

IN THE SUPREME COURT OF THE STATE OF NEVADA

DELARIAN K. WILSON,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

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Case No. 68576

Electronically Filed
Feb 16 2016 10:37 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

RESPONDENT'S APPENDIX

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Counsel for Respondent

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Counsel for Appellant

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Deputy District Attorney

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Employee, District Attorney's Office

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REGISTER OF ACTIONS

[CASE No. 07C232494-1](#)

The State of Nevada vs Delarian K Wilson

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Case Type: **Felony/Gross Misdemeanor**
Date Filed: **04/19/2007**
Location: **Department 9**
Cross-Reference Case Number: **C232494**
Defendant's Scope ID #: **1966773**
Lower Court Case # Root: **07FH00317**
Lower Court Case Number: **07FH00317A**
Supreme Court No.: **60309**
64617
68576

RELATED CASE INFORMATION

Related Cases

07C232494-2 (Multi-Defendant Case)

PARTY INFORMATION

Defendant Wilson, Delarian K

Lead Attorneys
Matthew D. Carling
Retained
702-419-7330(W)

Plaintiff State of Nevada

Steven B Wolfson
702-671-2700(W)

CHARGE INFORMATION

Charges: Wilson, Delarian K	Statute	Level	Date
1. ROBBERY	200.380	Felony	01/01/1900
1. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	193.165	Felony	01/01/1900
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5. ASSAULT.	200.471	Felony	01/01/1900
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10. KIDNAPPING IN FIRST DEGREE	200.320	Felony	01/01/1900
10. KIDNAP WITH USE OF A DEADLY WEAPON	200.310	Felony	01/01/1900
10. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	193.165	Felony	01/01/1900
11. BURGLARY.	205.060	Felony	01/01/1900

RA 000001

12. SEXUAL ASSAULT	200.366	Felony	01/01/1900
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18. OPEN OR GROSS LEWDNESS	201.210	Felony	01/01/1900
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EVENTS & ORDERS OF THE COURT

11/29/2011 [Petition for Writ of Habeas Corpus](#) (8:30 AM) (Judicial Officer Bixler, James)
11/29/2011, 12/13/2011

Minutes

11/29/2011 8:30 AM

- Deft neither present nor represented by counsel. COURT ORDERED, matter TRAILED for Mr. Brower's presence. LATER, Court recalled matter and due to the hour and Court's calendar, COURT ORDERED, matter CONTINUED. Court Staff to notify counsel. NDC 12/13/11 AT 8:30 A.M. SAME CLERK'S NOTE: Court's Law Clerk notified Mr. Brower this date and spoke to him personally regarding the continuance date. (tl)

12/13/2011 8:30 AM

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

[Parties Present](#)

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RA 000002

12. SEXUAL ASSAULT	200.366	Felony	01/01/1900
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EVENTS & ORDERS OF THE COURT

09/04/2014 | [Confirmation of Counsel](#) (8:30 AM) (Judicial Officer Bixler, James)
Confirmation of Counsel (Court Appointed)

Minutes

09/04/2014 8:30 AM

- Also Present: Alyssa Engler, Esq. Defendant not present, incarcerated in the Nevada Department of Corrections (NDC). Ms. Engler advised the Court she is present to accept appointment on behalf of Mr. Matthew Carling, Esq., Bar Number 7302; additionally, Mr. Carling has requested a briefing schedule. COURT ORDERED, Briefing Schedule is SET as follows: defense to file the original Writ or a supplemental to the Writ on or before Thursday, 12/4/2014; State to file its opposition no later than Tuesday, 2/2/2015; defense to reply by Wednesday, 3/4/2015; matter is SET for argument. NDC 3/10/2015 8:30 am Argument: Writ

[Parties Present](#)

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RA 000004

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RA 000005

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EVENTS & ORDERS OF THE COURT

05/06/2015 [Status Check](#) (3:00 AM) (Judicial Officer Togliatti, Jennifer)
Decision

Minutes

05/06/2015 3:00 AM

- This Court having considered the Defendant s Supplemental Writ of Habeas Corpus, all related pleadings, arguments, and the Court record first FINDS that the instant Writ is not a Supplemental Writ to the first Writ of Habeas Corpus filed years ago, but instead a Second Writ of Habeas Corpus. Further, this Court FINDS that this Second writ is time-barred, and Defendant puts forth not good cause for the delay. As previously established in the record in this case, Defendant was on notice of the denial of his appeal in July of 2010, before the time of the deadline for the first Writ which was filed a year late. Four years later, Defendant has failed to overcome the procedural bar. Additionally, Mr. Brower s appointment four months after the time period for filing and his conduct as post-conviction counsel does not make this Petition Supplemental, nor timely. This Court agrees with the State s position in its Response and Motion to Dismiss and as a result ORDERS the State s Motion to Dismiss GRANTED for the reasons stated herein. Court ORDERS the District Attorney to prepare the Findings of Fact and Conclusions of Law and Order which tracks the language of the State s Response and Motion to Dismiss, and this minute order. CLERK'S NOTE: A copy of this minute order has been e-mailed to: Sarah Overly, Deputy District Attorney and Matthew Carling, Esq.

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RA 000006