notice of Motion to file Second Amended
9 Information. The State's Second Amended Information was filed on March 26, 2001, adding
10 an additional prior felony conviction and modifying the language in the State's habitual
11 offender notice.

12 4. On May 9, 2001, Defendant was adjudged guilty of the counts contained in the
13 Information and sentenced as a habitual offender as to both counts to a minimum of one
14 hundred twenty (120) months and a maximum of three hundred (300) months incarceration.
15 Defendant was given 382 days credit for time served. The Judgment of Conviction was filed
16 on May 18, 2001.

17 5. On June 8, 2001, Defendant filed a Notice of Appeal from his Judgment of Conviction
18 (docket no. 38028). On November 15, 2001, the Nevada Supreme Court affirmed Defendant's
19 conviction but remanded Defendant's case for the district court to correct errors in the
20 Judgment of Conviction. Defendant's Request for Rehearing was denied on March 27, 2002.
21 Remittitur issued on April 11, 2002.

22 6. On July 19, 2002, Defendant filed a Motion for New Trial and a Motion to Vacate
23 Sentence as a Habitual Criminal. On August 28, 2002, Defendant filed a Motion to Dismiss
24 Pursuant to Habitual Criminal Statute. Defendant then filed additional Motions for New Trial
25 on August 30, 2002 and October 1, 2002. On October 2, 2002, the State filed an Opposition to
26 Defendant's Motion to Vacate Sentence as a Habitual Criminal and an Opposition to
27 Defendant's Motion for New Trial.
28

1 7. While these motions were still pending, the court was informed that Defendant's birth
2 name was Gregory Hermanski. Therefore, on December 4, 2002, the court vacated
3 Defendant's sentence for a new sentencing hearing. That same day, the court denied
4 Defendant's Motion for New Trial, granted Defendant's Motion to Vacate Sentence as a
5 Habitual Criminal, and dismissed Defendant's Motion to Dismiss Pursuant to Habitual
6 Criminal Statute as moot.

7 8. On December 26, 2002, the State filed a Notice of Intent to Seek Habitual Treatment
8 pursuant to NRS 207.012, including Defendant's proper name and complete criminal history.
9 On April 30, 2003, the court adjudicated Defendant a violent habitual criminal and sentenced
10 him as follows: Count 1 -- LIFE in the Nevada Department of Corrections WITHOUT the
11 Possibility of Parole; Count 2 -- LIFE in the Nevada Department of Corrections WITHOUT
12 the Possibility of Parole; Count 2 to run CONCURRENT with Count 1. Defendant was given
13 no credit for time served. An Amended Judgment of Conviction was filed on May 16, 2003.

14 9. On May 22, 2003, Defendant filed a Notice of Appeal from the Amended Judgment of
15 Conviction. (docket no. 41405). On July 1, 2004, the Nevada Supreme Court affirmed
16 Defendant's conviction. Remittitur issued on July 27, 2004.

17 10. On July 13, 2005, Defendant filed a Petition for Writ of Habeas Corpus (Post-
18 Conviction). The State's Opposition was filed on September 20, 2005. On October 24, 2005,
19 the court ordered a supplemental response from the State regarding Defendant's Ground 3 of
20 his Petition which alleged ineffective assistance of counsel at his re-sentencing under his true
21 birth name. The State filed its Supplemental Response on December 8, 2005. On February 3,
22 2006, the court denied Defendant's Petition for Writ of Habeas Corpus (Post-Conviction). The
23 Findings of Fact, Conclusions of Law and Order was filed on March 3, 2006.

24 11. On March 27, 2006, Defendant filed a Notice of Appeal from the court's denial of his
25 Post-Conviction Petition for Writ of Habeas Corpus (docket no. 47011). On July 13, 2006,
26 the Nevada Supreme Court affirmed the court's denial of Defendant's Petition, but remanded
27 the case for the sole purpose of correcting a clerical error in the Amended Judgment of
28

1 Conviction, so that it was clear that Defendant was adjudicated a habitual offender pursuant to
2 NRS 207.012 for both the robbery and burglary counts. Remittitur issued on August 8, 2006.

3 12. Pursuant to the Supreme Court's Order, a Second Amended Judgment of Conviction
4 was filed on July 27, 2006.

5 13. On August 28, 2006, Defendant filed a Notice of Appeal from the Second Amended
6 Judgment of Conviction and the District Court's Order denying his Motion to Stay Proceedings
7 and Motion for Appointment of Counsel (docket no. 47963). On October 3, 2006, the Nevada
8 Supreme Court dismissed Defendant's appeal. Remittitur issued on October 31, 2006.

9 14. On December 16, 2013, Defendant filed the instant Petition for Writ of Habeas Corpus
10 (Post-Conviction). Defendant filed a "First Amended" Petition for Writ of Habeas Corpus on
11 January 13, 2014. On January 17, 2014, Defendant filed a "Petitioner's Statement of Cause for
12 Delay" to support his Petition and First Amended Petition. The State filed its Response and
13 Motion to Dismiss on January 31, 2014. Defendant filed an Opposition to the State's Response
14 and Motion to Dismiss on February 19, 2014. As Defendant had raised new arguments in his
15 Opposition, the State filed a Response to Defendant's New Claims on February 21, 2014.

16 15. On February 4, 2014, Defendant filed a Renewed Motion to Extend Prison Copy Work
17 Limit. The State, by and through the Attorney General's Office, filed its Opposition to
18 Renewed Motion to Extend Prison Copywork Limit on February 21, 2014.¹

19 16. On February 5, 2014, Defendant filed a Motion for Reconsideration, challenging the
20 court's January 24, 2014, Order Denying Defendant's Motion to correct Illegal Sentence. The
21 State filed its Opposition on February 20, 2014.

22 17. On February 26, 2014, this Court made the following findings on Defendant's pending
23 motions.

24 18. Defendant's Motion for Reconsideration is hereby DENIED.

25 19. Defendant's Petition for Writ of Habeas Corpus is time-barred. Remittitur issued from
26 the affirmance of Defendant's Second Amended Judgment of Conviction on August 8, 2006.

27 ¹ On February 26, 2014, Senior Deputy Attorney General Dennis Wilson was present in court on behalf of the Attorney
28 General's Office to address this Motion. The Order Denying Defendant's Renewed Motion to Extend Prison Copywork
Limit is forthcoming in a separate document to be prepared by the Attorney General.

1 As such, Defendant had until August 8, 2007, to file a timely post-conviction petition.
2 Defendant's instant Petition was filed on December 16, 2013, more than five years beyond the
3 one-year limit.

4 20. Defendant's Petition is successive, representing his second attempt at post-conviction
5 relief.

6 21. The State has pled laches under NRS 34.800 and Defendant has not overcome the
7 statutory presumption that his delay of more than five (5) years in filing the instant Petition
8 has prejudiced the State.

9 22. Defendant has failed to demonstrate good cause to overcome the procedural bars.

10 23. The district court did not exceed its jurisdiction when it entered a Second Amended
11 Judgment of Conviction pursuant to the Nevada Supreme Court's order of July 13, 2006. The
12 district court retained jurisdiction over Defendant's case to the extent necessary to correct
13 clerical errors.

14 24. Defendant's claim of ineffective assistance of counsel, alleging that Paul Wommer
15 suffered from diminished capacity, is barred by the law of the case and is further without merit.
16 Defendant had previously raised several specific claims of counsel's ineffectiveness and the
17 Nevada Supreme Court affirmed the district court's denial of these claims. Defendant's new
18 allegations are insufficient to supplant the law of the case and do not constitute good cause.

19 25. Defendant was not entitled to the assistance of counsel in his prior post-conviction
20 proceedings. The claim that he was not appointed counsel and that he was unfamiliar with
21 post-conviction proceedings is not an impediment external to the defense sufficient to
22 constitute good cause for the filing of a successive petition.

23 26. Defendant's claim of actual innocence is belied by the record and insufficient to
24 demonstrate that it is more likely than not that no reasonable juror would have convicted him
25 in light of his new evidence.

26 27. Defendant has failed to demonstrate that there is new constitutional law governing his
27 case and creating good cause to reach the merits of his untimely Petition.
28

1 28. As Defendant's Petition is time-barred and successive without good cause shown, the
2 State's Motion to Dismiss is granted.

3 29. Defendant has failed to make a nonfrivolous showing for relief and is not entitled to the
4 assistance of counsel.

5 30. As Defendant's Petition is untimely, successive and barred by statutory laches,
6 Defendant is not entitled to an evidentiary hearing on the matter.

7 CONCLUSIONS OF LAW

8 1. The mandatory provisions of NRS 34.726 state:

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

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

15 NRS 34.726(1).

16 2. The Nevada Supreme Court has justified the one-year rule with regard to the
17 filing of post-conviction petitions in Colley v. State, 105 Nev. 235, 773 P.2d 1229 (1989),
18 when it upheld a district court's dismissal of a petition based on NRS 34.726(1). The Court
19 reasoned that:
20

21 At some point, we must give finality to criminal cases. Darnell v.
22 State, 98 Nev. 518, 521, 654 P.2d 1009, 1011 (1982). Should we
23 allow Colley's post-conviction relief proceeding to go forward, we
24 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.
25 This situation would prejudice both the accused and the State since
the interest of both the petitioner and the government are best

26 served if post-conviction claims are raised while the evidence is
27 still fresh.

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

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

7 4. NRS 34.810(2) reads:

8 A second or successive petition *must* be dismissed if the judge or justice
9 determines that it fails to allege new or different grounds for relief and that
10 the prior determination was on the merits or, if new and different grounds
11 are alleged, the judge or justice finds that the failure of the petitioner to assert
12 those grounds in a prior petition constituted an abuse of the writ.

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

19 4. In Lozada, the Nevada Supreme Court stated: “Without such limitations on the
20 availability of post-conviction remedies, prisoners could petition for relief in perpetuity and
21 thus abuse post-conviction remedies. 110 Nev. at 358, 871 P.2d at 950. In addition, meritless,
22 successive and untimely petitions clog the court system and undermine the finality of
23 convictions.” Id. The Nevada Supreme Court recognizes that “[u]nlike initial petitions which
24 certainly require a careful review of the record, successive petitions may be dismissed based
25 solely on the face of the petition.” Ford v. Warden, 111 Nev. 872, 882, 901 P.2d 123, 129
26 (1995). In other words, if the claim or allegation was previously available with reasonable
27 diligence, it is an abuse of the writ to wait to assert it in a later petition. McClesky v. Zant,
28 499 U.S. 467, 497-498 (1991).

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

10 6. The Nevada Supreme Court has specifically found that the district court has a duty to
11 consider whether the procedural bars apply to a post-conviction petition and may not arbitrarily
12 disregard them. In State v. Dist. Court (Riker), 121 Nev. 225, 112 P.3d 1070 (2005), the Court
13 held that “[a]pplication of the statutory procedural default rules to post-conviction habeas
14 petitions is mandatory,” and “cannot be ignored when properly raised by the State.” Id. at 231,
15 233, 112 P.3d at 1074, 1075. There, the Court reversed the district court’s decision not to bar
16 the defendant’s untimely and successive petition:

17 Given the untimely and successive nature of [defendant’s] petition, the
18 district court *had a duty imposed by law* to consider whether any or all of
19 [defendant’s] claims were barred under NRS 34.726, NRS 34.810, NRS
20 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 Id. at 234, 112 P.3d at 1076 (emphasis added). The Court justified this holding by noting that
22 “[t]he necessity for a workable system dictates that there must exist a time when a criminal
23 conviction is final.” Id. at 231, 112 P.3d 1074 (citation omitted); see also State v. Haberstroh,
24 119 Nev. 173, 180-81, 69 P.3d 676, 681-82 (2003) (wherein the Nevada Supreme Court held
25 that parties cannot stipulate to waive, ignore or disregard the mandatory procedural default
26 rules nor can they empower a court to disregard them). A defendant’s petition will not be
27 considered on the merits if it is subject to the procedural bars and no good cause is shown. Id.
28

1 7. To show good cause for delay under NRS 34.726(1) or the filing of a successive petition
2 under NRS 34.810, a petitioner must demonstrate the following: 1) “[t]hat the delay is not the
3 fault of the petitioner” and 2) that the petitioner will be “unduly prejudice[d]” if the petition is
4 dismissed as untimely. Under the first requirement, “a petitioner must show that an
5 impediment external to the defense prevented him or her from complying with the state
6 procedural default rules.” Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003)
7 (citing Pellegrini v. State, 117 Nev. 860, 886-87, 34 P.3d 519, 537 (2001); Lozada v. State,
8 110 Nev. 349, 353, 871 P.2d 944, 946 (1994); Passanisi v. Director, Dep’t Prisons, 105 Nev.
9 63, 66, 769 P.2d 72, 74 (1989). “An impediment external to the defense may be demonstrated
10 by a showing ‘that the factual or legal basis for a claim was not reasonably available to counsel,
11 or that some interference by officials, made compliance impracticable.’” Id. (quoting Murray
12 v. Carrier, 477 U.S. 478, 488, 106 S. Ct. 2639 (1986) (citations and quotations omitted)). Any
13 delay in filing of the petition must not be the fault of the petitioner. NRS 34.726(1)(a).

14 8. Once a petitioner has established cause to excuse the untimely filing of a petition, he
15 must show actual prejudice resulting from the errors of which he complains, i.e., “a petitioner
16 must show that errors in the proceedings underlying the judgment worked to the petitioner’s
17 actual and substantial disadvantage.” State v. Huebler, 128 Nev. ___, 275 P.3d 91, 94-95 (2012)
18 (citing Hogan v. Warden, 109 Nev. 952, 959-60, 860 P.2d 710, 716 (1993)).

19 9. A proper petition for post-conviction relief must set forth specific factual allegations.
20 NRS 34.735(6) states, in pertinent part:

21 [Petitioner] must allege specific facts supporting the claims in the
22 petition [he] file[s] seeking relief from any conviction or sentence.
23 Failure to raise specific facts rather than just conclusions may
cause [the] petition to be dismissed.

24 See also Hargrove v. State, 100 Nev. 498, 502-03, 686 P.2d 222, 225 (1984) (holding that bare
25 or naked allegations are insufficient to entitle a defendant to post-conviction relief).

26 10. Under the law of the case doctrine, issues previously decided on direct appeal may not
27 be reargued in a habeas petition. Pellegrini v. State, 117 Nev. 860, 34 P.3d 519 (2001) (citing
28 McNelson v. State, 115 Nev. 396, 414-15, 990 P.2d 1263, 1275 (1999)). “The law of a first

1 appeal is law of the case on all subsequent appeals in which the facts are substantially the
2 same.” Hall v. State, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975) (quoting Walker v. State, 85
3 Nev. 337, 343, 455 P.2d 34, 38 (1969)). “The doctrine of the law of the case cannot be avoided
4 by a more detailed and precisely focused argument subsequently made after reflection upon
5 the previous proceedings.” Hall, 91 Nev. at 316, 535 P.2d at 799.

6 11. Generally, once a defendant files a notice of appeal with the Nevada Supreme Court,
7 this divests the district court of jurisdiction to hear the matter until remittitur issues. See
8 Buffington v. State, 110 Nev. 124, 126, 868 P.2d 643, 644 (1994). However, pursuant to NRS
9 176.565, “Clerical mistakes in judgments, orders or other parts of the record and errors in the
10 record arising from oversight or omission may be corrected by the court at any time and after
11 such notice, if any, as the court orders.”

12 12. A defendant’s unfamiliarity with the habeas process is not an impediment external to
13 the defense and therefore cannot constitute good cause. See Phelps v. Director of Prisons, 104
14 Nev. 656, 764 P.2d 1303 (1988) (holding that defendant’s mental handicap was insufficient to
15 create good cause for untimely filing).

16 13. A defendant is entitled to the effective assistance of counsel only where the appointment
17 of counsel is statutorily mandated. Crump v. Warden, Nevada State Prison, 113 Nev. 293, 303,
18 n.5 934 P.2d 247, 253 n.5 (1997). Where a defendant does not have the right to counsel, he
19 may not seek relief because discretionarily appointed counsel was ineffective.

20 14. Furthermore, Martinez v. Ryan, 566 U.S. 1, ___, 132 S. Ct. 1309, 1320 (2012), applies
21 only in federal court as an equitable exception in the federal habeas context and has no
22 application to state habeas proceedings. The Martinez Court had before it the question of
23 whether there is a constitutional right to effective assistance of post-conviction counsel, but
24 specifically declined to answer that question, opting instead to hold that “ineffective assistance
25 in an initial-review collateral proceeding on a claim of ineffective assistance at trial may
26 provide cause for a procedural default in a federal habeas proceeding.” Martinez, 132 S. Ct.
27 at 1315. It bears highlighting that the U.S. Supreme Court did *not* do two things germane to
28 Nevada’s state habeas procedures: 1) the Supreme Court did *not* create a constitutional right

1 to post-conviction counsel—and therefore the right to the appointment and effective assistance
2 of that counsel—and 2) it did *not* apply this rule in the context of state habeas litigation:

3 This is but one of the differences between a constitutional ruling and the
4 equitable ruling of this case. A constitutional ruling would provide defendants
5 a freestanding constitutional claim to raise; it would require the appointment of
6 counsel in initial-review collateral proceedings; it would impose the same
7 system of appointing counsel in every State; and it would require a reversal in
all state collateral cases on direct review from state courts if the States' system
of appointing counsel did not conform to the constitutional rule.

8 Id. at 1319.

9
10 15. In Calderon v. Thompson, 523 U.S. 538, 560, 118 S. Ct. 1489, 1503 (1998), the U.S.
11 Supreme Court held that in order for a defendant to obtain a reversal of his conviction based
12 on a claim of actual innocence, he must prove that “it is more likely than not that no reasonable
13 juror would have convicted him in light of the new evidence’ presented in habeas proceedings”
14 (quoting Schlup v. Delo, 513 U.S. 298, 327, 115 S. Ct. 851, 867 (1995)).

15 16. In Coleman v. Thompson, 501 U.S. 722, 111 S. Ct. 2546 (1991), the United States Supreme
16 Court ruled that the Sixth Amendment provides no right to counsel in post-conviction
17 proceedings. In McKague v. Warden, 112 Nev. 159, 912 P.2d 255 (1996), the Nevada
18 Supreme Court similarly observed that “[t]he Nevada Constitution... does not guarantee a right
19 to counsel in post-conviction proceedings, as we interpret the Nevada Constitution’s right to
20 counsel provision as being coextensive with the Sixth Amendment to the United States
21 Constitution.”

22 17. NRS 34.750 provides, in pertinent part:

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

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

1 The Nevada Supreme Court has observed that a petitioner "must show that the requested
2 review is not frivolous before he may have an attorney appointed." Peterson v. Warden, 87
3 Nev. 134, 136, 483 P.2d 204, 205 (1971) (citing former statute NRS 177.345(2)).

4 18. NRS 34.770 determines when a defendant is entitled to an evidentiary hearing. It reads:

5 1. The judge or justice, upon review of the return, answer and
6 all supporting documents which are filed, shall determine whether
7 an evidentiary hearing is required. A petitioner must not be
8 discharged or committed to the custody of a person other than the
9 respondent *unless an evidentiary hearing is held*.

10 2. If the judge or justice determines that the petitioner is not
entitled to relief and an evidentiary hearing is not required, he shall
dismiss the petition without a hearing.

3. If the judge or justice determines that an evidentiary
hearing is required, he shall grant the writ and shall set a date for
the hearing.

11 The Nevada Supreme Court has held that if a petition can be resolved without expanding the
12 record, then no evidentiary hearing is necessary. Marshall v. State, 110 Nev. 1328, 885 P.2d
13 603 (1994); Mann v. State, 118 Nev. 351, 356, 46 P.3d 1228, 1231 (2002). A defendant is
14 entitled to an evidentiary hearing if his petition is supported by specific factual allegations,
15 which, if true, would entitle him to relief unless the factual allegations are repelled by the
16 record. Marshall, 110 Nev. at 1331, 885 P.2d at 605; See also Hargrove v. State, 100 Nev.
17 498, 503, 686 P.2d 222, 225 (1984) (1984) (holding that "[a] defendant seeking post-
18 conviction relief is not entitled to an evidentiary hearing on factual allegations belied or
19 repelled by the record"). "A claim is 'belied' when it is contradicted or proven to be false by
20 the record as it existed at the time the claim was made." Mann, 118 Nev. at 354, 46 P.3d at
21 1230 (2002).

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

ORDER

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

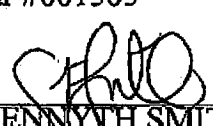
DATED this 27 day of March, 2014.


DISTRICT JUDGE

WSH

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

BY

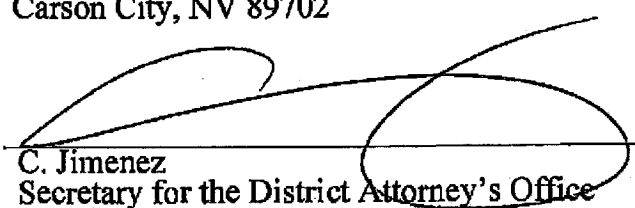

GWENNYTH SMITH
Deputy District Attorney
Nevada Bar #13021

CERTIFICATE OF SERVICE

I certify that on the 1st day of April, 2014, I mailed a copy of the foregoing proposed Findings of Fact, Conclusions of Law, and Order to:

Gregory S. Hermanski, #69140
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, NV 89702

BY


C. Jimenez
Secretary for the District Attorney's Office

MS/cmj/L3

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 13, 2000**

00C167783

The State of Nevada vs Gregory S Hermanski

June 13, 2000**9:00 AM****Initial Arraignment**

**INITIAL
ARRAIGNMENT
Relief Clerk: BILLIE
JO CRAIG
Reporter/Recorder:
TINA SMITH Heard
By: Kathy Hardcastle**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Hermanski, Gregory S
Moreo, Thomas J.
Public Defender
Roundtree, Stacey

Defendant
Attorney
Attorney
Attorney

JOURNAL ENTRIES

- Ms. Roundtree advised there were two incompetent reports and submitted the second report from Dr. Paglini. Pursuant to NRS 178.425, COURT ORDERED, defendant REMANDED to the custody of the Administrator of the Mental Hygiene and Mental Retardation Division for the Department of Human Resources for detention and treatment at a secure facility operated by the Mental Hygiene and Mental Retardation Division.
L.C.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 04, 2000****00C167783****The State of Nevada vs Gregory S Hermanski****October 04, 2000****9:00 AM****Status Check**

**COURT
ADMINISTRATION
S' REQUEST FOR
STATUS CHECK
Relief Clerk: BILLIE
JO CRAIG
Reporter/Recorder:
TINA SMITH Heard
By: Hardcastle, Kathy**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

**Campbell, Cara L.
Khamsi, Bitu
Public Defender**

**Attorney
Attorney
Attorney**

JOURNAL ENTRIES

- FINDINGS (OF COMPETENCY) AND ORDER TO TRANSPORT SIGNED AND FILED IN OPEN COURT. Court noted it received the reports. COURT ORDERED, matter CONTINUED for defendant to be present.
L.C.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 25, 2000****00C167783****The State of Nevada vs Gregory S Hermanski****October 25, 2000****9:00 AM****Status Check**

**COURT
ADMINISTRATION
S' REQUEST FOR
STATUS CHECK
Court Clerk:
DOROTHY KELLY
Reporter/Recorder:
TINA SMITH Heard
By: Hardcastle, Kathy**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

**Public Defender
Roundtree, Stacey
Villegas, Victoria A.**

**Attorney
Attorney
Attorney**

JOURNAL ENTRIES

- COURT ORDERED, matter CONTINUED for deft's presence. Court instructed counsel to call Lakes Crossing.

L.C.**COURT'S ADMINISTRATION'S REQUEST FOR STATUS CHECK**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****November 08, 2000**

00C167783**The State of Nevada vs Gregory S Hermanski**

November 08, 2000**9:00 AM****Status Check**

**COURT
ADMINISTRATION
S' REQUEST FOR
STATUS CHECK
Court Clerk:
DOROTHY KELLY
Reporter/Recorder:
TINA SMITH Heard
By: Hardcastle, Kathy**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

**Campbell, Cara L.
DeJulio, Douglas P.
Public Defender**

**Attorney
Attorney
Attorney**

JOURNAL ENTRIES

- Deft not transported; therefore, COURT ORDERED, matter CONTINUED.

L.C.**COURT ADMINISTRATION'S REQUEST FOR STATUS CHECK**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****November 14, 2000**

00C167783

The State of Nevada vs Gregory S Hermanski

November 14, 2000**9:00 AM****Status Check**

**COURT
ADMINISTRATION
S' REQUEST FOR
STATUS CHECK
Relief Clerk: BILLIE
JO CRAIG
Reporter/Recorder:
TINA SMITH Heard
By: Kathy Hardcastle**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Campbell, Cara L.

Attorney

DeJulio, Douglas P.

Attorney

Hermanski, Gregory S

Defendant

Public Defender

Attorney

JOURNAL ENTRIES

- Court noted defendant competent. COURT ORDERED, matter REMANDED TO JUSTICE COURT to start over with a Preliminary Hearing on charges.

CUSTODY

11/20/00 8:00 AM REMANDED TO JUSTICE COURT, DEPT. 1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****December 11, 2000****00C167783****The State of Nevada vs Gregory S Hermanski****December 11, 2000****9:00 AM****Initial Arraignment****INITIAL****ARRAIGNMENT****Relief Clerk: GREER****JENNISON****Reporter/Recorder:****TINA SMITH Heard****By: Kathy Hardcastle****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Dickson, Dianne

Hermanski, Gregory S

Moreo, Thomas J.

Public Defender

Attorney

Defendant

Attorney

Attorney

JOURNAL ENTRIES

- DEFENDANT DAY ARRAIGNED, PLED NOT GUILTY and INVOKED THE 60-DAY RULE.
COURT ORDERED, matter set for trial.

CUSTODY

2/21/01 9:00 AM CALENDAR CALL - DEPT. IV

2/26/01 10:30 AM JURY TRIAL - DEPT. IV

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 21, 2001

00C167783

The State of Nevada vs Gregory S Hermanski

February 21, 2001

9:00 AM

Calendar Call

CALENDAR CALL

Court Clerk:

DOROTHY KELLY

Reporter/Recorder:

TINA SMITH Heard

By: Kathy Hardcastle

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Campbell, Cara L.

Attorney

Hermanski, Gregory S

Defendant

Khamisi, Bitu

Attorney

Public Defender

Attorney

JOURNAL ENTRIES

- AMENDED INFORMATION, MOTION TO AMEND INFORMATION FILED IN OPEN COURT. ORDER TO AMEND INFORMATION SIGNED AND FILED IN OPEN COURT. Ms. Khamisi stated Ms. Dickson informed her she is ready to proceed to trial; she requested a start date of next Tuesday or later. Ms. Campbell stated this is Mr. Fattig's case; trial should take two days with four to six witnesses. COURT ORDERED, matter CONTINUED for trial order.

CUSTODY

02-23-01 9:00 A.M. STATUS CHECK: FINAL TRIAL ORDER

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 23, 2001**

00C167783

The State of Nevada vs Gregory S Hermanski

February 23, 2001**9:00 AM****Status Check**

**STATUS CHECK:
FINAL TRIAL
ORDER Court Clerk:
DOROTHY KELLY
Reporter/Recorder:
TINA SMITH Heard
By: Kathy Hardcastle**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	DeJulio, Douglas P.	Attorney
	Hehn, William A.	Attorney
	Hermanski, Gregory S	Defendant
	Public Defender	Attorney

JOURNAL ENTRIES

- State announced ready for trial. Due to Court's schedule (murder trial), COURT ORDERED, trial date VACATED and RESET.

CUSTODY**02-28-01 9:00 A.M. CALENDAR CALL****03-12-01 10:30 A.M. TRIAL BY JURY**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 28, 2001****00C167783****The State of Nevada vs Gregory S Hermanski****February 28, 2001****9:00 AM****Calendar Call****CALENDAR CALL****Court Clerk:****DOROTHY KELLY****Reporter/Recorder:****TINA SMITH Heard****By: Kathy Hardcastle****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Dickson, Dianne

Attorney

Hermanski, Gregory S

Defendant

Public Defender

Attorney

Villegas, Victoria A.

Attorney

JOURNAL ENTRIES

- Both sides announced ready for a one-and-one-half day trial. COURT ORDERED, Trial Date
Stands, Deft's Motion to Dismiss Information to be heard before trial.

CUSTODY**03-12-01 10:30 A.M. TRIAL BY JURY...DEFT'S MOTION TO DISMISS INFORMATION**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 12, 2001**

00C167783

The State of Nevada vs Gregory S Hermanski

March 12, 2001**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS FOR
3/12/01 Relief Clerk:
BILLIE JO CRAIG
Reporter/Recorder:
LIZ GARCIA Heard
By: Kathy Hardcastle**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Dickson, Dianne

Attorney

Fattig, John T

Attorney

Hehn, William A.

Attorney

Hermanski, Gregory S

Defendant

Public Defender

Attorney

JOURNAL ENTRIES**- DEFT'S MOTION TO DISMISS INFORMATION...JURY TRIAL**

Court noted there was no legal basis to dismiss Information. A Supplemental Motion submitted to the Court. COURT ORDERED, Motion to Dismiss for Failure to Preserve Evidence is DENIED. Upon Court's inquiry, Ms. Dickson advised there were negotiations pending the outcome of this Motion. Mr. Hehn advised there was a Guilty Plea Agreement and a Second Amended Information in the file. Ms. Dickson requested matter trail to talk with defendant. COURT ORDERED, matter to TRAIL. RECALLED. Ms. Dickson requested additional time for defendant to make a decision. COURT ORDERED, matter to TRAIL until 1:30 PM today.

RECALLED. Ms. Dickson advised defendant not arraigned on the Amended Information which

included the habitual status. Also, there was a question as to the Amended Information indicating in Count II as Burglary while in Possession of a Firearm in the summary even though it was a knife. COURT ORDERED, the Amended Information AMENDED BY INTERLINEATION to indicate in the summary BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (F). Arguments regarding defendant taking stand and what prior convictions will be used. COURT ORDERED, this Motion and the Supplemental Motion DENIED as there is no legal basis and the Certified JOC of 1984 can be used and others if certified and the State is prepared to present evidence. Ms. Dickson objected. COURT ORDERED, Trial CONTINUED to next day.

CUSTODY

3/13/01 10:30 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 13, 2001**

00C167783

The State of Nevada vs Gregory S Hermanski

March 13, 2001**10:30 AM****Jury Trial****TRIAL BY JURY****Relief Clerk: BILLIE****JO CRAIG****Reporter/Recorder:****LIZ GARCIA Heard****By: Hardcastle, Kathy****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Dickson, Dianne

Attorney

Fattig, John T

Attorney

Hermanski, Gregory S

Defendant

Public Defender

Attorney

JOURNAL ENTRIES

- At 11:09 AM, the Jury Panel, counsel and defendant present. At 11:09 AM, Mr. Fattig made his introduction. At 11:10 AM, Ms. Dickson made her introduction. Voir dire oath given at 2:14 PM. Alternate sworn to try the case at 2:16 PM. The Clerk read the Amended Information to the Jury at 2:20 PM. Opening statements by Mr. Fattig. Opening statements by Ms. Dickson. Witnesses sworn and and testified. Exhibits (see Worksheets). COURT ORDERED, EVENING RECESS. OUTSIDE THE PRESENCE OF THE JURY, the Court advised defendant of his right to testify on his own behalf. Defendant stated he understood. Colloquy regarding remaining witnesses and additional certified copies of convictions. At 5:10 PM, Court recessed for the evening.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 14, 2001

00C167783

The State of Nevada vs Gregory S Hermanski

March 14, 2001

10:30 AM

Jury Trial

TRIAL BY JURY

Relief Clerk: BILLIE

JO CRAIG

Reporter/Recorder:

LIZ GARCIA Heard

By: Hardcastle, Kathy

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Dickson, Dianne

Attorney

Fattig, John T

Attorney

Hermanski, Gregory S

Defendant

Public Defender

Attorney

JOURNAL ENTRIES

- Jury Instructions settled in Open Court. Counsel stipulated to the presence of the Jury at 10:40 AM. Witnesses sworn and testified. (See Worksheets.) Exhibits (see Worksheets). At 11:54 AM, the State rests. COURT ORDERED, NOON RECESS. At 1:32 PM, counsel stipulated to the presence of the Jury. Testimony continues. At 2:13 PM, defense rests. The Court instructed the Jury on the laws which applied to the case. Closing arguments by Mr. Fattig at 2:27 PM. Closing arguments by Ms. Dickson at 3:16 PM. Rebuttal argument by Mr. Fattig at 3:38 PM. Bailiff sworn to take charge of the Jury at 3:49 PM. Bailiff sworn to take charge of the Alternate at 3:49 PM. OUTSIDE THE PRESENCE OF THE JURY, Ms. Dickson objected to the hearsay statements by the trucker as inadmissible hearsay, detective failed to look for defendant's shirt, and offer to truck driver of \$100.00 to take defendant to New Orleans. Court stated its findings. COURT ORDERED, objection OVERRULED. COURT ORDERED, EVENING RECESS.

00C167783

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 15, 2001**

00C167783

The State of Nevada vs Gregory S Hermanski

March 15, 2001**10:30 AM****Jury Trial****TRIAL BY JURY****Relief Clerk: BILLIE****JO CRAIG****Reporter/Recorder:****LIZ GARCIA Heard****By: Kathy Hardcastle****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Dickson, Dianne

Attorney

Fattig, John T

Attorney

Hermanski, Gregory S

Defendant

Public Defender

Attorney

JOURNAL ENTRIES

- At the hour of 2:08 PM, the Jury returned with a verdict finding Defendant Day GUILTY OF COUNT I - ROBBERY WITH USE OF A DEADLY WEAPON (F) AND COUNT II - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (F). The Court thanked and excused the Jurors. The State will file for habitual offender treatment. COURT ORDERED, matter referred to P&P for a PSI and SET for Sentencing.

CUSTODY

5/2/01 9:00 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 26, 2001

00C167783

The State of Nevada vs Gregory S Hermanski

March 26, 2001

9:00 AM

**Motion to Amend
Information**

**STATE'S MOTION
TO AMEND
INFORMATION
Relief Clerk: BILLIE
JO CRAIG
Reporter/Recorder:
TINA SMITH Heard
By: Kathy Hardcastle**

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Dickson, Dianne

Attorney

Hermanski, Gregory S

Defendant

Public Defender

Attorney

Villegas, Victoria A.

Attorney

JOURNAL ENTRIES

- COURT ORDERED, State's Motion to Amend Information is GRANTED. Ms. Dickson objected.
ORDER TO AMEND INFORMATION AND SECOND AMENDED INFORMATION SIGNED AND
FILED IN OPEN COURT.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 02, 2001

00C167783

The State of Nevada vs Gregory S Hermanski

May 02, 2001

9:00 AM

Sentencing

SENTENCING

Court Clerk:

DOROTHY KELLY

Relief Clerk: KEITH

REED/kar

Reporter/Recorder:

TINA SMITH Heard

By: Hardcastle, Kathy

HEARD BY:

COURTROOM:

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES**PRESENT:**

Dickson, Dianne

Attorney

Fattig, John T

Attorney

Hermanski, Gregory S

Defendant

Public Defender

Attorney

JOURNAL ENTRIES

- Joy Mundy-Neal of Parole and Probation present. Court noted the Defendant refused to be interviewed for the Pre-Sentence Investigation Report (PSI). Ms. Dickson stated P & P requested the Deft. not make a statement due to his contention he is not guilty of the charges. DEFENDANT DAY ADJUDGED GUILTY of of COUNT I, ROBBERY WITH USE OF A DEADLY WEAPON (F) and COUNT II, BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (F). COURT ORDERED, matter CONTINUED to review a certified copy of the Judgment of Conviction. CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 09, 2001

00C167783

The State of Nevada vs Gregory S Hermanski

May 09, 2001

9:00 AM

Sentencing

SENTENCING

Relief Clerk: BILLIE

JO CRAIG

Reporter/Recorder:

TINA SMITH Heard

By: Kathy Hardcastle

HEARD BY:

COURTROOM:

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES**PRESENT:**

Dickson, Dianne

Attorney

Fattig, John T

Attorney

Hermanski, Gregory S

Defendant

Public Defender

Attorney

JOURNAL ENTRIES

- Brenda Lewis of the Dept. of P & P present. Ms. Dickson inquired if the Court received the Supplemental PSI. Arguments by counsel regarding habitual treatment. COURT ADJUDGED DEFENDANT DAY GUILTY OF COUNT I - ROBBERY WITH USE OF A DEADLY WEAPON (F) AND CT. II - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (F). Parties argued and submitted. Exhibits (see worksheet). COURT ORDERED, in addition to the \$25.00 Administrative Assessment Fee and \$250.00 DNA Analysis Fee and defendant to submit to a blood and/or saliva test to determine genetic markers or secretor status, Defendant ADJUDGED an HABITUAL OFFENDER. Defendant SENTENCED to a MAXIMUM of THREE HUNDRED (300) MONTHS and a MINIMUM of ONE HUNDRED TWENTY (120) MONTHS in the Nevada Department of Prisons, with THREE HUNDRED EIGHT-TWO (382) DAYS Credit For Time Served. RECALLED LATER. Mr. Fattig request defendant be sentenced in CT. II. The Court advised when a

00C167783

defendant is adjudged an habitual offender, sentence applies to both counts.
NDP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 06, 2002****00C167783****The State of Nevada vs Gregory S Hermanski****February 06, 2002****9:00 AM****Request of Court**

**AT THE REQUEST
OF THE COURT
CLARIFICATN
SENTENCE/SUPRE
ME CT VR 2/7 Court
Clerk: Dorothy Kelly
Reporter/Recorder:
Tina Smith Heard
By: Hardcastle, Kathy**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Dickson, Dianne
Noxon, Arthur G.
Public Defender

Attorney
Attorney
Attorney

JOURNAL ENTRIES

- Ms. Dickson stated the Deft. has not been transported. She further stated there is a motion for reconsideration in the Supreme Court. Court stated it has a remittitur. COURT ORDERED, matter CONTINUED; a Writ has to be prepared to have Deft. transported.

NDC

AT REQUEST OF COURT: CLARIFICATION OF SENTENCE PER SUPREME COURT ORDER

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****June 26, 2002**

00C167783

The State of Nevada vs Gregory S Hermanski

June 26, 2002**9:00 AM****Request****DEFT'S REQUEST
RESENTENCING
PURSUANT TO
ORDER OF
SUPREME COURT
/14 Court Clerk:
Dorothy Kelly
Reporter/Recorder:
Tina Smith Heard
By: Hardcastle, Kathy****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**Dickson, Dianne
Noxon, Arthur G.
Public DefenderAttorney
Attorney
Attorney**JOURNAL ENTRIES**

- Court stated an Order to Transport Deft. has to be prepared. State advised it will prepare the Order.
COURT ORDERED, matter CONTINUED.

NDC

DEFT'S REQUEST FOR RE-SENTENCING PURSUANT TO SUPREME COURT ORDER

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 25, 2002**

00C167783

The State of Nevada vs Gregory S Hermanski

July 25, 2002**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS 07-25-02
Court Clerk: Dorothy
Kelly
Reporter/Recorder:
Debra Van Blaricom
Heard By: Kathy
Hardcastle**

HEARD BY:**COURTROOM:****COURT CLERK:** Denise Trujillo**RECORDER:** Lara Corcoran**REPORTER:****PARTIES****PRESENT:**

Dickson, Dianne

Attorney

Hermanski, Gregory S

Defendant

Public Defender

Attorney

Schubert, David

Attorney

JOURNAL ENTRIES

**- DEFT'S MOTION FOR A NEW TRIAL...DEFT'S MOTION TO VACATE SENTENCE AS AN
HABITUAL CRIMINAL...DEFT'S REQUEST FOR RE-SENTENCING PURSUANT TO SUPREME
COURT ORDER**

Ms. Dickson stated this was remanded from the Supreme Court for sentencing. She further stated she obtained information that records are not Mr. Day's records; fingerprints attached to a document do not match the Deft.'s. She requested the sentencing be vacated. State requested time to respond.

COURT ORDERED, matter CONTINUED. Court advised Ms. Dickson the Deft. does not have to be present for the next Court date. Ms. Dickson responded the Deft. wants to be present. Court directed the State to prepare an Order to Transport Deft. to all proceedings.

00C167783

NDC

08-14-02 9:00 A.M. (MOTIONS AND REQUEST AS REFLECTED ABOVE)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 14, 2002

00C167783

The State of Nevada vs Gregory S Hermanski

August 14, 2002

9:00 AM

All Pending Motions

ALL PENDING
MOTIONS 08-14-02
Court Clerk: Dorothy
Kelly
Reporter/Recorder:
Tina Smith Heard
By: Kathy Hardcastle

HEARD BY:

COURTROOM:

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES**PRESENT:**

Dickson, Dianne

Hermanski, Gregory S

Public Defender

Schubert, David

Attorney

Defendant

Attorney

Attorney

JOURNAL ENTRIES

- DEFT'S MOTION FOR A NEW TRIAL...DEFT'S MOTION TO VACATE SENTENCE AS AN
HABITUAL CRIMINAL...DEFT'S REQUEST FOR RE-SENTENCING PURSUANT TO SUPREME
COURT ORDER...AT THE REQUEST OF THE COURT: ADDRESS REQUEST FOR TRANSCRIPT OF
VOIR DIRE

Mr. Schubert requested a continuance as Deputy District Attorney, Scott Mitchell, is on vacation;
COURT, SO ORDERED.

NDC

08-28-02 9:00 A.M. MOTIONS AND REQUESTS AS REFLECTED ABOVE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 28, 2002**

00C167783

The State of Nevada vs Gregory S Hermanski

August 28, 2002**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS 8-28-02
Relief Clerk: Alan
Castle
Reporter/Recorder:
Tina Smith Heard
By: Kathy Hardcastle**

HEARD BY:**COURTROOM:****COURT CLERK:** Denise Trujillo**RECORDER:** Lara Corcoran**REPORTER:****PARTIES**

PRESENT:	Dickson, Dianne	Attorney
	Hermanski, Gregory S	Defendant
	Lieberman, Gary H.	Attorney
	Public Defender	Attorney
	Schubert, David	Attorney

JOURNAL ENTRIES

- DEFT'S MOTION FOR NEW TRIAL...DEFT'S MOTION TO VACATE SENTENCE AS A HABITUAL CRIMINAL...DEFT'S MOTION FOR RE-SENTENCING PURSUANT TO SUPREME COURT ORDER...AT THE REQUEST OF THE COURT: ADDRESS REQUEST OF VOIR DIRE
Deft's motion to dismiss Count pursuant to habitual criminal statute, NRS 207.010 FILED IN OPEN COURT. Following colloquy regarding Deft's correct identity, COURT ORDERED, ALL MATTERS CONTINUED. FURTHER ORDERED, Deft. does not need remain here and is to be sent back to NDC.
10/2/02 9:00 AM DEFT'S MOTION FOR NEW TRIAL...DEFT'S MOTION TO VACATE SENTENCE AS A HABITUAL CRIMINAL...DEFT'S MOTION FOR RE-SENTENCING PURSUANT TO SUPREME COURT ORDER...AT THE REQUEST OF THE COURT: ADDRESS REQUEST OF VOIR

00C167783

DIRE...DEFT'S MOTION TO DISMISS COUNT PURSUANT TO HABITUAL CRIMINAL STATUTE,
NRS 207.010

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 09, 2002**

00C167783

The State of Nevada vs Gregory S Hermanski

September 09, 2002**9:00 AM****Motion****DEFT'S MTN FOR A
NEW TRIAL/21****Relief Clerk: Denise
Husted****Reporter/Recorder:
Tina Smith Heard****By: Hardcastle, Kathy****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Bauer, Elizabeth B.

Attorney

Dickson, Dianne

Attorney

Public Defender

Attorney

JOURNAL ENTRIES**- COURT ORDERED, motion CONTINUED.****NDC**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 02, 2002**

00C167783

The State of Nevada vs Gregory S Hermanski

October 02, 2002**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS 10-02-02
Court Clerk: Dorothy
Kelly
Reporter/Recorder:
Tina Smith Heard
By: Kathy Hardcastle**

HEARD BY:**COURTROOM:****COURT CLERK:** Denise Trujillo**RECORDER:** Lara Corcoran**REPORTER:****PARTIES****PRESENT:**

Dickson, Dianne
Mitchell, Scott S.
Public Defender

Attorney
Attorney
Attorney

JOURNAL ENTRIES

- DEFT'S MOTION FOR A NEW TRIAL...DEFT'S MOTION TO VACATE SENTENCE AS AN HABITUAL CRIMINAL...DEFT'S REQUEST FOR RE-SENTENCING PURSUANT TO SUPREME COURT ORDER...AT THE REQUEST OF THE COURT: ADDRESS REQUEST FOR TRANSCRIPT OF VOIR DIRE...DEFT'S MOTION TO DISMISS COUNT PURSUANT TO HABITUAL CRIMINAL STATUTE, NRS 207.010...DEFT'S MOTION FOR A NEW TRIAL

State's Opposition to Defendant's Motion to Vacate Sentence as an Habitual Criminal and State's Opposition to Defendant's Motion for New Trial FILED IN OPEN COURT. COURT ORDERED, Judgment of Conviction to be AMENDED BY INTERLINEATION to reflect Deft. found guilty pursuant to Jury Verdict. Ms. Dickson stated she has new evidence whereby the Deft. happened upon Mr. Beck who submitted an affidavit stating he was working with the Deft. on the day in question. Mr. Mitchell stated that as to the Motion to Vacate Sentence as an Habitual Criminal, he

concurs with the motion; the State wants to resentence Deft., since he was not the person he was sentenced under. He further stated the Deft. admitted he is not Robert James Day; he is Gregory Scott Hermanski and from running an FBI identity, he is a twelve-time convicted felon and has an outstanding warrant from North Carolina and felony convictions from Florida and a Federal conviction. Mr. Mitchell further stated that Robert Day is someone the Deft. met, and because the Deft. pulled identity fraud in Court, the State will file new charges for perjury and identity fraud. Mr. Mitchell requested a new sentencing date be set and requested time to obtain ID materials from the other jurisdictions; the Deft. has convictions from 1969. Court stated it will leave everything as is and ORDERED, matter CONTINUED sixty (60) days. Court instructed the State to obtain information and when it is responded to the Court will decide what to do. Mr. Mitchell stated he wants a new Pre-Sentence Report and wants to have the Deft. at the jail. Ms. Dickson stated the Deft. does not want to talk to the Division of Parole and Probation; the State had Deft's fingerprints from day one.

NDC

12-04-02 9:00 A.M. MOTIONS AS REFLECTED ABOVE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 04, 2002

00C167783

The State of Nevada vs Gregory S Hermanski

December 04, 2002

9:00 AM

All Pending Motions

ALL PENDING
MOTIONS 12-04-02
Court Clerk: Dorothy
Kelly
Reporter/Recorder:
Tina Smith Heard
By: Kathy Hardcastle

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Dickson, Dianne

Attorney

Hermanski, Gregory S

Defendant

Mitchell, Scott S.

Attorney

Public Defender

Attorney

JOURNAL ENTRIES

- DEFT'S MOTION FOR A NEW TRIAL...DEFT'S MOTION TO VACATE SENTENCE AS AN
HABITUAL CRIMINAL...DEFT'S REQUEST FOR RE-SENTENCING PURSUANT TO SUPREME
COURT ORDER...AT THE REQUEST OF THE COURT: ADDRESS REQUEST FOR TRANSCRIPT OF
VOIR DIRE...DEFT'S MOTION TO DISMISS COUNT PURSUANT TO HABITUAL CRIMINAL
STATUTE, NRS 207.010...DEFT'S MOTION FOR A NEW TRIAL

Objection FILED IN OPEN COURT. Ms. Dickson stated the Deft. wants to file a motion objecting to
the proceedings. As to the Motion to Vacate Sentence, Mr. Mitchell stated all parties are in agreement
Deft. is Gregory Hermanski; he was sentenced as Robert Day; sentencing should be vacated, a new
sentencing date set and a new Pre-Sentence Report prepared. He further stated the Deft. has a record
that requires this Court to sentence him as a violent habitual criminal; he has two bank robbery

certifications and one is on the way. Mr. Mitchell stated the State is prepared to say the Deft. has eleven (11) felony convictions; he requested the prior opposition be withdrawn as the State has verified Mr. Hermanski is not Robert James Day. Court noted the Deft. lied to the Court. Ms. Dickson stated there has been another motion filed by the Deft. Court stated it does not recognize motions filed by the Defendant; they are to be presented to his attorney. Ms. Dickson stated the Motion for a New Trial was based on confirmation the Deft. had a parole violation at the time he ran from police; she requested the copy of documentation and the Birth Certificate be made part of the record....(Defendant's Exhibits A and B). Court stated the Deft. could have made that known to counsel; it is not new evidence. Ms. Dickson stated a witness, Mr. Beck, was located in prison. COURT ORDERED, Deft's Motion for New Trial is DENIED. As to Habitual Criminal Charges, Ms. Dickson stated that is a jury question. Court stated the Deft. has misrepresented who he is; his name is Gregory Scott Hermanski. Mr. Mitchell stated the Deft's FBI number is 888420G. COURT ORDERED, matter REFERRED to the Division of Parole and Probation for a new Pre-Sentence Report and set for sentencing. COURT FURTHER ORDERED, Deft's Motion to Vacate Sentence as an Habitual Criminal is GRANTED; Deft's Request for Re-Sentencing Pursuant to Supreme Court Order is MOOT; At the Request of Court: Address Request for Transcript of Voir Dire is OFF CALENDAR; Deft's Motion to Dismiss Count Pursuant to Habitual Criminal Statute NRS 207.010 is MOOT. Due to Defendant's outburst in Court, Court stated it will hear the motion set for December 16th, without him; Defendant IS NOT TO BE PRESENT IN COURT ON December 16TH.

NDC

12-16-02 9:00 A.M. DEFT'S PRO PER MOTION TO DISMISS COUNSEL/APPOINT COUNSEL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****December 16, 2002****00C167783****The State of Nevada vs Gregory S Hermanski****December 16, 2002****9:00 AM****Motion to Dismiss**

**DEFT'S PRO PER
MTN TO DISMISS
CNSL/APPOINT
CNSL/25 Relief
Clerk: Denise Husted
Reporter/Recorder:
Tina Smith Heard
By: Kathy Hardcastle**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Dickson, Dianne
Hart, Marty
Public Defender

Attorney
Attorney
Attorney

JOURNAL ENTRIES

- Ms. Dickson advised the Court that the Defendant no longer wants her to represent him due to confusion regarding factual allegations of the Defendant's identity. COURT ORDERED, independent counsel is appointed to review the ineffective assistance of counsel claim; matter set for confirmation of counsel.

NDC

CLERK'S NOTE: Dept. IV Judicial Executive Assistant to notify appropriate counsel of Court date.
12/23/02 9:00 AM CONFIRMATION OF COUNSEL

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****December 23, 2002****00C167783****The State of Nevada vs Gregory S Hermanski****December 23, 2002****9:00 AM****Motion for Confirmation of
Counsel****CONFIRMATION****OF****COUNSEL/WOMME****R Relief Clerk:****Denise Husted****Reporter/Recorder:****Tina Smith Heard****By: Hardcastle, Kathy****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:****Bauer, Elizabeth B.****Attorney****Dickson, Dianne****Attorney****Public Defender****Attorney****JOURNAL ENTRIES**

- Ms. Dickson stated this matter is not at the post conviction stage yet, however there is a disagreement regarding factual allegations. Court directed Mr. Wommer to review the file prior to sentencing and matter CONTINUED to that date. Ms. Dickson stated she will give the file to Mr. Wommer.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 22, 2003**

00C167783**The State of Nevada vs Gregory S Hermanski**

January 22, 2003**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS 01-22-03
Court Clerk: Dorothy
Kelly Heard By:
Kathy Hardcastle**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Dickson, Dianne

Attorney

Hart, Marty

Attorney

Wommer, Paul E.

Attorney

JOURNAL ENTRIES

- CONFIRMATION OF COUNSEL (WOMMER)...SENTENCING

Carolyn Butts present for the Division of Parole and Probation (P&P). Ms. Dickson stated P&P is requesting a 30-day continuance; COURT, SO ORDERED. Court noted Mr. Wommer previously confirmed as counsel.

NDC**02-26-03 9:00 A.M. SENTENCING**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 26, 2003**

00C167783

The State of Nevada vs Gregory S Hermanski

February 26, 2003**9:00 AM****Sentencing****SENTENCING****Court Clerk: Carole
D'Aloia****Reporter/Recorder:
Carrie Hansen Heard
By: Hardcastle, Kathy****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Hehn, William A.

Attorney

Hermanski, Gregory S

Defendant

Wommer, Paul E.

Attorney

JOURNAL ENTRIES

- Officer C. Butts of the Division of Parole and Probation (P&P) present. Mr. Wommer advised Defendant was not transported and matter will need to be continued. Mr. Wommer further advised that Court appointed him since Ms. Dickson had a conflict and Mr. Wommer CONFIRMED as counsel. COURT ORDERED, matter CONTINUED and instructed the State to prepare an Order to Transport.

CUSTODY (COC)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 26, 2003

00C167783

The State of Nevada vs Gregory S Hermanski

March 26, 2003

9:00 AM

Sentencing

SENTENCING
Court Clerk: Dorothy
Kelly Heard By:
Hardcastle, Kathy

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Hart, Marty
 Wommer, Paul E.

Attorney
 Attorney

JOURNAL ENTRIES

- Carolyn Butts present for the Division of Parole and Probation. Mr. Wommer stated he substituted in as counsel for the Deft; he and the Deft. have been in contact. He further stated he has been in trial and has not been able to see the Deft. in the High Desert yet; the Deft. was not transported today.

COURT ORDERED, matter CONTINUED; State to prepare an Order to Transport.

NDC

SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 30, 2003

00C167783

The State of Nevada vs Gregory S Hermanski

April 30, 2003

9:00 AM

Sentencing

SENTENCING

Court Clerk: Dorothy
Kelly

Reporter/Recorder:

Carrie Hansen Heard

By: Kathy Hardcastle

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Dickson, Dianne

Attorney

Hermanski, Gregory S

Defendant

Mitchell, Scott S.

Attorney

Wommer, Paul E.

Attorney

JOURNAL ENTRIES

- William Lizura present for the Division of Parole and Probation (P&P). DEFT. HERMANSKI ADJUDGED GUILTY OF CT. I ROBBERY WITH USE OF A DEADLY WEAPON (F) AND CT. II - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (F). Court heard argument as to Deft's Habitual Criminal status. Mr. Mitchell noted Defendant's prior felonies and stated that under the law, the maximum penalty has to be imposed; it is not discretionary. Mr. Wommer stated he substituted in as counsel for sentencing; Ms. Dickson represented the Deft. previously. Mr. Wommer read Defendant's statement in Court. Court directed Mr. Wommer to put the matters contained in Deft's statement in a motion. Mr. Mitchell provided Court with certified copies of Deft's Judgment of Convictions along with other paperwork reflecting Deft's past convictions. DEFT. HERMANSKI ADJUDGED GUILTY AS A HABITUAL OFFENDER IN COUNTS I AND II. In addition to the \$25 Administrative Assessment Fee and \$150 DNA Fee, COURT ORDERED, Deft. SENTENCED in

COUNT I to LIFE in the Nevada Department of Corrections WITHOUT the Possibility of Parole and in COUNT II to LIFE in the Nevada Department of Corrections WITHOUT the Possibility of Parole; Count II to run CONCURRENTLY with Count I with NO Credit for Time Served; Deft. to submit to a test to determine genetic markers. Court advised counsel he can file the appropriate motion as to credit for time served while Deft. serving Federal time.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 12, 2003

00C167783

The State of Nevada vs Gregory S Hermanski

May 12, 2003

9:00 AM

Request

**DEFT'S REQUEST
TO CLARIFY
APPOINTMENT
OFCOUNSEL/31
Relief Clerk: Billie Jo
Craig
Reporter/Recorder:
Carrie Hansen Heard
By: Kathy Hardcastle**

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:	Bauer, Elizabeth B.	Attorney
	Dickson, Dianne	Attorney
	Public Defender	Attorney
	Roger, David J.	Attorney
	Wommer, Paul E.	Attorney

JOURNAL ENTRIES

- COURT ORDERED, defendant's PRESENCE WAIVED today. Ms. Dickson requested clarification of who represents defendant. Mr. Wommer advised he was appointed to represent defendant only for the ineffectiveness of counsel problem. Court noted it had appointed Mr. Wommer to represent defendant.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 31, 2005**

00C167783**The State of Nevada vs Gregory S Hermanski**

January 31, 2005**9:00 AM****Motion to Withdraw as
Counsel****DEFT'S PRO PER
MTN TO
WITHDRAW AS
COUNSEL/32 Court
Clerk: Alan Castle
Reporter/Recorder:
Loree Gallegos
Heard By: Jennifer
Togliatti****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Matter submitted. COURT ORDERED, petition GRANTED. By way of this minute order State to prepare the order and notify all interested parties.
NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 21, 2005

00C167783

The State of Nevada vs Gregory S Hermanski

September 21, 2005

9:00 AM

**Petition for Writ of Habeas
Corpus**

**DEFT'S PTN FOR
WRIT OF HABEAS
CORPUS/33 Court
Clerk: Alan Castle
Reporter/Recorder:
Kristen Lunkwitz
Heard By: Togliatti,
Jennifer**

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT: Benedict, Susan M.

Attorney

JOURNAL ENTRIES

**- At request of State, COURT ORDERED, matter CONTINUED.
NDC**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 24, 2005

00C167783

The State of Nevada vs Gregory S Hermanski

October 24, 2005

9:00 AM

All Pending Motions

ALL PENDING
MOTIONS 10-24-05
Relief Clerk: Judy
McFadden
Reporter/Recorder:
Kristen Lunkwitz
Heard By: Jennifer
Togliatti

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- DEFT'S PRO PER MOTION FOR PRISONER TRANSPORTATION ORDER...DEFT'S PETITION FOR WRIT OF HABEAS CORPUS
STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR PRISONER TRANSPORTATION FILED IN OPEN COURT. Deft. not present. Conference at Bench. Following Conference at Bench, Court informed it had explained to State and Ms. De La Garza regarding Court's time restraint regarding Deft's Petition for Writ of Habeas Corpus and that Court expects to begin medical leave in ten days that will last two months. Court stated it would need more time to prepare or have another Judge rule. COURT ORDERED, Motion for transport DENIED. Court stated regarding Petition for Writ, it must get up to speed on the case; ineffectual assistance of counsel is the 3rd ground for relief. FURTHER ORDERED, supplemental response from State; matter set for decision. Court directed State to supplement its Opposition to assist Court in addressing the 3rd ground. Court stated Deft. alleges habitual criminal and violent criminal statute did not enable him to challenge conviction.

00C167783

NDC

12/21/05 9:00 AM DECISION: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS/STATES
SUPPLEMENT TO OPPOSITION

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****December 21, 2005**

00C167783**The State of Nevada vs Gregory S Hermanski**

December 21, 2005**9:00 AM****Decision**

**DECISION: DEFT'S
PETITION FOR
WRIT OF HABEAS
CORPUS/36 Court
Clerk: Alan Castle
Reporter/Recorder:
Kristen Lunkwitz
Heard By: Brennan,
James**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Dickson, Dianne
Keenan, Nell
Public Defender

Attorney
Attorney
Attorney

JOURNAL ENTRIES

- Upon State's inquiry regarding decision, Court stated the matter in on for decision, and Court has reviewed the petition and may have some questions. Ms. Dickson advised the Deft's motion to appear for oral argument was denied and Deft. has filed another motion regarding that denial. Further, Ms. Dickson represented the Deft. previously and notes the Deft. is well educated and articulate. Also, noted by Ms. Dickson is that the Deft's petition may have merit, but the Defendant himself would be the one to argue those merits. COURT FINDS the Court that previously denied the motion to appear for argument should hear the motion to reconsider and ORDERED, CONTINUED and set for hearing motion to reconsider appearance of Defendant for oral argument on petition. FURTHER, Deft's presence is WAIVED until such time as there is further order of the Court requiring

00C167783

Deft's presence.

NDC

1/9/06 9:00 AM DEFT'S PRO PER MOTION TO RECONSIDER APPEARANCE FOR ORAL
ARGUMENT - IN RE DEFT'S PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 09, 2006

00C167783

The State of Nevada vs Gregory S Hermanski

January 09, 2006

9:00 AM

Motion to Reconsider

DEFT'S PRO PER
MOTION TO
RECONSIDER
TRANSPORT DEFT
FOR ORAL
ARGUMENTS /37
Court Clerk: Cheryl
Case Relief Clerk:
Cynthia Georgilas/cg
Reporter/Recorder:
Kristen Lunkwitz
Heard By: Jennifer
Togliatti

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Benedict, Susan M.
Dickson, Dianne

Attorney
Attorney

JOURNAL ENTRIES

- Ms. Dickson advised she represented Defendant at trial and advised Defendant has real issues and would like to be transported in order to present them to this Court. COURT ORDERED, motion DENIED. Colloquy regarding Defendant's Writ. Court STATED it has reviewed Writ once before but will review Writ again, as well as procedural history and set for Status Check.

NDC

01-18-06 9:00 AM STATUS CHECK: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS

PRINT DATE: 04/07/2014

Page 46 of 65

Minutes Date: June 13, 2000

00C167783

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 18, 2006**

00C167783**The State of Nevada vs Gregory S Hermanski**

January 18, 2006**9:00 AM****Status Check**

**STATUS CHECK:
DEFT'S WRIT OF
HABEAS CORPUS
Court Clerk: Alan
Castle
Reporter/Recorder:
Kristen Lunkwitz
Heard By: Jennifer
Togliatti**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:****Pesci, Giancarlo****Attorney**

JOURNAL ENTRIES

- Court FINDS still considering and ORDERED, matter CONTINUED for Decision.
NDC

1/30/06 9:00 AM DECISION: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 30, 2006**

00C167783**The State of Nevada vs Gregory S Hermanski**

January 30, 2006**9:00 AM****Decision**

**DECISION: DEFT'S
PETITION FOR
WRIT OF HABEAS
CORPUS/36 Court
Clerk: Alan Castle/ac
Relief Clerk: Kathy
Streuber
Reporter/Recorder:
Kristen Lunkwitz
Heard By: Togliatti,
Jennifer**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:****Pesci, Giancarlo****Attorney**

JOURNAL ENTRIES

**- COURT ORDERED, matter CONTINUED for further consideration. FURTHER, Deft's presence
WAIVED for these proceedings.**

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 03, 2006**

00C167783**The State of Nevada vs Gregory S Hermanski**

February 03, 2006**9:00 AM****Decision**

**DECISION: DEFT'S
PETITION FOR
WRIT OF HABEAS
CORPUS/36 Court
Clerk: Alan Castle
Relief Clerk:
Katherine
Streuber/ks
Reporter/Recorder:
Kristen Lunkwitz
Heard By: Jennifer
Togliatti**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT: Keenan, Nell****Attorney**

JOURNAL ENTRIES

- COURT ORDERED, Deft's petition is DENIED. By way of this minute order State to prepare the order and notify all interested parties.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 27, 2006**

00C167783**The State of Nevada vs Gregory S Hermanski**

March 27, 2006**9:00 AM****Motion**

**PETITIONERS PRO
PER MOTION FOR
REHEARING ON
DECISION
ENTERED MARCH
3, 2006/39 Relief
Clerk: Melissas
Swinn
Reporter/Recorder:
Janice David Heard
By: Stephen Huffaker**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:****Brierly, Tracey J.****Attorney**

JOURNAL ENTRIES

- Defendant not present as he is currently housed at the Nevada Department of Corrections. Court reviewed documents, stated its findings and ORDERED, motion DENIED.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 23, 2006

00C167783

The State of Nevada vs Gregory S Hermanski

August 23, 2006

9:00 AM

Motion to Stay

DEFT'S PRO PER
MTN TO STAY
PROCEEDINGS
& MTN FOR
APPOINTMENT OF
COUNSEL/40 Court
Clerk: Alan Castle
Relief Clerk: Kathy
Klein/kk
Reporter/Recorder:
Kristen Lunkwitz
Heard By: Jennifer
Togliatti

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Brierly, Tracey J.
Dickson, Dianne

Attorney
Attorney

JOURNAL ENTRIES

- Court waived Deft's presence. Ms. Dickson appeared on behalf of the Deft. in support of Deft's motion. COURT STATED FINDINGS and ORDERED, motion DENIED. State to prepare the order.
CASE CLOSED.
NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 22, 2010

00C167783

The State of Nevada vs Gregory S Hermanski

February 22, 2010

9:00 AM

Motion

DEFT'S PRO PER
MTN TO CORRECT
AN
ILLEGAL SENTENCE
OR IN THE ALT
MTN TO
MODIFY/41 Court
Clerk: Alan Paul
Castle
Reporter/Recorder:
Cheryl Carpenter
Heard By: Jennifer
Togliatti

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT: Morgan, Shawn A.

Attorney

JOURNAL ENTRIES

- Court waived Defendant's presence, as this Court does not entertain oral arguments in these types of proceedings and determination made specifically on the pleadings. Matter submitted. COURT Finds this Court agrees with State's opposition and ORDERED, motion DENIED. By way of this minute order State to prepare the Findings of Fact, Conclusions of Law that track the State's opposition and notify all interested parties. CASE CLOSED.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 05, 2010**

00C167783**The State of Nevada vs Gregory S Hermanski**

April 05, 2010**9:00 AM****Motion to Reconsider**

**DEFT'S PRO PER
MTN TO
RECONSIDER /42
Court Clerk: Alan
Paul Castle/ac Relief
Clerk: Shelly
Landwehr
Reporter/Recorder:
Yvette Lester Heard
By: Jennifer Togliatti**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Rinetti, Dena I.

Attorney

JOURNAL ENTRIES

- Court waived Defendant's presence, as this Court does not entertain oral arguments in these types of proceedings and determination made specifically on the pleadings. COURT FINDS no legal cause and ORDERED, motion DENIED. State to prepare the order denying motion and notify interested parties. CASE CLOSED.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 09, 2011

00C167783

The State of Nevada vs Gregory S Hermanski

May 09, 2011

8:30 AM

Motion

HEARD BY: Cadish, Elissa F.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Denise Trujillo; Monique Alberto

RECORDER: Jessica Ramirez

REPORTER:

PARTIES

PRESENT:

State of Nevada

Plaintiff

Westmeyer, Daniel

Attorney

JOURNAL ENTRIES

- DEFT'S MOTION TO CORRECT AN ILLEGAL SENTENCE OR, IN THE ALTERNATIVE,
MOTION FOR MODIFICATION OF SENTENCE

Without benefit of argument, COURT stated findings and ORDERED, Motion DENIED.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 06, 2011

00C167783

The State of Nevada vs Gregory S Hermanski

June 06, 2011

8:30 AM

All Pending Motions

HEARD BY: Cadish, Elissa F.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Monique Alberto

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT:

State of Nevada

Plaintiff

Westmeyer, Daniel

Attorney

JOURNAL ENTRIES

- DEFENDANT'S PRO PER MOTION FOR LEAVE TO FILE SUPPLEMENTAL POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO CORRECT AN ILLEGAL SENTENCE OR IN THE ALTERNATIVE MOTION FOR MODIFICATION OF SENTENCE...DEFENDANT' PRO PER MOTION FOR LEAVE TO FILE DEFENDANT'S RESPONSE TO STATE'S OPPOSITION TO DEFENDANT'S PRO PER MOTION TO CORRECT AN ILLEGAL SENTENCE OR IN THE ALTERNATIVE MOTION FOR MODIFICATION OF SENTENCE

Without benefit of argument, COURT stated her findings and ORDERED, Deft's Pro Per Motion's DENIED.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 29, 2011**

00C167783

The State of Nevada vs Gregory S Hermanski

June 29, 2011**8:30 AM****Motion****HEARD BY:** Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Keith Reed; Denise Trujillo**RECORDER:** Jessica Ramirez**REPORTER:****PARTIES****PRESENT:**Nance, Aaron M.
State of NevadaAttorney
Plaintiff**JOURNAL ENTRIES****- NOTICE OF MOTION/MOTION FOR EXTENSION OF TIME**

COURT noted the State has not filed the notice of entry of order from May 20, 2011 and ORDERED, Motion DENIED as MOOT; State to file the notice of entry of order from 5/20/2011 and send copy to Deft; Deft. will have 10 days under the rules after the notice of entry to file any motions for reconsideration that may be warranted.

NDC

CLERK'S NOTE: Minutes corrected this date. 7/6/11 dt

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 06, 2011

00C167783

The State of Nevada vs Gregory S Hermanski

July 06, 2011

8:30 AM

Motion

HEARD BY: Cadish, Elissa F.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT:

Nance, Aaron M.
State of Nevada

Attorney
Plaintiff

JOURNAL ENTRIES

- Court noted the motion is premature because the order from May 20, 2011 has not been entered, stated findings and ORDERED, motion for reconsideration DENIED.

NDC

CLERK'S NOTE: The above minute order has been distributed to: Gregory S. Hermanski #69140, NNCC, POB 7000, Carson City, Nv. 89702

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 01, 2011**

00C167783

The State of Nevada vs Gregory S Hermanski

August 01, 2011**8:30 AM****Motion For
Reconsideration****HEARD BY:** Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Susan Jovanovich**RECORDER:** Jessica Ramirez**REPORTER:****PARTIES****PRESENT:**Ferreira, Amy L.
State of NevadaAttorney
Plaintiff**JOURNAL ENTRIES**

- Deft. not present; incarcerated in the Nevada Department of Corrections (NDC). Court stated based on the Notice of Appeal having been filed in this matter, the Court does not have jurisdiction to entertain this motion. Additionally, if the Court considered the pleadings on the merits, Court will make findings, including that there were no facts of law presented in the relief being requested, and deny the motion. State to prepare the order.

NDC

CLERK'S NOTE: The above minute order has been distributed to: Gregory S. Hermanski #69140, NNCC, P.O. BOX 7000, Carson City, NV. 89702. /// sj

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 11, 2013

00C167783

The State of Nevada vs Gregory S Hermanski

September 11, 2013 8:30 AM

At Request of Court

HEARD BY: Cadish, Elissa F.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Teresa Slade

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT:

Hamner, Christopher S.
State of Nevada

Attorney
Plaintiff

JOURNAL ENTRIES

- Upon review of the Defendant's file, specifically the Second Amended Judgment of Conviction, the Court stated the Deft was not entitled to the credit for time served as it was discovered he was on parole at the time of the offence; the parole was unknown at the time of the original sentencing because the Deft. was using a false name. COURT ORDERED, ZERO (0) DAYS credit for time served STAYS.

NDC

CLERK'S NOTE: A copy of this minute order will be provided to Barbara Belt. (TS 9-20-13)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 08, 2014**

00C167783

The State of Nevada vs Gregory S Hermanski

January 08, 2014**8:30 AM****All Pending Motions****HEARD BY:** Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Keith Reed; Sylvia Perez**RECORDER:** Jessica Kirkpatrick**REPORTER:****PARTIES****PRESENT:**Smith, Tyler D., ESQ
State of NevadaAttorney
Plaintiff**JOURNAL ENTRIES**

- DEFENDANT'S PRO SE MOTION TO EXTEND PRISON COPY WORK LIMIT...DEFENDANT'S
PRO SE MOTION TO CORRECT ILLEGAL SENTENCE

In the absence of the Deft., Court stated there will not be any argument and a ruling will be made based upon the papers. Court stated findings and ORDERED, Deft's Pro Se Motion To Correct Illegal Sentence DENIED; Deft's Pro Se Motion To Extend Prison Copy Work Limit DENIED WITHOUT PREJUDICE as the Deft. has not sufficiently established what needs to be copied to warrant the additional copies and needs to explain in more detail what the need for additional copies are.

NDC

CLERK'S NOTE: The above minute order has been distributed to: Gregory S. Hermanski #69140,
NNCC, POB 7000, Carson City Nv. 89702

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 03, 2014**

00C167783

The State of Nevada vs Gregory S Hermanski

February 03, 2014**8:30 AM****Motion****HEARD BY:** Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Keith Reed**RECORDER:** Jessica Kirkpatrick**REPORTER:****PARTIES****PRESENT:**

State of Nevada

Plaintiff

Woodrum, Adam L.

Attorney

JOURNAL ENTRIES

- In the absence of the Defendant the Court stated there will not be any argument and a ruling will be issued on the papers. Court stated findings noting the motion was previously denied without prejudice January 8, 2014, the Defendant has still not made a showing of the need for the copies for any legal purposes and absent of that ORDERED, Defendant's Pro Se Motion To Extend Prison Copy Work Limit DENIED WITHOUT PREJUDICE; State to prepare the order.

NDC

CLERK'S NOTE: The above minute order has been distributed to: Gregory S. Hermanski #69140, NNCC, POB 7000, Carson City Nv. 89702

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 26, 2014

00C167783

The State of Nevada vs Gregory S Hermanski

February 26, 2014

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:**

Smith, Gwynneth F.
State of Nevada
Wilson, Dennis C.

Attorney
Plaintiff
Attorney

JOURNAL ENTRIES

- DEFT'S PRO SE RENEWED MOTION TO EXTEND PRISON COPY WORK LIMIT... PETITION FOR WRIT OF HABEAS CORPUS DEFT S PRO SE MOTION FOR RECONSIDERATION STATE S RESPONSE AND MOTION TO DISMISS DEFT S PETITION FOR WRIT OF HABEAS CORPUS AND FIRST AMENDED PETITION FOR WRIT OF HABEAS CORPUS.

In the absence of the Defendant the Court stated there will not be any argument and a ruling will be issued based upon the papers. Court stated findings and ORDERED, Defendant's Pro Se Renewed Motion To Extend Prison Copy Work Limit DENIED; Petitioner's Objection And Motion To Strike Respondent's Opposition To Motion To Extend Prison Copy-Work Limit scheduled March 17th is DENIED AS MOOT; Deft's Petition For Writ of Habeas Corpus, Motion For Reconsideration and requests for counsel and an Evidentiary Hearing are DENIED; State s Motion To Dismiss GRANTED; State to prepare the order.

NDC

00C167783

CLERK'S NOTE: The above minute order has been distributed to: Gregory S. Hermanski #69140, NNCC, POB 7000, Carson City Nv. 89702

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 19, 2014**

00C167783**The State of Nevada vs Gregory S Hermanski**

March 19, 2014**8:30 AM****Motion to Vacate****Defendant's Motion
to Vacate Habitual
Felon Adjudication
and Sentence****HEARD BY:** Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Katherine Streuber**RECORDER:** Jessica Kirkpatrick**REPORTER:****PARTIES****PRESENT:**DiGiacomo, Sandra
State of NevadaAttorney
Plaintiff**JOURNAL ENTRIES**

- Without argument, Court advised sentenced imposed was not an illegal sentence, noted case had been previously examined by this Court and the Supreme Court and ORDERED, motion DENIED. State to prepare the order.

NDC

CLERK'S NOTE: The above minute order has been distributed to: Gregory S. Hermanski #69140 c/o Northern Nevada Correctional Center, P.O. Box 7000, Carson City, NV 89702. 03/24/14 kls

Exhibit List

Case: 00C167783 Party: Sort Order: Status Defendant Name: Hermanski, Gregory DOB \$

Exhibit ID	On Behalf Of	Status/Date	Return/Destroy Date	Type and Description	Exhibit Flag	Source	In Custody Of	Location
D.A	Defendant			PHOTO - RBT JAMES DAY		Hermanski, Gregory S	District Court Criminal/Civil 03/07/1900	Evidence Vault
		Comment: ExhibitID: 60504						
P	Plaintiff			*****12/4/02 HEARING*****		State of Nevada		
		Comment: ExhibitID : 76732						
D.A	Defendant			WARRANT APPLICATION		Hermanski, Gregory S	District Court Criminal/Civil 03/07/1900	Evidence Vault
		Comment: ExhibitID: 76733						
D.B	Defendant			COPY OF BIRTH CERTIFICATE		Hermanski, Gregory S	District Court Criminal/Civil 01/01/1900	Evidence Vault
		Comment: ExhibitID : 76734						
P-1	Plaintiff	Admitted 03/13/2001		PHOTO - MCDONALDS WENDY'S		State of Nevada	District Court Criminal/Civil 03/13/2001	Evidence Vault
		Comment: ExhibitID: 60499 NO OBJECTION						
P-2	Plaintiff	Admitted 03/13/2001		PHOTO - PANTS		State of Nevada	District Court Criminal/Civil 03/13/2001	Evidence Vault
		Comment: ExhibitID : 60500 NO OBJECTION						
P-3	Plaintiff	Admitted 03/13/2001		PHOTO - WADE OF MONEY		State of Nevada	District Court Criminal/Civil 03/13/2001	Evidence Vault
		Comment: ExhibitID: 60501 NO OBJECTION						

Exhibit List

Case: 00C167783 Party: Sort Order: Status Defendant Name: Hermanski, Gregory DOB S

Exhibit ID	On Behalf Of	Status/Date	Return/Destroy Date	Type and Description	Exhibit Flag	Source	In Custody Of	Location
P-4	Plaintiff	Admitted 03/13/2001		CHART - AREA		State of Nevada	District Court Criminal/Civil 03/13/2001	Evidence Vault
Comment: ExhibitID : 60502 NO OBJECTION								
P-5	Plaintiff	Admitted 03/13/2001		EVIDENCE ENVIWUSA - KNIFE		State of Nevada	District Court Criminal/Civil 03/13/2001	Evidence Vault
Comment: ExhibitID : 60503 NO OBJECTION								
P/1	Plaintiff	Offered 05/09/2001		VIOLATION RPT DTD 3/27/80		State of Nevada	District Court Criminal/Civil 05/09/2001	Evidence Vault
Comment: ExhibitID : 62483								
P/2	Plaintiff	Offered 05/09/2001		DEPT OF JUSTICE CERTIFICATE OF REC.		State of Nevada	District Court Criminal/Civil 05/09/2001	Evidence Vault
Comment: ExhibitID : 62494								
P/3	Plaintiff	Offered 05/09/2001		JUDGMT OF COMMITMENT #CRS17416 & 177992		State of Nevada	District Court Criminal/Civil 05/09/2001	Evidence Vault
Comment: ExhibitID : 62485								
P/4	Plaintiff	Offered 05/09/2001		INDICTMENT 04 CRS 4336		State of Nevada	District Court Criminal/Civil 05/09/2001	Evidence Vault
Comment: ExhibitID : 62486								
D/A	Defendant	Offered 05/09/2001		FBI - FORM FD-249		Hermanski, Gregory S	District Court Criminal/Civil 05/09/2001	Evidence Vault
Comment: ExhibitID : 62487								

Exhibit List

Case: 00C167783 Party: Sort Order: Status Defendant Name: Hermanski, Gregory DOB 9

Exhibit ID	On Behalf Of	Status/Date	Return/Destroy Date	Type and Description	Exhibit Flag	Source	In Custody Of	Location
D/B	Defendant	Offered 05/09/2001		NOTICE OF ACTION - 27/96		Hermanski, Gregory S	District Court Criminal/Civil 05/09/2001	Evidence Vault
Comment: ExhibitID : 62489								
D/C	Defendant	Offered 05/09/2001		NOTICE OF ACTION - 10/25/95		Hermanski, Gregory S	District Court Criminal/Civil 05/09/2001	Evidence Vault

Comment: ExhibitID : 62489

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; DESIGNATION OF RECORD ON APPEAL; 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.

GREGORY S. HERMANSKI aka ROBERT J. DAY,

Defendant(s).

Case No: C167783
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 7 day of April 2014.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk