

1 TODD M. LEAVITT
2 In Propria Personam
3 Post Office Box 208, S.D.C.C.
4 Indian Springs, Nevada 89018

Stamp filed
COPY REQUESTED

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11/16/2015 12:08:48 PM

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

9 TODD M. LEAVITT
10 Plaintiff,

11 vs.

12 THE STATE OF NEVADA
13 Defendant.
14

Case No. C079346

Dept. No. XII

Docket _____

15
16 **NOTICE OF APPEAL**

17 NOTICE IS HEREBY GIVEN, That the Petitioner/Defendant,
18 TODD M. LEAVITT, in and through his proper person, hereby
19 appeals to the Supreme Court of Nevada from the ORDER denying and/or
20 dismissing the
21 PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

22 _____
23 ruled on the 3RD day of NOVEMBER, 2015.

24
25 Dated this 10TH day of NOVEMBER, 2015.

Respectfully Submitted,

* Todd M. Leavitt #26131

RECEIVED

CLERK OF THE COURT

TELEPHONE
COUNCIL

TOPP M. BEAVER #26131
P.O. Box 208 / SPEC
INDIAN SPRINGS, NV 89070

STEVEN GRAYSON

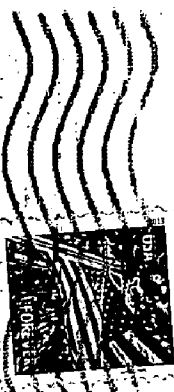
CLERK OF THE COURT

200 LEWIS AVE., 3RD Floor

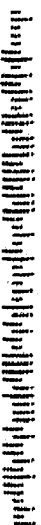
LAS VEGAS, NV 89155-1166

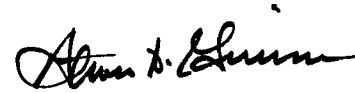
LAS VEGAS NV 890

12 NOV 2015 PM 4 L



89101630000





CLERK OF THE COURT

ASTA

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

STATE OF NEVADA,

Plaintiff(s),

vs.

TODD M. LEAVITT,

Defendant(s),

Case No: 87C079346-1

Dept No: XII

CASE APPEAL STATEMENT

1. Appellant(s): Todd M. Leavitt

2. Judge: Michelle Leavitt

3. Appellant(s): Todd M. Leavitt

Counsel:

Todd M. Leavitt #26131
P.O. Box 208
Indian Springs, NV 89070

4. Respondent: The State of Nevada

Counsel:

Steven B. Wolfson, District Attorney
200 Lewis Ave.
Las Vegas, NV 89101

(702) 671-2700

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

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

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

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

9. Date Commenced in District Court: June 16, 1987

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

Type of Judgment or Order Being Appealed: Writ of Habeas Corpus

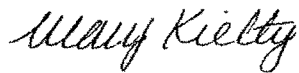
11. Previous Appeal: Yes

Supreme Court Docket Number(s): 18989, 19493, 22136, 28987, 35752, 50044, 50438

12. Child Custody or Visitation: N/A

Dated This 19 day of November 2015.

Steven D. Grierson, Clerk of the Court



Mary Kielty, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Todd M. Leavitt

TODD M. LEAVITT, 26131
Petitioner/In Propria Persona
Post Office Box 208, SDCC
Indian Springs, Nevada 89070-0208

Alvin L. Blum
CLERK OF THE COURT

IN THE 8TH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF Clark

TODD M. LEAVITT,
Plaintiff,

vs.

THE STATE OF NEVADA,
Defendant.

CASE No. C079346

DEPT. No. XII

DESIGNATION OF RECORD ON APPEAL

TO: STEVEN GUERSON
CLERK OF THE COURT
200 LEWIS AVE. 3RD FLOOR
LAS VEGAS, NV
89155-1160

The above-named Plaintiff hereby designates the entire record of the above-entitled case, to include all the papers, documents, pleadings, and transcripts thereof, as and for the Record on Appeal.

DATED this 10TH day of NOVEMBER, 2015.

RESPECTFULLY SUBMITTED BY:

x Todd M. Leavitt 26131
Todd M. Leavitt # 26131
Plaintiff/In Propria Persona

RECEIVED
NOV 16 2015
CLERK OF THE COURT

CERTIFICATE OF SERVICE BY MAILING

I, TODD M. LEAVITT, hereby certify, pursuant to NRCP 5(b), that on this 10TH
day of NOVEMBER, 2015, I mailed a true and correct copy of the foregoing, "

NOTICE OF APPEAL"

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

STEVEN GRIERSON
CLERK OF THE COURT
200 LEWIS AVE, 3RD FLOOR
LAS VEGAS, NV
89155-1160

CC:FILE

DATED: this 10TH day of NOVEMBER, 2015.

x Todd M. Leavitt 26131
Todd m. leavitt # 26131
/In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding _____

NOTICE OF APPEAL
(Title of Document)

filed in District Court Case number C079346

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

-OR-

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

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

(State specific law)

-or-

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

x Todd M. Leavitt 26131
Signature

Nov. 10, 2015
Date

x Todd M. Leavitt 26131
Print Name

PRO SE PETITIONER
Title

DEPARTMENT 12
CASE SUMMARY
CASE NO. 87C079346-1

The State of Nevada vs Todd M Leavitt

§ Location: **Department 12**
§ Judicial Officer: **Leavitt, Michelle**
§ Filed on: **06/16/1987**
§ Case Number History:
§ Cross-Reference Case **C079346**
§ Number:
§ Defendant's Scope ID #: **622661**
§ Lower Court Case # Root: **87F02506**
§ Lower Court Case Number: **87F02506A**

CASE INFORMATION

Offense	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. MURDER WITH A DEADLY WEAPON	F	01/01/1900		
1. DEGREES OF MURDER	F	01/01/1900	Case Flags:	Appealed to Supreme Court

Related Cases

87C079346-2 (Multi-Defendant Case)

Statistical Closures

07/09/2006	USJR Reporting Statistical Closure
07/01/1999	USJR Reporting Statistical Closure
05/16/2008	USJR Reporting Statistical Closure
01/27/2000	USJR Reporting Statistical Closure
05/31/2007	USJR Reporting Statistical Closure

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	87C079346-1
Court	Department 12
Date Assigned	07/10/2006
Judicial Officer	Leavitt, Michelle





PARTY INFORMATION

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

DATE

EVENTS & ORDERS OF THE COURT










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06/16/1987	 Reporters Transcript <i>REPORTER'S TRANSCRIPT CONTINUED PRELIMINARY HEARING VOLUME II</i>	87C079346- 10194.tif pages
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CASE NO. 87C079346-1

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08/11/1987	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 87C079346_0001</i>	87C079346-10248.tif pages
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DEPARTMENT 12
CASE SUMMARY
CASE NO. 87C079346-1















08/11/1987	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 87C079346_0001</i>	87C079346-10259.tif pages
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DEPARTMENT 12
CASE SUMMARY
CASE No. 87C079346-1







JOSEPH HENSLIK A FEDERAL PRISONER HENSLIK A FEDERAL PRISONER

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DEPARTMENT 12
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CASE SUMMARY
CASE NO. 87C079346-1

05/26/1988



Request

*EX PARTE MOTION FOR ORDER FOR CONTACT VISIT - RELATED PARTYID:
87C079346_0001*

87C079346-
10341.tif pages

05/26/1988

Disposition (Judicial Officer: User, Conversion)

1. MURDER WITH A DEADLY WEAPON

Guilty

PCN: Sequence:

05/26/1988

Disposition (Judicial Officer: User, Conversion)

05/26/1988

Disposition (Judicial Officer: User, Conversion)

1. DEGREES OF MURDER

Guilty

PCN: Sequence:

05/26/1988

Sentence (Judicial Officer: User, Conversion)

1. MURDER WITH A DEADLY WEAPON

Adult Adjudication

Converted Disposition:

Sentence# 0001: LIFE WITHOUT POSSIBILITY OF PAROLE

Converted Disposition:

Sentence# 0002: LIFE WITHOUT POSSIBILITY OF PAROLE

Cons/Conc: Consecutive

w/Charge Item: 0001

and Sentence#: 0001

Converted Disposition:

Sentence# 0003: CREDIT FOR TIME SERVED

Minimum 373 Days to Maximum 373 Days

Converted Disposition:

Sentence# 0004: ADMINISTRATION FEE

Amount: \$20.00

06/15/1988



Reporters Transcript

REPORTER'S TRANSCRIPT VOLUME I

87C079346-
10182.tif pages

06/15/1988



Reporters Transcript

REPORTER'S TRANSCRIPT VOLUME II

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06/15/1988



Reporters Transcript

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06/15/1988



Reporters Transcript

REPORTER'S TRANSCRIPT VOLUME III

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06/16/1988



Reporters Transcript

REPORTER'S TRANSCRIPT VOLUME VI

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06/16/1988



Reporters Transcript

REPORTER'S TRANSCRIPT VOLUME V

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06/16/1988



Reporters Transcript

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DEPARTMENT 12
CASE SUMMARY
CASE No. 87C079346-1

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DEPARTMENT 12
CASE SUMMARY
CASE No. 87C079346-1

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10/18/1988	 Reporters Transcript <i>REPORTER'S TRANSCRIPT ON APPEAL JURY TRIAL VOLUME V PAGES 496-558</i>	87C079346-10193.tif pages
10/18/1988	 Reporters Transcript <i>REPORTER'S TRANSCRIPT ON APPEAL JURY TRIAL VOLUME III PAGES 275-361</i>	87C079346-10195.tif pages
10/18/1988	 Reporters Transcript <i>REPORTER'S TRANSCRIPT ON APPEAL JURY TRIAL VOLUME VII PAGES 732-889</i>	87C079346-10197.tif pages
11/01/1988	 Reporters Transcript <i>REPORTER'S TRANSCRIPT SENTENCING</i>	87C079346-10343.tif pages
05/22/1989	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>NEVADA SUPREME COURT JUDGMENT / ORDERED APPEAL DISMISSED</i>	87C079346-10361.tif pages
06/28/1989		87C079346-













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CASE NO. 87C079346-1

	 Receipt of Copy <i>RECEIPT OF COPY</i>	10291.tif pages
06/28/1989	 Request <i>MOTION FOR EXTRAORDINARY FEES - RELATED PARTYID: 87C079346_0002</i>	87C079346-10326.tif pages
07/07/1989	 Opposition <i>OPPOSITION TO MOTION FOR PAYMENT OF EXCESS FEES AND EXPENSES</i>	87C079346-10292.tif pages
07/12/1989	 Receipt of Copy <i>RECEIPT OF COPY</i>	87C079346-10293.tif pages
07/12/1989	 Order <i>ORDER RE MOTION FOR EXTRAORDINARY FEES - RELATED PARTYID: 87C079346_0002</i>	87C079346-10352.tif pages
07/13/1989	 Notice <i>NOTICE OF ENTRY OF ORDER RE MOTION FOR EXTRAORDINARY FEES</i>	87C079346-10327.tif pages
08/03/1989	 Request <i>MOTION FOR APPOINTMENT OF COUNSEL - RELATED PARTYID: 87C079346_0002</i>	87C079346-10294.tif pages
08/03/1989	 Affidavit in Support <i>AFFIDAVIT IN SUPPORT OF APPOINTMENT AS ATTORNEY OF RECORD - RELATED PARTYID: 87C079346_0002</i>	87C079346-10344.tif pages
08/09/1989	 Order <i>ORDER - RELATED PARTYID: 87C079346_0002</i>	87C079346-10295.tif pages
10/24/1989	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>NEVADA SUPREME COURT JUDGMENT / ORDERED APPEAL DISMISSED</i>	87C079346-10365.tif pages
12/11/1989	 Order <i>ORDER</i>	87C079346-10296.tif pages
12/11/1989	 Request <i>EX PARTE MOTION FOR EXCESS ATTORNEYS FEES - RELATED PARTYID: 87C079346_0001</i>	87C079346-10328.tif pages
02/23/1990	 Request <i>NOTICE OF MOTION AND MOTION TO WITHDRAW AS COUNSEL OF RECORD - RELATED PARTYID: 87C079346_0001</i>	87C079346-10356.tif pages
03/14/1990	 Order <i>ORDER</i>	87C079346-10297.tif pages
03/14/1990	 Petition <i>PETITION FOR POST CONVICTION RELIEF - RELATED PARTYID: 87C079346_0002</i>	87C079346-10298.tif pages







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03/14/1990	 Points and Authorities <i>POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR POST CONVICTION RELIEF - RELATED PARTYID: 87C079346_0002</i>	87C079346-10329.tif pages
03/16/1990	 Notice <i>NOTICE OF ENTRY OF ORDER - RELATED PARTYID: 87C079346_0001</i>	87C079346-10345.tif pages
04/13/1990	 Petition <i>AMENDED PETITION FOR POST CONVICTION RELIEF - RELATED PARTYID: 87C079346_0002</i>	87C079346-10299.tif pages
04/13/1990	 Points and Authorities <i>AMENDED POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR POST CONVICTION RELIEF- RELATED PARTYID: 87C079346_0002</i>	87C079346-10362.tif pages
06/18/1990	 Notice <i>NOTICE OF HEARING - RELATED PARTYID: 87C079346_0002</i>	87C079346-10330.tif pages
06/19/1990	 Certificate <i>CERTIFICATE OF MAILING</i>	87C079346-10300.tif pages
08/30/1990	 Statement <i>ATTORNEYS STATEMENT - RELATED PARTYID: 87C079346_0002</i>	87C079346-10353.tif pages
09/04/1990	 Order <i>ORDER</i>	87C079346-10301.tif pages
09/07/1990	 Notice <i>NOTICE OF ENTRY OF ORDER</i>	87C079346-10331.tif pages
10/18/1990	 Request <i>MOTION TO PLACE ON CALENDAR - RELATED PARTYID: 87C079346_0002</i>	87C079346-10302.tif pages
10/19/1990	 Receipt of Copy <i>RECEIPT OF COPY</i>	87C079346-10346.tif pages
10/22/1990	 Opposition <i>STATES OPPOSITION TO PETITION FOR POST CONVICTION RELIEF - RELATED PARTYID: 87C079346_0002</i>	87C079346-10303.tif pages
11/06/1990	 Order <i>ORDER GRANTING EXCESSIVE FEES</i>	87C079346-10304.tif pages
11/06/1990	 Reply <i>DEFENDANTS REPLY TO STATES OPPOSITION TO PETITION FOR POST CONVICTION RELIEF - RELATED PARTYID: 87C079346_0002</i>	87C079346-10332.tif pages





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CASE NO. 87C079346-1

11/08/1990	 Notice <i>NOTICE OF INTENT TO FILE POST CONVICTION RELIEF AND AFFIDAVIT AS TO GOOD CAUSE FOR DELAY GOOD CAUSE FOR DELAY- RELATED PARTYID: 87C079346_0001</i>	87C079346-10358.tif pages
11/16/1990	 Order <i>ORDER - RELATED PARTYID: 87C079346_0002</i>	87C079346-10305.tif pages
11/20/1990	 Notice <i>NOTICE OF ENTRY OF ORDER</i>	87C079346-10333.tif pages
11/27/1990	 Order <i>ORDER</i>	87C079346-10306.tif pages
12/18/1990	 Judgment <i>FINDINGS OF FACTS, CONCLUSIONS OF LAW AND ORDER DENYING POST CONVICTION RELIEF</i>	87C079346-10347.tif pages
12/19/1990	 Notice <i>NOTICE OF ENTRY OF ORDER</i>	87C079346-10307.tif pages
01/06/1991	 Request <i>NOTICE OF MOTION AND MOTION FOR ENLARGEMENT OF - RELATED PARTYID: 87C079346_0001</i>	87C079346-10334.tif pages
01/08/1991	 Petition <i>PROPER PERSON MOTION FOR ENLARGEMENT OF TIME TO FILE POST-CONVICTION RELIEF</i>	87C079346-10002.tif pages
01/15/1991	 Notice <i>NOTICE OF APPEAL - RELATED PARTYID: 87C079346_0002</i>	87C079346-10003.tif pages
01/15/1991	 Notice of Appeal <i>DESIGNATION OF RECORD ON APPEAL - RELATED PARTYID: 87C079346_0002</i>	87C079346-10004.tif pages
01/16/1991	Petition (9:00 AM) Events: 01/08/1991 Petition <i>PROPER PERSON MOTION FOR ENLARGEMENT OF TIME TO FILE POST-CONVICTION RELIEF Heard By: Michael Wendell</i>	
01/28/1991	 Notice <i>NOTICE TO STATE TO PRESERVE ALL EVIDENCE - RELATED PARTYID: 87C079346_0001</i>	87C079346-10005.tif pages
01/31/1991	 Order <i>ORDER DENYING MOTION FOR ENLARGEMENT OF TIME TO FILE POST-CONVICTION RELIEF</i>	87C079346-10006.tif pages
02/19/1991	 Affidavit in Support <i>AFFIDAVIT IN SUPPORT OF EXTENSION OF TIME TO TRANSMIT RECORD ON</i>	87C079346-10007.tif pages



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	<i>APPEAL</i>	
02/21/1991	 Order <i>ORDER EXTENDING TIME FOR TRANSMITTING RECORD ON APPEAL</i>	87C079346-10008.tif pages
08/26/1991	 Petition <i>PROPER PERSON MOTION FOR APPOINTMENT OF COUNSEL FOR ASSISTANCE ON POST</i>	87C079346-10009.tif pages
08/26/1991	 Petition <i>PROPER PERSON REQUEST FOR EXTENSION OF TIME TO FILE POST CONVICTION RELIEF</i>	87C079346-10010.tif pages
09/09/1991	Petition (9:00 AM) Events: 08/26/1991 Petition <i>PROPER PERSON MOTION FOR APPOINTMENT OF COUNSEL FOR ASSISTANCE ON POST Heard By: Michael Wendell</i>	
09/09/1991	Petition (9:00 AM) Events: 08/26/1991 Petition <i>PROPER PERSON REQUEST FOR EXTENSION OF TIME TO FILE POST CONVICTION RELIEF Heard By: Michael Wendell</i>	
09/09/1991	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 9/9/91 Relief Clerk: SANDRA SMITH Reporter/Recorder: DONNA ANTONACCI Heard By: Gerard Bongiovanni</i>	
09/09/1991	Motion <i>ALL PENDING MOTIONS 9/9/91</i>	87C079346-10012.tif pages
09/11/1991	Petition (9:00 AM) <i>PROPER PERSON MOTION FOR APPOINTMENT OF COUNSEL FOR ASSISTANCE ON POST Heard By: Michael Wendell</i>	
09/11/1991	Petition (9:00 AM) <i>PROPER PERSON REQUEST FOR EXTENSION OF TIME TO FILE POST CONVICTION RELIEF Heard By: Michael Wendell</i>	
09/11/1991	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 9/11/91 Court Clerk: SANDRA SMITH Reporter/Recorder: YVONNE VALENTIN Heard By: Lee Gates</i>	
09/11/1991	Motion <i>ALL PENDING MOTIONS 9/11/91</i>	87C079346-10014.tif pages
09/17/1991	 Order <i>ORDER DENYING DEFENDANTS MOTION FOR APPOINTMENT OF COUNSEL AND EXTENSION OF TIME OF TIME- RELATED PARTYID: 87C079346_0002</i>	87C079346-10015.tif pages
10/25/1991	 Judgment <i>NEVADA SUPREME COURT CLERKS CERTIFICATE/ JUDGMENT - AFFIRMED OR REVERSED</i>	87C079346-10016.tif pages
06/17/1992	 Petition	87C079346-10017.tif pages




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	<i>PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS</i>	
06/17/1992	 Petition <i>PRO PER MOTION FOR APPOINTMENT OF COUNSEL</i>	87C079346-10018.tif pages
06/17/1992	 Petition <i>PRO PER PETITION FOR POST CONVICTION RELIEF</i>	87C079346-10019.tif pages
06/17/1992	 Affidavit in Support <i>AFFIDAVIT IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS - RELATED PARTYID: 87C079346_0001</i>	87C079346-10020.tif pages
07/08/1992	Petition (9:00 AM) Events: 06/17/1992 Petition <i>PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS Heard By: Lee Gates</i>	
07/08/1992	Petition (9:00 AM) Events: 06/17/1992 Petition <i>PRO PER MOTION FOR APPOINTMENT OF COUNSEL Heard By: Lee Gates</i>	
07/08/1992	Petition (9:00 AM) Events: 06/17/1992 Petition <i>PRO PER PETITION FOR POST CONVICTION RELIEF Heard By: Lee Gates</i>	
07/08/1992	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 7/8/92 Court Clerk: SANDRA BROUGH Reporter/Recorder: YVONNE VALENTIN Heard By: Lee Gates</i>	
07/08/1992	Motion <i>ALL PENDING MOTIONS 7/8/92</i>	87C079346-10021.tif pages
07/08/1992	 Amended <i>AMENDMENT TO THE PETITION FOR POST CONVICTION RELIEF FILED ON THE 17TH DAY OF JUNE 1992 DAY OF JUNE 1992- RELATED PARTYID: 87C079346_0001</i>	87C079346-10022.tif pages
07/08/1992	 Application <i>APPLICATION FOR ORDER TO PRODUCE INMATE/PETITIONER - RELATED PARTYID: 87C079346_0001</i>	87C079346-10023.tif pages
07/08/1992	 Affidavit in Support <i>AFFIDAVIT IN SUPPORT OF APPLICATION TO PRODUCE INMATE PETITIONER - RELATED PARTYID: 87C079346_0001</i>	87C079346-10024.tif pages
07/08/1992	 Points and Authorities <i>POINTS AND AUTHORITIES IN SUPPORT OF APPLICATION FOR POST CONVICTION RELIEF PURSUANT TO NRS 177.ET SEQ RELIEF PURSUANT TO NRS 177.ET SEQ- RELATED PARTYID: 87C079346_0001</i>	87C079346-10025.tif pages
07/08/1992	 Points and Authorities <i>POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR APPOINTMENT OF COUNSEL</i>	87C079346-10308.tif pages









DEPARTMENT 12
CASE SUMMARY
CASE NO. 87C079346-1

07/10/1992	Petition (9:00 AM) <i>PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS Heard By: Lee Gates</i>	
07/10/1992	Petition (9:00 AM) <i>PRO PER MOTION FOR APPOINTMENT OF COUNSEL Heard By: Lee Gates</i>	
07/10/1992	Petition (9:00 AM) <i>PRO PER PETITION FOR POST CONVICTION RELIEF Heard By: Lee Gates</i>	
07/10/1992	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS FOR 7-10-92 Relief Clerk: TINA HURD Reporter/Recorder: YVONNE VALENTIN Heard By: Lee Gates</i>	
07/10/1992	Motion <i>ALL PENDING MOTIONS FOR 7-10-92</i>	87C079346-10026.tif pages
07/23/1992	 Response <i>RESPONSE TO PETITION FOR POST CONVICTION RELIEF RESPONSE TO MOTION TO PROCEED IN FORMA PERPERIS RESPONSE TO MOTION TO APPOINT COUNSEL IN FORMA PERPERIS RESPONSE TO MOTION TO APPOINT COUNSEL</i>	87C079346-10027.tif pages
07/27/1992	Petition (9:00 AM) <i>PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS Heard By: Lee Gates</i>	
07/27/1992	Petition (9:00 AM) <i>PRO PER PETITION FOR POST CONVICTION RELIEF Heard By: Lee Gates</i>	
07/27/1992	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 7/27/92 Court Clerk: SANDRA BROUGH Reporter/Recorder: YVONNE VALENTIN Heard By: Lee Gates</i>	
07/27/1992	Motion <i>ALL PENDING MOTIONS 7/27/92</i>	87C079346-10028.tif pages
07/29/1992	Petition (9:00 AM) <i>PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS Heard By: Lee Gates</i>	
07/29/1992	Petition (9:00 AM) <i>PRO PER MOTION FOR APPOINTMENT OF COUNSEL Heard By: Lee Gates</i>	
07/29/1992	Petition (9:00 AM) <i>PRO PER PETITION FOR POST CONVICTION RELIEF Heard By: Lee Gates</i>	
07/29/1992	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 7/29/92 Court Clerk: SANDRA BROUGH Reporter/Recorder: YVONNE VALENTIN Heard By: Lee Gates</i>	
07/29/1992	Motion <i>ALL PENDING MOTIONS 7/29/92</i>	87C079346-10029.tif pages
09/16/1992	 Order <i>ORDER CONFIRMING COUNSEL, ORDER FOR RELEASE OF ALL PLEADINGS, PAPERS AND APPEAL RECORD, ORDER FOR COPYING OF ENTIRE COURT FILE AND ORDER FOR INTERIM PAYMENT APPEAL RECORD, ORDER FOR COPYING OF ENTIRE COURT</i>	87C079346-10030.tif pages






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	<i>FILE AND ORDER FOR INTERIM PAYMENT- RELATED PARTYID: 87C079346_0001</i>	
09/30/1992	Petition (9:00 AM) <i>PRO PER PETITION FOR POST CONVICTION RELIEF Relief Clerk: SANDRA SMITH Reporter/Recorder: YVONNE VALENTIN Heard By: GATES, LEE A</i>	
11/23/1992	Petition (9:00 AM) <i>PRO PER PETITION FOR POST CONVICTION RELIEF Court Clerk: SANDRA BROUGH Reporter/Recorder: YVONNE VALENTIN Heard By: Lee Gates</i>	
11/23/1992	Hearing <i>STATUS CHECK</i>	87C079346- 10031.tif pages
12/14/1992	Status Check (9:00 AM) Events: 11/23/1992 Hearing <i>STATUS CHECK Court Clerk: SANDRA BROUGH Reporter/Recorder: YVONNE VALENTIN Heard By: Lee Gates</i>	
12/14/1992	Hearing <i>STATUS CHECK</i>	87C079346- 10032.tif pages
12/15/1992	 Subpoena Duces Tecum <i>SUBPOENA - RELATED PARTYID: 87C079346_0001</i>	87C079346- 10033.tif pages
01/13/1993	Status Check (9:00 AM) Events: 12/14/1992 Hearing <i>STATUS CHECK Court Clerk: SANDRA BROUGH Reporter/Recorder: YVONNE VALENTIN Heard By: GATES, LEE A</i>	
01/27/1993	Status Check (9:00 AM) <i>STATUS CHECK Court Clerk: SANDRA BROUGH Reporter/Recorder: YVONNE VALENTIN Heard By: GATES, LEE A</i>	
03/26/1993	Status Check (9:00 AM) <i>STATUS CHECK Relief Clerk: DENISE TRUJILLO Reporter/Recorder: YVONNE VALENTIN Heard By: GATES, LEE A</i>	
04/26/1993	Status Check (8:45 AM) <i>STATUS CHECK Court Clerk: SANDRA BROUGH Reporter/Recorder: YVONNE VALENTIN Heard By: Lee Gates</i>	
04/26/1993	Hearing <i>STATUS CHECK</i>	87C079346- 10034.tif pages
05/11/1993	 Order <i>ORDER GRANTING LEAVE TO PROCEED IN FORMA PAUPERIS - RELATED PARTYID: 87C079346_0001</i>	87C079346- 10035.tif pages
05/21/1993	 Ex Parte <i>EX PARTE ORDER FOR TRANSPORTATION OF DEFENDANT - RELATED PARTYID: 87C079346_0001</i>	87C079346- 10036.tif pages
06/25/1993	Status Check (8:45 AM) Events: 04/26/1993 Hearing <i>STATUS CHECK Court Clerk: SANDRA BROUGH Reporter/Recorder: YVONNE VALENTIN Heard By: Lee Gates</i>	





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06/25/1993	Hearing <i>EVIDENTIARY HEARING</i>	87C079346-10037.tif pages
07/06/1993	 Order <i>ORDER APPOINTING INVESTIGATOR - RELATED PARTYID: 87C079346_0001</i>	87C079346-10038.tif pages
08/06/1993	 Affidavit in Support <i>AFFIDAVIT OF COUNSEL - RELATED PARTYID: 87C079346_0001</i>	87C079346-10039.tif pages
08/06/1993	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 87C079346_0001</i>	87C079346-10040.tif pages
08/09/1993	Hearing (8:45 AM) Events: 06/25/1993 Hearing <i>EVIDENTIARY HEARING Court Clerk: SANDRA BROUGH Reporter/Recorder: YVONNE VALENTIN Heard By: GATES, LEE A</i>	
09/10/1993	 Request <i>MOTION FOR PAYMENT OF EXCESS ATTORNEY'S FEES MOTION FOR PAYMENT OF EXCESS INVESTIGATORS' FEES INVESTIGATORS' FEES- RELATED PARTYID: 87C079346_0001</i>	87C079346-10041.tif pages
09/13/1993	 Motion <i>NOTICE OF MOTION FOR FEES IN EXCESS</i>	87C079346-10042.tif pages
09/13/1993	Notice <i>NOTICE OF MOTION - RELATED PARTYID: 87C079346_0001</i>	87C079346-10044.tif pages
09/14/1993	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 87C079346_0001</i>	87C079346-10043.tif pages
09/29/1993	Motion for Fees (9:00 AM) Events: 09/13/1993 Motion <i>NOTICE OF MOTION FOR FEES IN EXCESS Court Clerk: SANDRA BROUGH Reporter/Recorder: YVONNE VALENTIN Heard By: Lee Gates</i>	
09/29/1993	Hearing <i>CONFIRMATION OF COUNSEL (MCDONALD, P)</i>	87C079346-10045.tif pages
10/06/1993	Motion for Confirmation of Counsel (8:45 AM) Events: 09/29/1993 Hearing <i>CONFIRMATION OF COUNSEL (MCDONALD, P) Court Clerk: SANDRA BROUGH Reporter/Recorder: YVONNE VALENTIN Heard By: Lee Gates</i>	
10/06/1993	 Order <i>ORDER TO WITHDRAW AS COUNSEL OF RECORD - RELATED PARTYID: 87C079346_0001</i>	87C079346-10046.tif pages
12/06/1993	 Order <i>STIPULATION FOR PAYMENT OF FEES AND ORDER - RELATED PARTYID:</i>	87C079346-10047.tif pages







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	87C079346_0001	
02/22/1994	 Order <i>ORDER FOR PRODUCTION OF INMATE</i>	87C079346-10048.tif pages
03/01/1994	 Request <i>MOTION TO CONTINUE AND RESCHEDULE POST-CONVICTION RELIEF HEARING - RELATED PARTYID: 87C079346_0001</i>	87C079346-10049.tif pages
03/02/1994	Hearing (9:30 AM) <i>EVIDENTIARY HEARING Relief Clerk: SUSAN BURDETTE/sb Reporter/Recorder: JOAN GRIMES Heard By: Lee Gates</i>	
03/03/1994	Hearing <i>STATUS CHECK</i>	87C079346-10050.tif pages
03/09/1994	Status Check (8:45 AM) Events: 03/03/1994 Hearing <i>STATUS CHECK Court Clerk: SANDRA ISRAEL Reporter/Recorder: YVONNE VALENTIN Heard By: Lee Gates</i>	
03/11/1994	Hearing <i>AT THE REQUEST OF THE COURT</i>	87C079346-10051.tif pages
03/31/1994	Request of Court (9:00 AM) Events: 03/11/1994 Hearing <i>AT THE REQUEST OF THE COURT Court Clerk: TINA HURD Reporter/Recorder: TERESA DeROSSETT Heard By: BRENNAN, JAMES</i>	
04/07/1994	Request of Court (9:00 AM) <i>AT THE REQUEST OF THE COURT Court Clerk: NANCY BANKS Reporter/Recorder: PATRICIA LOFFT Heard By: Addeliar Guy, III</i>	
04/07/1994	Hearing <i>STATUS CHECK</i>	87C079346-10053.tif pages
06/22/1994	 Order <i>STIPULATION AND ORDER FOR EXCESS INVESTIGATION FEES - RELATED PARTYID: 87C079346_0001</i>	87C079346-10054.tif pages
07/28/1994	Status Check (9:00 AM) Events: 04/07/1994 Hearing <i>STATUS CHECK Court Clerk: TINA HURD Reporter/Recorder: PATRICIA LOFFT Heard By: Addeliar Guy, III</i>	
07/28/1994	Hearing <i>HEARING: POST-CONVICTION RELIEF VJ 11-10-94</i>	87C079346-10055.tif pages
07/28/1994	 Supplement <i>SUPPLEMENT TO DEFENDANT'S PETITION FOR POST-CONVICTION RELIEF - RELATED PARTYID: 87C079346_0001</i>	87C079346-10056.tif pages
09/30/1994	 Petition	87C079346-10058.tif pages




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	<i>PRO PER MOTION FOR SUBSTITUTION AND DISMISSAL OF LEGAL COUNSEL</i>	
09/30/1994	 Petition <i>PRO PER MOTION TO STRIKE</i>	87C079346-10059.tif pages
09/30/1994	 Petition <i>PRO PER NOTICE TO THE COURT TO VACATE THE EVIDENTIARY HEARING</i>	87C079346-10060.tif pages
09/30/1994	 Certificate <i>CERTIFICATE OF MAILING - RELATED PARTYID: 87C079346_0001</i>	87C079346-10061.tif pages
10/11/1994	Petition (9:00 AM) Events: 09/30/1994 Petition <i>PRO PER MOTION FOR SUBSTITUTION AND DISMISSAL OF LEGAL COUNSEL Heard By: Addeliar Guy, III</i>	
10/11/1994	Petition (9:00 AM) Events: 09/30/1994 Petition <i>PRO PER MOTION TO STRIKE Heard By: Addeliar Guy, III</i>	
10/11/1994	Petition (9:00 AM) Events: 09/30/1994 Petition <i>PRO PER NOTICE TO THE COURT TO VACATE THE EVIDENTIARY HEARING Heard By: Addeliar Guy, III</i>	
10/11/1994	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 10-11-94 Court Clerk: JOYCE BROWN Reporter/Recorder: PATRICIA LOFFT Heard By: Addeliar Guy, III</i>	
10/18/1994	Motion <i>ALL PENDING MOTIONS 10-11-94</i>	87C079346-10062.tif pages
10/25/1994	 Order <i>ORDER FOR PRODUCTION OF INMATE</i>	87C079346-10063.tif pages
11/10/1994	Petition (9:00 AM) <i>PRO PER MOTION FOR SUBSTITUTION AND DISMISSAL OF LEGAL COUNSEL Heard By: Addeliar Guy, III</i>	
11/10/1994	Petition (9:00 AM) <i>PRO PER MOTION TO STRIKE Heard By: Addeliar Guy, III</i>	
11/10/1994	Petition (9:00 AM) <i>PRO PER NOTICE TO THE COURT TO VACATE THE EVIDENTIARY HEARING Heard By: Addeliar Guy, III</i>	
11/10/1994	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 11-10-94 Court Clerk: JOYCE BROWN Reporter/Recorder: PATRICIA LOFFT Heard By: Addeliar Guy, III</i>	
11/10/1994	Hearing <i>FURTHER PROCEEDINGS</i>	87C079346-10064.tif pages
11/14/1994	Motion <i>ALL PENDING MOTIONS 11-10-94</i>	87C079346-10065.tif pages







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11/17/1994	CANCELED Hearing (9:30 AM) Events: 07/28/1994 Hearing <i>Vacated</i>	
11/17/1994	 Return <i>RETURN TO PETITION FOR WRIT OF HABEAS CORPUS</i>	87C079346-10066.tif pages
12/01/1994	Further Proceedings (9:00 AM) Events: 11/10/1994 Hearing <i>FURTHER PROCEEDINGS Court Clerk: TINA HURD Reporter/Recorder: ANITA SPRINGS-WALKER Heard By: Addeliar Guy, III</i>	
12/01/1994	Petition <i>DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS</i>	87C079346-10067.tif pages
12/02/1994	 Order <i>ORDER FOR CONTACT VISIT - RELATED PARTYID: 87C079346_0001</i>	87C079346-10068.tif pages
12/08/1994	 Response <i>RESPONSE TO STATE'S RETURN TO PETITION FOR WRIT OF HABEAS CORPUS - RELATED PARTYID: 87C079346_0001</i>	87C079346-10069.tif pages
12/15/1994	Petition for Writ of Habeas Corpus (9:00 AM) Events: 12/01/1994 Petition <i>DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS Court Clerk: TINA HURD Reporter/Recorder: ANITA SPRINGS-WALKER Heard By: Addeliar Guy, III</i>	
12/15/1994	Hearing <i>HEARING: POST CONVICTION RELIEF</i>	87C079346-10070.tif pages
02/10/1995	 Ex Parte Order <i>EX PARTE ORDER TO TRANSPORT DEFENDANT - RELATED PARTYID: 87C079346_0001</i>	87C079346-10071.tif pages
04/03/1995	 Ex Parte Order <i>EX PARTE ORDER TO TRANSPORT - RELATED PARTYID: 87C079346_0001</i>	87C079346-10072.tif pages
04/06/1995	Hearing (10:00 AM) Events: 12/15/1994 Hearing <i>HEARING: POST CONVICTION RELIEF Court Clerk: TINA HURD Reporter/Recorder: JANICE LISTON Heard By: BRENNAN, JAMES</i>	
04/06/1995	 Order <i>ORDER FOR CONTACT VISIT - RELATED PARTYID: 87C079346_0001</i>	87C079346-10073.tif pages
06/01/1995	Hearing (10:00 AM) <i>HEARING: POST CONVICTION RELIEF Court Clerk: TINA HURD Reporter/Recorder: ANITA SPRINGS-WALKER Heard By: Addeliar Guy, III</i>	
06/01/1995	Hearing <i>STATUS CHECK: CASE FILE / PROCEDURAL ERRORS</i>	87C079346-10074.tif pages








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07/06/1995	Status Check (9:00 AM) Events: 06/01/1995 Hearing <i>STATUS CHECK: CASE FILE / PROCEDURAL ERRORS Court Clerk: JOYCE BROWN Reporter/Recorder: ANITA SPRINGS-WALKER Heard By: GUY, III, ADDELIAR D</i>	
07/12/1995	Status Check (11:00 AM) <i>STATUS CHECK: CASE FILE / PROCEDURAL ERRORS Court Clerk: TINA HURD Reporter/Recorder: ANITA SPRINGS-WALKER Heard By: Addeliar Guy, III</i>	
07/12/1995	Hearing <i>STATUS CHECK: PETITION FOR POST-CONVICTION RELIEF</i>	87C079346-10075.tif pages
07/28/1995	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS STATUS CHECK; FILE/ PROCEDURAL ERRORS ERRORS</i>	87C079346-10076.tif pages
08/04/1995	 Reporters Transcript <i>REPORTER'S TRANSCRIPT STATUS CHECK CASE FILE/PROCEDURAL ERRORS</i>	87C079346-10203.tif pages
08/31/1995	Status Check (9:00 AM) Events: 07/12/1995 Hearing <i>STATUS CHECK: PETITION FOR POST-CONVICTION RELIEF Court Clerk: JOYCE BROWN Reporter/Recorder: ANITA SPRINGS-WALKER Heard By: GUY, III, ADDELIAR D</i>	
11/30/1995	Status Check (9:00 AM) <i>STATUS CHECK: PETITION FOR POST-CONVICTION RELIEF Court Clerk: SUSAN BURDETTE/sb Reporter/Recorder: ANITA SPRINGS-WALKER Heard By: ROBISON, NORMAN C.</i>	
12/21/1995	Status Check (9:00 AM) <i>STATUS CHECK: PETITION FOR POST-CONVICTION RELIEF Court Clerk: JOYCE BROWN Reporter/Recorder: ANITA SPRINGS-WALKER Heard By: ROBISON, NORMAN C.</i>	
01/04/1996	Status Check (9:00 AM) <i>STATUS CHECK: PETITION FOR POST-CONVICTION RELIEF Court Clerk: JOYCE BROWN Reporter/Recorder: ANITA SPRINGS-WALKER Heard By: ROBISON, NORMAN C.</i>	
01/18/1996	Status Check (9:00 AM) <i>STATUS CHECK: PETITION FOR POST-CONVICTION RELIEF Court Clerk: JOYCE BROWN Reporter/Recorder: ANITA SPRINGS-WALKER Heard By: DOUGLAS, MICHAEL L</i>	
02/01/1996	Status Check (9:00 AM) <i>STATUS CHECK: PETITION FOR POST-CONVICTION RELIEF Court Clerk: JOYCE BROWN Reporter/Recorder: ANITA SPRINGS-WALKER Heard By: Michael Douglas</i>	
02/01/1996	Conversion Case Event Type <i>ARGUMENT VL 3-7-96</i>	87C079346-10078.tif pages
02/01/1996	Hearing <i>EVIDENTIARY HEARING</i>	87C079346-10079.tif pages
02/06/1996	 Supplement <i>SECOND SUPPLEMENT TO DEFENDANTS PETITION FOR POST-CONVICTION RELIEF - RELATED PARTYID: 87C079346_0001</i>	87C079346-10080.tif pages
03/05/1996		87C079346-








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	 Order <i>STIPULATION AND ORDER TO VACATE AND RESET EVIDENTIARY HEARING - RELATED PARTYID: 87C079346_0001</i>	<i>10082.tif pages</i>
03/06/1996	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 87C079346_0001</i>	<i>87C079346- 10081.tif pages</i>
03/08/1996	CANCELED Hearing (9:00 AM) Events: 02/01/1996 Conversion Case Event Type <i>Vacated</i>	
03/08/1996	Evidentiary Hearing (9:00 AM) Events: 02/01/1996 Hearing <i>EVIDENTIARY HEARING</i>	
03/15/1996	Conversion Case Event Type <i>ARGUMENT: DEFT'S PETITION FOR POST-CONVICTION RELIEF</i>	<i>87C079346- 10083.tif pages</i>
03/21/1996	Evidentiary Hearing (9:00 AM) <i>EVIDENTIARY HEARING</i>	
03/22/1996	Evidentiary Hearing (9:00 AM) <i>EVIDENTIARY HEARING</i>	
03/22/1996	Hearing (9:00 AM) Events: 03/15/1996 Conversion Case Event Type <i>ARGUMENT: DEFT'S PETITION FOR POST-CONVICTION RELIEF</i>	
03/22/1996	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS (03-22-96) Court Clerk: SUSAN BURDETTE/sb Reporter/Recorder: ANITA SPRINGS-WALKER Heard By: Michael Douglas</i>	
03/22/1996	Motion <i>ALL PENDING MOTIONS (03-22-96)</i>	<i>87C079346- 10084.tif pages</i>
03/22/1996	Hearing <i>HEARING: COURT'S DECISION</i>	<i>87C079346- 10085.tif pages</i>
04/22/1996	 Petition <i>THIRD SUPPLEMENT TO DEFENDANTS PETITION FOR POST-CONVICITON RELIEF - RELATED PARTYID: 87C079346_0001</i>	<i>87C079346- 10087.tif pages</i>
04/23/1996	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 87C079346_0001</i>	<i>87C079346- 10088.tif pages</i>
04/30/1996	 Reporters Transcript <i>REPORTER'S TRANSCRIPT EVIDENTIARY HEARING RE DEFENDANTS PETITION FOR POST CONVICTION RELIEF CONVICTION RELIEF</i>	<i>87C079346- 10089.tif pages</i>
04/30/1996	 Reporters Transcript <i>REPORTER'S TRANSCRIPT EVIDENTIARY HEARING RE DEFENDANTS PETITION FOR POST CONVICTION RELIEF POST CONVICTION RELIEF</i>	<i>87C079346- 10189.tif pages</i>






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05/06/1996	 Response <i>STATE'S RESPONSE TO THIRD SUPPLEMENT TO DEFENDANT'S PETITION FOR POST CONVICTION RELIEF CONVICTION RELIEF</i>	87C079346-10090.tif pages
05/15/1996	 Motion <i>DEFT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS</i>	87C079346-10091.tif pages
05/15/1996	 Motion <i>DEFT'S PRO PER MOTION FOR APPOINTMENT OF COUNSEL</i>	87C079346-10092.tif pages
05/15/1996	 Petition <i>DEFT'S PRO PER PETITION FOR WRIT OF MANDAMUS</i>	87C079346-10093.tif pages
05/15/1996	 Affidavit in Support <i>AFFIDAVIT IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS - RELATED PARTYID: 87C079346_0001</i>	87C079346-10094.tif pages
05/15/1996	 Request <i>MOTION FOR SCHEDULING OF PEREMPTORY WRIT OF MANDAMUS AND MOTION FOR ORDER TO PRODUCE PRODUCE- RELATED PARTYID: 87C079346_0001</i>	87C079346-10096.tif pages
05/17/1996	Motion <i>DEFT'S PRO PER MTN FOR SCHDLNG PRMPTRY WRIT OF MANDAMUS/MTN FOR ORDER TO PRODCE</i>	87C079346-10095.tif pages
05/20/1996	 Petition <i>ADDITIONAL SUMMARY TO DEFENDANTS PETITION FOR POST-CONVICTION RELIEF HEARING HEARING- RELATED PARTYID: 87C079346_0001</i>	87C079346-10097.tif pages
05/31/1996	Hearing (9:00 AM) Events: 03/22/1996 Hearing <i>HEARING: COURT'S DECISION Heard By: Michael Douglas</i>	
05/31/1996	Petition to Proceed in Forma Pauperis (9:00 AM) Events: 05/15/1996 Motion <i>DEFT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS Heard By: Michael Douglas</i>	
05/31/1996	Motion for Appointment (9:00 AM) Events: 05/15/1996 Motion <i>DEFT'S PRO PER MOTION FOR APPOINTMENT OF COUNSEL Heard By: Michael Douglas</i>	
05/31/1996	Petition for Writ of Mandamus (9:00 AM) Events: 05/15/1996 Petition <i>DEFT'S PRO PER PETITION FOR WRIT OF MANDAMUS Heard By: Michael Douglas</i>	
05/31/1996	Motion (9:00 AM) Events: 05/17/1996 Motion <i>DEFT'S PRO PER MTN FOR SCHDLNG PRMPTRY WRIT OF MANDAMUS/MTN FOR ORDER TO PRODCE Heard By: Michael Douglas</i>	
05/31/1996	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS (5-31-96) Court Clerk: SUSAN BURDETTE/sb Relief Clerk:</i>	

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	<i>DOROTHIE KROLL Reporter/Recorder: ANITA SPRINGS-WALKER Heard By: Michael Douglas</i>	
06/04/1996	Motion <i>ALL PENDING MOTIONS (5-31-96)</i>	87C079346-10098.tif pages
06/19/1996	 Order <i>ORDER ALLOWING WITHDRAWAL OF ATTORNEY OF RECORD - RELATED PARTYID: 87C079346_0001</i>	87C079346-10099.tif pages
06/20/1996	 Notice <i>NOTICE OF ENTRY OF ORDER - RELATED PARTYID: 87C079346_0001</i>	87C079346-10100.tif pages
06/26/1996	 Motion <i>DEFT'S PRO PER MOTION FOR APPOINTMENT OF COUNSEL</i>	87C079346-10101.tif pages
06/26/1996	 Motion <i>DEFT' PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS ON APPEAL</i>	87C079346-10102.tif pages
06/26/1996	 Notice <i>NOTICE OF APPEAL - RELATED PARTYID: 87C079346_0001</i>	87C079346-10103.tif pages
06/26/1996	 Affidavit in Support <i>AFFIDAVIT IN SUPPORT OF MOTION TO PROCEED ON APPEAL IN FORMA PAUPERIS - RELATED PARTYID: 87C079346_0001</i>	87C079346-10104.tif pages
06/26/1996	 Notice of Appeal <i>DESIGNATION OF RECORD ON APPEAL - RELATED PARTYID: 87C079346_0001</i>	87C079346-10364.tif pages
07/11/1996	Motion for Appointment (9:00 AM) Events: 06/26/1996 Motion <i>DEFT'S PRO PER MOTION FOR APPOINTMENT OF COUNSEL Heard By: Michael Douglas</i>	
07/11/1996	Petition to Proceed in Forma Pauperis (9:00 AM) Events: 06/26/1996 Motion <i>DEFT' PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS ON APPEAL Heard By: Michael Douglas</i>	
07/11/1996	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS (07-11-96) Court Clerk: SUSAN BURDETTE/sb Relief Clerk: ALICE LAIZURE Reporter/Recorder: ANITA SPRINGS-WALKER Heard By: Michael Douglas</i>	
07/11/1996	Motion <i>ALL PENDING MOTIONS (07-11-96)</i>	87C079346-10105.tif pages
07/11/1996	Hearing <i>CONFIRMATION OF COUNSEL (J. ABOOD)</i>	87C079346-10106.tif pages
07/18/1996	Motion for Appointment (9:00 AM) <i>DEFT'S PRO PER MOTION FOR APPOINTMENT OF COUNSEL Heard By: Michael</i>	

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	<i>Douglas</i>	
07/18/1996	Petition to Proceed in Forma Pauperis (9:00 AM) <i>DEFT' PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS ON APPEAL</i> <i>Heard By: Michael Douglas</i>	
07/18/1996	Motion for Confirmation of Counsel (9:00 AM) Events: 07/11/1996 Hearing <i>CONFIRMATION OF COUNSEL (J. ABOOD)</i>	
07/18/1996	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 7-18-96 Court Clerk: JOYCE BROWN Reporter/Recorder: ANITA SPRINGS-WALKER Heard By: Michael Douglas</i>	
07/19/1996	Motion <i>ALL PENDING MOTIONS 7-18-96</i>	87C079346-10107.tif pages
08/14/1996	 Order <i>ORDER DENYING DEFENDANTS PRO PER MOTION FOR APPOINTMENT OF COUNSEL ORDERDENYING DEFENDANTS PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS ON APPEAL TO THE SUPREME COURT DENYING DEFENDANTS PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS ON APPEAL TO THE SUPREME COURT</i>	87C079346-10108.tif pages
09/17/1996	Hearing <i>AT THE REQUEST OF THE COURT PER SUPREME COURT ORDER</i>	87C079346-10109.tif pages
09/17/1996	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE: COURT'S DECISION RE: DEFENDANT'S PETITION FOR POST-CONVICTION RELIEF FOR POST-CONVICTION RELIEF</i>	87C079346-10110.tif pages
09/24/1996	Request of Court (9:00 AM) Events: 09/17/1996 Hearing <i>AT THE REQUEST OF THE COURT PER SUPREME COURT ORDER Court Clerk: JOYCE BROWN Reporter/Recorder: ANITA SPRINGS-WALKER Heard By: Michael Douglas</i>	
09/24/1996	Hearing <i>STATUS CHECK: AS TO ORDER</i>	87C079346-10111.tif pages
10/02/1996	 Judgment <i>FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER</i>	87C079346-10112.tif pages
10/02/1996	 Notice <i>NOTICE OF ENTRY OF ORDER</i>	87C079346-10113.tif pages
10/10/1996	Status Check (9:00 AM) Events: 09/24/1996 Hearing <i>STATUS CHECK: AS TO ORDER Court Clerk: JOYCE BROWN Reporter/Recorder: ANITA SPRINGS-WALKER Heard By: Michael Douglas</i>	
10/30/1996	 Notice <i>NOTICE OF APPEAL - RELATED PARTYID: 87C079346_0001</i>	87C079346-10115.tif pages
10/30/1996		87C079346-




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	 Certificate <i>CERTIFICATE OF MAILING - RELATED PARTYID: 87C079346_0001</i>	10116.tif pages
11/01/1996	 Statement <i>CASE APPEAL STATEMENT</i>	87C079346- 10114.tif pages
10/06/1997	 Stipulation <i>STIPULATION - RELATED PARTYID: 87C079346_0001</i>	87C079346- 10117.tif pages
10/06/1997	 Request <i>MOTION FOR CERTIFICATION OF ENTITLEMENT TO EXCESS FEES - RELATED PARTYID: 87C079346_0001</i>	87C079346- 10118.tif pages
10/06/1997	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 87C079346_0001</i>	87C079346- 10119.tif pages
10/09/1997	 Order <i>ORDER - RELATED PARTYID: 87C079346_0001</i>	87C079346- 10120.tif pages
04/21/1999	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>NEVADA SUPREME COURT JUDGMENT / ORDERED APPEAL DISMISSED</i>	87C079346- 10121.tif pages
07/02/1999	Motion <i>DEFT'S REQUEST WITHDRAW AS COUNSEL AND TO FILE PRO PER PETITION FOR WRIT HABEAS</i>	87C079346- 10123.tif pages
07/02/1999	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 87C079346_0002</i>	87C079346- 10124.tif pages
07/06/1999	Motion <i>DEFT'S MOTION FOR APPOINTMENT OF EFFECTIVE COUNSEL DURING LITIGATION</i>	87C079346- 10125.tif pages
07/06/1999	 Request <i>MOTION FOR APPOINTMENT OF EFFECTIVE COUNSEL DURING LITIGATION OF PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION FOR WRIT OF HABEAS CORPUS POST CONVICTION- RELATED PARTYID: 87C079346_0002</i>	87C079346- 10126.tif pages
07/06/1999	 Notice <i>NOTICE OF MOTION - RELATED PARTYID: 87C079346_0002</i>	87C079346- 10127.tif pages
07/06/1999	 Affidavit in Support <i>AFFIDAVIT OF PATRICIA MERICKSON IN SUPPORT OF PRO PER MOTION FOR APPOINTMENT OF COUNSEL APPOINTMENT OF COUNSEL- RELATED PARTYID: 87C079346_0001</i>	87C079346- 10128.tif pages
07/06/1999	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 87C079346_0002</i>	87C079346- 10129.tif pages
		87C079346-





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07/06/1999	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 87C079346_0002</i>	10130.tif pages
07/08/1999	Motion (9:00 AM) Events: 07/02/1999 Motion <i>DEFT'S REQUEST WITHDRAW AS COUNSEL AND TO FILE PRO PER PETITION FOR WRIT HABEAS Heard By: Michael Douglas</i>	
07/08/1999	Motion for Appointment (9:00 AM) Events: 07/06/1999 Motion <i>DEFT'S MOTION FOR APPOINTMENT OF EFFECTIVE COUNSEL DURING LITIGATION Heard By: Michael Douglas</i>	
07/08/1999	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS (7-8-99) Court Clerk: JOYCE BROWN Reporter/Recorder: CATHY NELSON Heard By: Michael Douglas</i>	
07/08/1999	Conversion Case Event Type <i>ARGUMENT: PATRICAM. ERICKSON'S REQUEST FOR WITHDRAWAL OF CHRIS MAGLARIS AS ATTY</i>	87C079346-10131.tif pages
07/08/1999	 Petition <i>PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION - RELATED PARTYID: 87C079346_0002</i>	87C079346-10135.tif pages
07/09/1999	Conversion Case Event Type <i>ARGUMENT: DEFT'S PRO PER MTN FOR APPT OF COUNSEL DURING LITIGATION OF PET WRIT HC</i>	87C079346-10132.tif pages
07/09/1999	Motion <i>ALL PENDING MOTIONS (7-8-99)</i>	87C079346-10133.tif pages
07/09/1999	Notice <i>NOTICE EXHIBITS TO PETITION FOR WRIT OF HABEAS CORPUS IN THE VAULT</i>	87C079346-10134.tif pages
07/20/1999	 Opposition <i>OPPOSITION TO DEFENDANTS MOTION FOR APPOINTMENT OF EFFECTIVE COUNSEL</i>	87C079346-10136.tif pages
07/20/1999	 Opposition <i>OPPOSITION TO DEFENDANTS PETITION FOR WRIT OF HABEAS CORPUS POST-CONVICTION</i>	87C079346-10137.tif pages
08/05/1999	 Motion <i>DEFT'S MOTION TO EXTEND TIME</i>	87C079346-10138.tif pages
08/11/1999	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE MOTION TO WITHDRAW AND APPOINT COUNSEL</i>	87C079346-10140.tif pages
08/12/1999	Hearing (9:00 AM) Events: 07/08/1999 Conversion Case Event Type <i>ARGUMENT: PATRICAM. ERICKSON'S REQUEST FOR WITHDRAWAL OF CHRIS MAGLARIS AS ATTY Heard By: Michael Douglas</i>	







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08/12/1999	Hearing (9:00 AM) Events: 07/09/1999 Conversion Case Event Type <i>ARGUMENT: DEFT'S PRO PER MTN FOR APPT OFCOUNSEL DURING LITIGATION OF PET WRIT HC Heard By: Michael Douglas</i>	
08/12/1999	Motion (9:00 AM) Events: 08/05/1999 Motion <i>DEFT'S MOTION TO EXTEND TIME Heard By: Michael Douglas</i>	
08/12/1999	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS (08-12-99) Court Clerk: SUSAN BURDETTE/sb Reporter/Recorder: CATHY NELSON Heard By: Michael Douglas</i>	
08/12/1999	Motion <i>ALL PENDING MOTIONS (08-12-99)</i>	87C079346-10139.tif pages
08/17/1999	 Reply <i>REPLY TO STATES OPPOSITION TO DEFENDANTS MOTION FOR APPOINTMENT OF EFFECTIVE COUNSEL EFFECTIVE COUNSEL- RELATED PARTYID: 87C079346_0002</i>	87C079346-10141.tif pages
08/19/1999	Hearing (9:00 AM) <i>ARGUMENT: PATRICA M. ERICKSON'S REQUEST FOR WITHDRAWAL OF CHRIS MAGLARIS AS ATTY Heard By: Michael Douglas</i>	
08/19/1999	Hearing (9:00 AM) <i>ARGUMENT: DEFT'S PRO PER MTN FOR APPT OFCOUNSEL DURING LITIGATION OF PET WRIT HC Heard By: Michael Douglas</i>	
08/19/1999	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS (8-19-99) Court Clerk: JOYCE BROWN/JB Relief Clerk: KATHY STAITE Reporter/Recorder: CATHY NELSON Heard By: Michael Douglas</i>	
08/19/1999	Motion <i>ALL PENDING MOTIONS (8-19-99)</i>	87C079346-10142.tif pages
09/03/1999	 Affidavit in Support <i>DECLARATION OF RODNEY EMIL IN SUPPORT OF MOTION FOR APPOINTMENT OF COUNSEL - RELATED PARTYID: 87C079346_0002</i>	87C079346-10143.tif pages
09/03/1999	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 87C079346_0001</i>	87C079346-10144.tif pages
09/07/1999	Hearing (9:00 AM) <i>ARGUMENT: PATRICA M. ERICKSON'S REQUEST FOR WITHDRAWAL OF CHRIS MAGLARIS AS ATTY Heard By: Michael Douglas</i>	
09/07/1999	Hearing (9:00 AM) <i>ARGUMENT: DEFT'S PRO PER MTN FOR APPT OFCOUNSEL DURING LITIGATION OF PET WRIT HC Heard By: Michael Douglas</i>	
09/07/1999	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS (09-07-99) Court Clerk: SUSAN BURDETTE/sb Reporter/Recorder: CATHY NELSON Heard By: Michael Douglas</i>	
09/07/1999	Motion	87C079346-10145.tif pages










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	<i>ALL PENDING MOTIONS (09-07-99)</i>	
09/07/1999	Hearing <i>HEARING: DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS VJ 9-29-99</i>	87C079346-10146.tif pages
09/15/1999	Motion <i>STATE'S REQUEST CLARIFICATION OF ISSUES TO WHICH THE STATE WILL RESPOND</i>	87C079346-10147.tif pages
09/20/1999	 Order <i>ORDER FOR TRANSCRIPT</i>	87C079346-10148.tif pages
09/21/1999	Motion (9:00 AM) Events: 09/15/1999 Motion <i>STATE'S REQUEST CLARIFICATION OF ISSUES TO WHICH THE STATE WILL RESPOND Court Clerk: SUSAN BURDETTE/sb Relief Clerk: BLANCA MADRIGAL Reporter/Recorder: CATHY NELSON Heard By: Michael Douglas</i>	
09/21/1999	Hearing <i>STATUS CHECK: DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS</i>	87C079346-10149.tif pages
09/27/1999	Status Check (9:00 AM) Events: 09/21/1999 Hearing <i>STATUS CHECK: DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS Court Clerk: JOYCE BROWN/JB Relief Clerk: BLANCA MADRIGAL Reporter/Recorder: CATHY NELSON Heard By: Douglas, Michael L</i>	
09/29/1999	Status Check (9:00 AM) <i>STATUS CHECK: DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS Court Clerk: JOYCE BROWN/JB Relief Clerk: BLANCA MADRIGAL Reporter/Recorder: CATHY NELSON Heard By: Michael Douglas</i>	
09/29/1999	Conversion Case Event Type <i>HEARING ARGUMENT: DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS</i>	87C079346-10150.tif pages
09/30/1999	 Order <i>ORDER REQUIRING REIMBURSEMENT OF COSTS EXPENDED BY PRO BONO COUNSEL DURING LITIGATION OF HABEAS PETITION LITIGATION OF HABEAS PETITION- RELATED PARTYID: 87C079346_0002</i>	87C079346-10151.tif pages
10/15/1999	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE: ARGUMENT: PATRICIA M. ERICKSON, ESQ'S REQUEST FOR (POST-CONVICTION) EFFECTIVE COUNSEL DURING LITIGATION OF PETITION FOR WRIT OF HABEAS CORPUS WRIT OF HABEAS CORPUS ... ARGUMENT: DEFT'S PRO PER MOTION FOR APPOINTMENT OF WITHDRAWAL OF CHRIS MAGLARAS AS COUNSEL AND DEFT TO FILE PRO PER PETITION FOR (POST-CONVICTION) EFFECTIVE COUNSEL DURING LITIGATION OF PETITION FOR WRIT OF HABEAS CORPUS WRIT OF HABEAS CORPUS ... ARGUMENT: DEFT'S PRO PER MOTION FOR APPOINTMENT OF WITHDRAWAL OF CHRIS MAGLARAS AS COUNSEL AND DEFT TO FILE PRO PER PETITION FOR</i>	87C079346-10152.tif pages
11/12/1999	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF STATUS CHECK: DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS HABEAS CORPUS</i>	87C079346-10153.tif pages










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CASE SUMMARY
CASE NO. 87C079346-1

11/22/1999	Motion <i>DEFT'S MOTION TO CONTINUE HEARING ON PTN FOR WRIT</i>	87C079346-10154.tif pages
11/22/1999	 Motion <i>DEFT'S MOTION FOR APPOINTMENT OF INVESTIGATOR</i>	87C079346-10155.tif pages
11/22/1999	 Request <i>NOTICE OF MOTION TO CONTINUE HEARING ON PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION AND MOTION TO EXTEND TIME FOR FILING PETITIONERS REPLY TO STATES OPPOSITION POST CONVICTION AND MOTION TO EXTEND TIME FOR FILING PETITIONERS REPLY TO STATES OPPOSITION- RELATED PARTYID: 87C079346_0002</i>	87C079346-10156.tif pages
11/30/1999	 Opposition <i>OPPOSITION TO DEFENDANTS MOTION FOR APPOINTMENT OF INVESTIGATOR AND MOTION TO CONTINUE HEARING ON PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) AND MOTION TO EXTEND TIME FOR FILING PETITIONERS REPLY TO STATES OPPOSITION MOTION TO CONTINUE HEARING ON PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) AND MOTION TO EXTEND TIME FOR FILING PETITIONERS REPLY TO STATES OPPOSITION</i>	87C079346-10158.tif pages
12/01/1999	Hearing (9:00 AM) Events: 09/29/1999 Conversion Case Event Type <i>HEARING ARGUMENT: DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS Heard By: Michael Douglas</i>	
12/01/1999	Motion to Continue (9:00 AM) Events: 11/22/1999 Motion <i>DEFT'S MOTION TO CONTINUE HEARING ON PTN FOR WRIT Heard By: Michael Douglas</i>	
12/01/1999	Motion for Appointment (9:00 AM) Events: 11/22/1999 Motion <i>DEFT'S MOTION FOR APPOINTMENT OF INVESTIGATOR Heard By: Michael Douglas</i>	
12/01/1999	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 12/1/99 Court Clerk: AMBER FARLEY Reporter/Recorder: CATHY NELSON Heard By: Michael Douglas</i>	
12/01/1999	Motion <i>ALL PENDING MOTIONS 12/1/99</i>	87C079346-10157.tif pages
12/07/1999	 Order <i>ORDER</i>	87C079346-10159.tif pages
01/12/2000	CANCELED Hearing (9:00 AM) Events: 09/07/1999 Hearing <i>Vacated</i>	
01/20/2000	 Exhibits <i>EXHIBITS TO PETITIONERS REPLY TO STATES OPPOSITION TO DEFENDANTS PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION WRIT OF HABEAS CORPUS POST CONVICTION- RELATED PARTYID: 87C079346_0002</i>	87C079346-10160.tif pages
01/20/2000	 Reply <i></i>	87C079346-10161.tif pages







DEPARTMENT 12
CASE SUMMARY
CASE No. 87C079346-1

	<i>REPLY TO STATES OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION POST CONVICTION- RELATED PARTYID: 87C079346_0002</i>	
01/20/2000	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 87C079346_0002</i>	87C079346-10162.tif pages
01/24/2000	Hearing (9:00 AM) <i>HEARING ARGUMENT: DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS</i> <i>Heard By: Michael Douglas</i>	
01/25/2000	 Response <i>STATES SURREPLY TO DEFENDANTS PETITION FOR WRIT OF HABEAS CORPUS POST-CONVICTION POST-CONVICTION</i>	87C079346-10163.tif pages
01/27/2000	Hearing (9:00 AM) <i>HEARING ARGUMENT: DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS</i> <i>Court Clerk: JOYCE BROWN Reporter/Recorder: CATHY NELSON Heard By: Michael Douglas</i>	
02/01/2000	 Order <i>ORDER FOR PREPARATION OF TRANSCRIPTS AT STATES EXPENSE - RELATED PARTYID: 87C079346_0002</i>	87C079346-10165.tif pages
02/03/2000	 Judgment <i>FINDINGS OF FACTS, CONCLUSIONS OF LAW AND ORDER - RELATED PARTYID: 87C079346_0002</i>	87C079346-10166.tif pages
02/03/2000	 Notice <i>NOTICE OF ENTRY OF ORDER</i>	87C079346-10167.tif pages
02/03/2000	 Receipt of Copy <i>RECEIPT OF COPY</i>	87C079346-10168.tif pages
02/22/2000	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE STATES REQUEST CLARIFICATION OF ISSUES TO WHICH THE STATE WILL RESPOND STATE WILL RESPOND</i>	87C079346-10169.tif pages
02/22/2000	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE HEARING DEFENDANTS PRO PER PETITION FOR WRIT OF HABEAS CORPUS HABEAS CORPUS</i>	87C079346-10170.tif pages
02/22/2000	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE ARGUMENT PATRICIA MERICKSON ESQS REQUEST FORWITHDRAWAL OF CHRIS MAGLARAS AS COUNSEL AND DEFENDANT TO FILE PRO PER PETITION FOR WRIT OF HABEAS CORPUS AND ARGUMENT DEFENDANTS PRO PER MOTION FOR APPOINTMENT OF EFFECTIVE COUNSEL DURING LITIGATION OF PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION AND DEFENDANTS MOTION TO EXTEND TIME WITHDRAWAL OF CHRIS MAGLARAS AS COUNSEL AND DEFENDANT TO FILE PRO PER PETITION FOR WRIT OF HABEAS CORPUS AND ARGUMENT DEFENDANTS PRO PER MOTION FOR APPOINTMENT OF EFFECTIVE COUNSEL DURING LITIGATION OF PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION AND DEFENDANTS MOTION TO EXTEND TIME</i>	87C079346-10171.tif pages
02/22/2000		87C079346-










DEPARTMENT 12
CASE SUMMARY
CASE NO. 87C079346-1

	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE DEFENDANTS MOTION TO CONTINUE HEARING ON PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION AND MOTION TO EXTEND TIME FOR FILING PETITIONERS REPLY TO STATES OPPOSITION AND DEFENDANTS MOTION FOR APPOINTMENT OF INVESTIGATOR AND HEARING DEFENDANTS PRO PER PETITION FOR WRIT OF HABEAS CORPUS FOR WRIT OF HABEAS CORPUS POST CONVICTION AND MOTION TO EXTEND TIME FOR FILING PETITIONERS REPLY TO STATES OPPOSITION AND DEFENDANTS MOTION FOR APPOINTMENT OF INVESTIGATOR AND HEARING DEFENDANTS PRO PER PETITION FOR WRIT OF HABEAS CORPUS</i>	10172.tif pages
02/22/2000	 Reporters Transcript <i>REPORTER'S TRANSCRIPT RE ARGUMENT PATRICIA MERICKSON ESQS REQUEST FOR WITHDRAWAL OF CHRIS MAGLARAS AS COUNSEL AND DEFENDANT TO FILE PRO PER PETITION FOR WRIT OF HABEAS CORPUS AND ARGUMENT DEFENDANTS PRO PER MOTION FOR APPOINTMENT OF EFFECTIVE COUNSEL DURING LITIGATION OF PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION WITHDRAWAL OF CHRIS MAGLARAS AS COUNSEL AND DEFENDANT TO FILE PRO PER PETITION FOR WRIT OF HABEAS CORPUS AND ARGUMENT DEFENDANTS PRO PER MOTION FOR APPOINTMENT OF EFFECTIVE COUNSEL DURING LITIGATION OF PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION</i>	87C079346-10173.tif pages
03/03/2000	 Notice of Appeal <i>NOTICE OF APPEAL - RELATED PARTYID: 87C079346_0002</i>	87C079346-10175.tif pages
03/08/2000	 Statement <i>CASE APPEAL STATEMENT - RELATED PARTYID: 87C079346_0002</i>	87C079346-10176.tif pages
04/05/2002	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>NEVADA SUPREME COURT CLERKS CERTIFICATE/ JUDGMENT - AFFIRMED</i>	87C079346-10179.tif pages
04/05/2002	Judgment <i>CLERK'S CERTIFICATE JUDGMENT AFFIRMED</i>	87C079346-10180.tif pages
04/05/2002	Judgment <i>CLERK'S CERTIFICATE REHEARING DENIED</i>	87C079346-10181.tif pages
07/10/2006	 Petition <i>PTN FOR WRIT OF HABEAS CORPUS /67</i>	87C079346-10208.tif pages
07/13/2006	 Exhibits <i>EXHIBITS TO PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION VOLUME ONE OF FOUR FOUR- RELATED PARTYID: 87C079346_0002</i>	87C079346-10209.tif pages
07/13/2006	 Exhibits <i>EXHIBITS TO PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION VOLUME TWO OF FOUR FOUR- RELATED PARTYID: 87C079346_0002</i>	87C079346-10210.tif pages
07/13/2006	 Exhibits <i>EXHIBITS TO PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION VOLUME THREE OF FOUR FOUR- RELATED PARTYID: 87C079346_0002</i>	87C079346-10211.tif pages
		87C079346-














DEPARTMENT 12
CASE SUMMARY
CASE NO. 87C079346-1

07/13/2006	 Exhibits <i>EXHIBITS TO PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION VOLUME FOUR OF FOUR FOUR- RELATED PARTYID: 87C079346_0002</i>	10212.tif pages
07/13/2006	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 87C079346_0002</i>	87C079346-10213.tif pages
07/21/2006	 Verification <i>VERIFICATION - RELATED PARTYID: 87C079346_0002</i>	87C079346-10215.tif pages
08/29/2006	Petition for Writ of Habeas Corpus (9:15 AM) Events: 07/10/2006 Petition <i>PTN FOR WRIT OF HABEAS CORPUS /67 Court Clerk: April Watkins Reporter/Recorder: Thelma Stapley Heard By: Leavitt, Michelle</i>	
08/29/2006	Conversion Case Event Type <i>ARGUMENT/DECISION (VY 1/19/07)</i>	87C079346-10216.tif pages
11/07/2006	 Request <i>STATES RESPONSE AND MOTION TO DISMISS DEFENDANTS PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION CORPUS POST CONVICTION</i>	87C079346-10217.tif pages
01/22/2007	 Reply <i>RODNEY EMILS REPLY AND OPPOSITION TO STATES MOTION TO DISMISS DEFENDANTS PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION- RELATED PARTYID: 87C079346_0002</i>	87C079346-10218.tif pages
01/22/2007	 Receipt of Copy <i>RECEIPT OF COPY - RELATED PARTYID: 87C079346_0002</i>	87C079346-10219.tif pages
01/25/2007	Petition for Writ of Habeas Corpus (11:00 AM) <i>PTN FOR WRIT OF HABEAS CORPUS /67</i>	
01/25/2007	CANCELED Hearing (11:00 AM) Events: 08/29/2006 Conversion Case Event Type <i>Vacated</i>	
04/06/2007	Hearing <i>STATES REQUEST STAUS CHECK OF ARGUMENT</i>	87C079346-10220.tif pages
04/23/2007	Request (9:30 AM) Events: 04/06/2007 Hearing <i>STATES REQUEST STAUS CHECK OF ARGUMENT Heard By: Michelle Leavitt</i>	
04/25/2007	Request (9:30 AM) <i>STATES REQUEST STAUS CHECK OF ARGUMENT Court Clerk: April Watkins Relief Clerk: Tia Everett/te Reporter/Recorder: Thelma Stapley Heard By: Michelle Leavitt</i>	
04/25/2007	Conversion Case Event Type <i>ARGUMENT/DECISION: PTN FOR WRIT HABEAS CORPUS</i>	87C079346-10221.tif pages
05/21/2007	Petition for Writ of Habeas Corpus (11:00 AM)	










DEPARTMENT 12
CASE SUMMARY
CASE NO. 87C079346-1

	<i>PTN FOR WRIT OF HABEAS CORPUS /67</i>	
05/21/2007	Hearing (11:00 AM) Events: 04/25/2007 Conversion Case Event Type <i>ARGUMENT/DECISION: PTN FOR WRIT HABEAS CORPUS Court Clerk: April Watkins Relief Clerk: Tia Everett/te Reporter/Recorder: Thelma Stapley Heard By: Leavitt, Michelle</i>	
05/22/2007	Hearing (9:30 AM) <i>ARGUMENT/DECISION: PTN FOR WRIT HABEAS CORPUS Court Clerk: April Watkins Relief Clerk: Tia Everett/te Reporter/Recorder: Thelma Stapley Heard By: Leavitt, Michelle</i>	
05/24/2007	Hearing (11:00 AM) <i>ARGUMENT/DECISION: PTN FOR WRIT HABEAS CORPUS Court Clerk: April Watkins Relief Clerk: Tia Everett/te Reporter/Recorder: Thelma Stapley Heard By: Michelle Leavitt</i>	
05/31/2007	 Order <i>ORDER FOR TRANSCRIPT</i>	87C079346- 10223.tif pages
06/19/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT PETITION FOR WRIT OF HABEAS CORPUS</i>	87C079346- 10224.tif pages
07/09/2007	 Objection <i>OBJECTION TO STATES PROPOSED FINDINGS OF FACT CONCLUSIONS OF LAW AND ORDER - RELATED PARTYID: 87C079346_0002</i>	87C079346- 10225.tif pages
07/16/2007	 Judgment <i>FINDINGS OF FACTS, CONCLUSIONS OF LAW AND ORDER</i>	87C079346- 10226.tif pages
07/18/2007	 Notice of Entry of Decision and Order <i>NOTICE OF ENTRY OF DECISION AND ORDER</i>	87C079346- 10227.tif pages
08/15/2007	 Certificate <i>CERTIFICATE OF NO TRANSCRIPT REQUEST</i>	87C079346- 10228.tif pages
08/15/2007	 Notice of Appeal <i>NOTICE OF APPEAL (SC 50044) - RELATED PARTYID: 87C079346_0002</i>	87C079346- 10229.tif pages
08/15/2007	 Statement <i>CASE APPEAL STATEMENT - RELATED PARTYID: 87C079346_0002</i>	87C079346- 10230.tif pages
09/21/2007	 Petition <i>PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION - RELATED PARTYID: 87C079346_0001</i>	87C079346- 10231.tif pages
10/10/2007	Minute Order (9:00 AM) <i>MINUTE ORDER RE: DECLINING TO SIGN WRIT OF HABEAS CORPUS Court Clerk: April Watkins Heard By: Michelle Leavitt</i>	
10/10/2007	Hearing <i>MINUTE ORDER RE: DECLINING TO SIGN WRIT OF HABEAS CORPUS</i>	87C079346- 10232.tif pages
10/22/2007		87C079346-

DEPARTMENT 12
CASE SUMMARY
CASE NO. 87C079346-1

	 Notice of Appeal <i>NOTICE OF APPEAL (SC 50438) - RELATED PARTYID: 87C079346_0001</i>	<i>10233.tif pages</i>
10/22/2007	 Certificate <i>CERTIFICATE OF MAILING - RELATED PARTYID: 87C079346_0001</i>	<i>87C079346-10234.tif pages</i>
10/25/2007	 Statement <i>CASE APPEAL STATEMENT</i>	<i>87C079346-10235.tif pages</i>
01/03/2008	 Judgment <i>FINDINGS OF FACTS, CONCLUSIONS OF LAW AND ORDER</i>	<i>87C079346-10236.tif pages</i>
01/05/2008	 Notice of Entry of Decision and Order <i>NOTICE OF ENTRY OF DECISION AND ORDER</i>	<i>87C079346-10237.tif pages</i>
01/17/2008	 Notice of Appeal <i>NOTICE OF APPEAL (SC 50438) - RELATED PARTYID: 87C079346_0001</i>	<i>87C079346-10368.tif pages</i>
01/22/2008	 Statement <i>CASE APPEAL STATEMENT</i>	<i>87C079346-10369.tif pages</i>
05/16/2008	 Judgment <i>CLERK'S CERTIFICATE JUDGMENT AFFIRMED</i>	<i>87C079346-10371.tif pages</i>
03/19/2010	 Judgment <i>CLERK'S CERTIFICATE JUDGMENT AFFIRMED</i>	<i>87C079346-10374.tif pages</i>
03/19/2010	Judgment <i>CLERK'S CERTIFICATE REHEARING DENIED</i>	<i>87C079346-10375.tif pages</i>
03/19/2010	Judgment <i>CLERK'S CERTIFICATE PETITION DENIED</i>	<i>87C079346-10376.tif pages</i>
03/12/2014	 Notice of Motion <i>Notice of Motion</i>	
03/12/2014	 Motion <i>Memorandum and Motion to Dismiss for Lack of Subject Matter Jurisdiction</i>	
03/31/2014	 Opposition Filed By: Plaintiff State of Nevada <i>State's Opposition To Defendant's Pro Per Memorandum And Motion To Dismiss For Lack Of Subject Matter Jurisdiction</i>	
04/03/2014	 Motion to Dismiss (8:30 AM) (Judicial Officer: Leavitt, Michelle) <i>Defendant - Notice of Motion for Memorandum and Motion to Dismiss for Lack of Subject Matter Jurisdiction</i>	
05/08/2014		

DEPARTMENT 12
CASE SUMMARY
CASE NO. 87C079346-1

	 Order Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Pro Per Memorandum and Motion to Dismiss for Lack of Subject Matter and Jurisdiction</i>
10/20/2015	 Memorandum <i>Memorandum In Support of Petition for Writ of Habeas Corpus</i>
10/20/2015	 Memorandum <i>Memorandum In Support of Petition for Writ of Habeas Courpus (Post-Conviction)</i>
10/20/2015	 Petition for Writ of Habeas Corpus <i>Petition for Writ of Habeas Corpus (Post- Conviction)</i>
11/03/2015	 Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff State of Nevada
11/16/2015	 Notice of Appeal (criminal) <i>Notice of Appeal</i>
11/16/2015	 Designation of Record on Appeal <i>Designation of Record on Appeal</i>
11/19/2015	 Notice of Entry Filed By: Plaintiff State of Nevada <i>Notice of Entry of Findings of Fact, Conclusions of Law, and Order</i>
11/19/2015	 Case Appeal Statement Filed By: Defendant Leavitt, Todd M <i>Case Appeal Statement</i>

DATE

FINANCIAL INFORMATION

Defendant Leavitt, Todd M

Total Charges

38.00

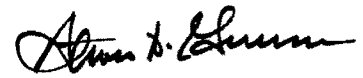
Total Payments and Credits

38.00

Balance Due as of 11/19/2015

0.00

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CLERK OF THE COURT

3 EIGHTH JUDICIAL DISTRICT
4 CLARK COUNTY, NEVADA

5 TODD M LEAVITT,) Case No.: C079346
6)
7 Petitioner,) DEPT. No.: XII
8 vs.)
9 THE STATE OF NEVADA)
Respondent)

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

11 FINDINGS OF FACT

12
13 1. On March 30, 1988, Petitioner was found guilty of Murder with
the Use of a Deadly Weapon.

14
15 2. On May 26, 1988, Petitioner was sentenced to LIFE without the
possibility of parole, plus LIFE without the possibility of parole for use of a
16 deadly weapon.

17 3. On September 28, 1989, Petitioner's direct appeal was dismissed
by the Nevada Supreme Court. Remittitur was issued on October 24, 1989.

18
19 4. On June 17, 1992, Petitioner filed his first Petition for Post-
Conviction Relief.

20 5. On April 26, 1993, the district court ruled that good cause existed
21 to allow Defendant to file his petition beyond the one year statutory time limit.

22 6. On October 2, 1996, the district Court denied Petitioner's Petition
23 for Writ of Habeas Corpus.

24 7. On April 21, 1999, the Nevada Supreme Court dismissed
Petitioner's appeal.

25
26 8. On September 21, 2007, Petitioner filed a Second Petition for Writ
of Habeas Corpus (Post-Conviction).

1 9. On January 3, 2008, the District Court denied Petitioner's Second
2 Petition for Writ of Habeas Corpus (Post-Conviction).

3 10. On April 18, 2008 the Nevada Supreme Court affirmed the District
4 Court's denial of Petitioner's Second Petition. Remittitur was issued on May 16,
5 2008.

6 11. On October 20, 2015, Petitioner filed the instant Third Petition for
7 Writ of Habeas Corpus (Post-Conviction).

8 CONCLUSIONS OF LAW

9 1. NRS 34.726(1), governing "Limitations on time to file...",
10 requires that a petition for a writ of habeas corpus "must be filed within 1 year
11 after entry of the judgment of conviction or, if an appeal has been taken from the
12 judgment, within 1 year after the Supreme Court issues its remittitur." Late-filing
13 of a petition may be excused from procedural default if the Petitioner can
14 establish good cause for delay in bringing the claim. *Id.* Good cause for late-filing
15 consists of a showing that: (1) "delay is not the fault of the petitioner"; and (2)
16 "dismissal of the petition as untimely will unduly prejudice the petitioner." *Id.* at
17 (1)(a)-(b).

18 2. To avoid dismissal the defendant must plead and prove specific
19 facts that demonstrate good cause for his failure to present claims before and
20 actual prejudice. *See State v. District Court*, 121 Nev. 225, 232, 112 P.3d 1070,
21 1074 (2005).

22 3. In order to demonstrate good cause, a petitioner must show that an
23 impediment external to the defense prevented him or her from complying with the
24 state procedural default rules. *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503,
25 506 (2003).

26 4. The court may excuse the failure to show good cause where the
27 prejudice from a failure to consider the claim amounts to a fundamental
28 miscarriage of justice. *Pellegrini v. State*, 117 Nev. 860, 887, 34 P.3d 519, 537
29 (2001).

30 5. NRS 34.810(2), governing "Additional reasons for dismissal of
31 petition," requires that "[a] second or successive petition must be dismissed if the
32 judge or justice determines that it fails to allege new or different grounds for relief
33 and that the prior determination was on the merits or, if new and different grounds
34 are alleged, the judge or justice finds that the failure of the petitioner to assert
35 those grounds in a prior petition constituted an abuse of the writ."

1 6. The petitioner has the burden of pleading and proving specific facts that
2 demonstrate both good cause for failing to present a claim or for presenting a
3 claim again and actual prejudice. NRS 34.810(3). *See also State v. Haberstroh*,
119 Nev. 173, 181, 69 P.3d 676, 681 (2003).

4 7. A court must dismiss a habeas petition if it presents claims that
5 either were or could have been presented in an earlier proceeding, unless the court
6 finds both cause for failing to present the claims earlier or for raising them again
and actual prejudice to the petitioner. *Evans v. State*, 117 Nev. 609, 621-622, 28
P.3d 498, 507 (2001).

7 8. Unlike initial petitions which certainly require a careful review of
8 the record, successive petitions may be dismissed based solely on the face of the
9 petition. *Ford v. Warden*, 111 Nev. 872, 882, 901 P.2d 123, 129 (1995).

10 9. Application of the statutory procedural default rules to post-
11 conviction habeas petitions is mandatory. *State v. District Court (Riker)*, 121 Nev.
225, 231, 112 P.3d 1070, 1074 (2005).

12 10. Meritless, successive and untimely petitions clog the court system
13 and undermine the finality of convictions. *Lozada v. State*, 110 Nev. 349, 358,
871 P.2d 944, 950 (1994).

14 11. Petitioner had one year from October 24, 1989, the date the
15 Nevada Supreme Court issued the remittitur from the judgment from a direct
16 appeal, to file the Petition for Writ of Habeas Corpus (Post-Conviction).

17 12. Petitioner failed to establish good cause for the delay in filing the
18 instant post-conviction Petition. Petitioner briefly alleges that recent case law
19 constitutes good cause for delay. However, the case law cited by Petitioner, *Polk*
v. Sandoval, 503 F.3d 903 (9th Cir. 2007), is not recent.

20 13. The instant Petition is an abuse of the writ because it is a
21 successive Petition and it presents claims that should have been presented in an
22 earlier proceeding. Petitioner filed his second Petition for Writ of Habeas Corpus
shortly after *Polk v. Sandoval* was decided, but Petitioner failed to raise the
Kazalyn jury instruction issue in that previous Petition.

23 14. Petitioner failed to establish good cause for failing to present the
24 claim earlier. Accordingly, the Petition lacks merit, and therefore, is denied.

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ORDER

THEREFORE, IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus (Post-Conviction) shall be, and it is, hereby DENIED.

Dated this 3 day of ~~October~~ ^{November}, 2015.



MICHELLE LEAVITT
DISTRICT COURT JUDGE
DEPARTMENT XII
EIGHTH JUDICIAL DISTRICT

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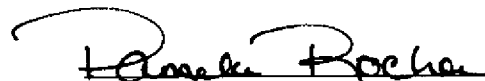
CERTIFICATE OF MAILING

I hereby certify that on 3^e day of November, 2015, I placed a copy of
the Order for Petition for Writ of Habeas Corpus in the U.S. Mail, postage prepaid
to:

Todd Leavitt #26131
Southern Desert Correctional Center
P.O. Box 650
Indian Springs, Nevada 89070

Steven B. Wolfson
Clark County District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89155

Adam Paul Laxalt
Nevada Attorney General
555 E. Washington, Suite 3900
Las Vegas, NV 89101-1068

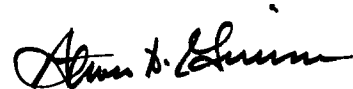

Pamela Rocha
Judicial Executive Assistant
Department XII
Eighth Judicial District Court

C079346

Todd M. Leavitt

vs.

The State of Nevada



CLERK OF THE COURT

NEO

**DISTRICT COURT
CLARK COUNTY, NEVADA**

TODD M. LEAVITT,

Petitioner,

Case No: 87C079346-1

Dept No: XII

vs.

THE STATE OF NEVADA,

Respondent,

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

PLEASE TAKE NOTICE that on November 3, 2015, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on November 19, 2015.

STEVEN D. GRIERSON, CLERK OF THE COURT



Mary Kielty, Deputy Clerk

CERTIFICATE OF MAILING

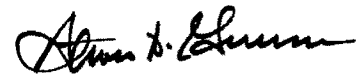
I hereby certify that on this 19 day of November 2015, I placed a copy of this Notice of Entry in:

- ☒ The bin(s) located in the Regional Justice Center of:
Clark County District Attorney's Office
Attorney General's Office – Appellate Division-
- ☒ The United States mail addressed as follows:
Todd M. Leavitt # 26131
P.O. Box 208
Indian Springs, NV 89070



Mary Kielty, Deputy Clerk

1 ORDR
2


CLERK OF THE COURT

3 EIGHTH JUDICIAL DISTRICT
4 CLARK COUNTY, NEVADA

5 TODD M LEAVITT,

Case No.: C079346

6 Petitioner,

DEPT. No.: XII

7 vs.

8 THE STATE OF NEVADA

9 Respondent

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

11 FINDINGS OF FACT

12
13 1. On March 30, 1988, Petitioner was found guilty of Murder with
the Use of a Deadly Weapon.

14
15 2. On May 26, 1988, Petitioner was sentenced to LIFE without the
possibility of parole, plus LIFE without the possibility of parole for use of a
16 deadly weapon.

17 3. On September 28, 1989, Petitioner's direct appeal was dismissed
by the Nevada Supreme Court. Remittitur was issued on October 24, 1989.

18
19 4. On June 17, 1992, Petitioner filed his first Petition for Post-
Conviction Relief.

20 5. On April 26, 1993, the district court ruled that good cause existed
21 to allow Defendant to file his petition beyond the one year statutory time limit.

22 6. On October 2, 1996, the district Court denied Petitioner's Petition
23 for Writ of Habeas Corpus.

24 7. On April 21, 1999, the Nevada Supreme Court dismissed
Petitioner's appeal.

25 8. On September 21, 2007, Petitioner filed a Second Petition for Writ
26 of Habeas Corpus (Post-Conviction).

1 9. On January 3, 2008, the District Court denied Petitioner's Second
2 Petition for Writ of Habeas Corpus (Post-Conviction).

3 10. On April 18, 2008 the Nevada Supreme Court affirmed the District
4 Court's denial of Petitioner's Second Petition. Remittitur was issued on May 16,
5 2008.

6 11. On October 20, 2015, Petitioner filed the instant Third Petition for
7 Writ of Habeas Corpus (Post-Conviction).

8 CONCLUSIONS OF LAW

9 1. NRS 34.726(1), governing "Limitations on time to file...",
10 requires that a petition for a writ of habeas corpus "must be filed within 1 year
11 after entry of the judgment of conviction or, if an appeal has been taken from the
12 judgment, within 1 year after the Supreme Court issues its remittitur." Late-filing
13 of a petition may be excused from procedural default if the Petitioner can
14 establish good cause for delay in bringing the claim. *Id.* Good cause for late-filing
15 consists of a showing that: (1) "delay is not the fault of the petitioner"; and (2)
16 "dismissal of the petition as untimely will unduly prejudice the petitioner." *Id.* at
17 (1)(a)-(b).

18 2. To avoid dismissal the defendant must plead and prove specific
19 facts that demonstrate good cause for his failure to present claims before and
20 actual prejudice. *See State v. District Court*, 121 Nev. 225, 232, 112 P.3d 1070,
21 1074 (2005).

22 3. In order to demonstrate good cause, a petitioner must show that an
23 impediment external to the defense prevented him or her from complying with the
24 state procedural default rules. *Hathaway v. State*, 119 Nev. 248, 252, 71 P.3d 503,
25 506 (2003).

26 4. The court may excuse the failure to show good cause where the
27 prejudice from a failure to consider the claim amounts to a fundamental
28 miscarriage of justice. *Pellegrini v. State*, 117 Nev. 860, 887, 34 P.3d 519, 537
29 (2001).

30 5. NRS 34.810(2), governing "Additional reasons for dismissal of
31 petition," requires that "[a] second or successive petition must be dismissed if the
32 judge or justice determines that it fails to allege new or different grounds for relief
33 and that the prior determination was on the merits or, if new and different grounds
34 are alleged, the judge or justice finds that the failure of the petitioner to assert
35 those grounds in a prior petition constituted an abuse of the writ."

1 6. The petitioner has the burden of pleading and proving specific facts that
2 demonstrate both good cause for failing to present a claim or for presenting a
3 claim again and actual prejudice. NRS 34.810(3). *See also State v. Haberstroh*,
119 Nev. 173, 181, 69 P.3d 676, 681 (2003).

4 7. A court must dismiss a habeas petition if it presents claims that
5 either were or could have been presented in an earlier proceeding, unless the court
6 finds both cause for failing to present the claims earlier or for raising them again
and actual prejudice to the petitioner. *Evans v. State*, 117 Nev. 609, 621-622, 28
P.3d 498, 507 (2001).

7 8. Unlike initial petitions which certainly require a careful review of
8 the record, successive petitions may be dismissed based solely on the face of the
9 petition. *Ford v. Warden*, 111 Nev. 872, 882, 901 P.2d 123, 129 (1995).

10 9. Application of the statutory procedural default rules to post-
11 conviction habeas petitions is mandatory. *State v. District Court (Riker)*, 121 Nev.
225, 231, 112 P.3d 1070, 1074 (2005).

12 10. Meritless, successive and untimely petitions clog the court system
13 and undermine the finality of convictions. *Lozada v. State*, 110 Nev. 349, 358,
871 P.2d 944, 950 (1994).

14 11. Petitioner had one year from October 24, 1989, the date the
15 Nevada Supreme Court issued the remittitur from the judgment from a direct
16 appeal, to file the Petition for Writ of Habeas Corpus (Post-Conviction).

17 12. Petitioner failed to establish good cause for the delay in filing the
18 instant post-conviction Petition. Petitioner briefly alleges that recent case law
19 constitutes good cause for delay. However, the case law cited by Petitioner, *Polk*
v. Sandoval, 503 F.3d 903 (9th Cir. 2007), is not recent.

20 13. The instant Petition is an abuse of the writ because it is a
21 successive Petition and it presents claims that should have been presented in an
22 earlier proceeding. Petitioner filed his second Petition for Writ of Habeas Corpus
shortly after *Polk v. Sandoval* was decided, but Petitioner failed to raise the
Kazalyn jury instruction issue in that previous Petition.

23 14. Petitioner failed to establish good cause for failing to present the
24 claim earlier. Accordingly, the Petition lacks merit, and therefore, is denied.

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ORDER

THEREFORE, IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus (Post-Conviction) shall be, and it is, hereby DENIED.

Dated this 3 day of ~~October~~ ^{November}, 2015.



MICHELLE LEAVITT
DISTRICT COURT JUDGE
DEPARTMENT XII
EIGHTH JUDICIAL DISTRICT

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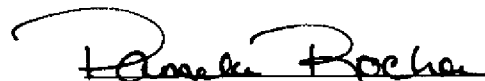
CERTIFICATE OF MAILING

I hereby certify that on 3^e day of November, 2015, I placed a copy of
the Order for Petition for Writ of Habeas Corpus in the U.S. Mail, postage prepaid
to:

Todd Leavitt #26131
Southern Desert Correctional Center
P.O. Box 650
Indian Springs, Nevada 89070

Steven B. Wolfson
Clark County District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89155

Adam Paul Laxalt
Nevada Attorney General
555 E. Washington, Suite 3900
Las Vegas, NV 89101-1068


Pamela Rocha
Judicial Executive Assistant
Department XII
Eighth Judicial District Court

C079346

Todd M. Leavitt

vs.

The State of Nevada

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 09, 1991**

87C079346-1

The State of Nevada vs Todd M Leavitt

September 09, 1991 9:00 AM**All Pending Motions**

**ALL PENDING
MOTIONS 9/9/91
Relief Clerk:
SANDRA SMITH
Reporter/Recorder:
DONNA
ANTONACCI Heard
By: Gerard
Bongiovanni**

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

PRESENT: Mitchell, Scott S. Attorney

JOURNAL ENTRIES

- DEFENDANT'S PROPER PERSON MOTION FOR APPOINTMENT OF COUNSEL /
DEFENDANT'S PROPER PERSON MOTION FOR AN EXTENSION OF TIME TO FILE POST-
CONVICTION RELIEF

COURT ORDERED: Matter continued to be heard in Dept. VIII.

CUSTODY (NSP)

9/11/91 @9A.M. - DEFENDANT'S PROPER PERSON MOTIONS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 11, 1991**

87C079346-1

The State of Nevada vs Todd M Leavitt

September 11, 1991 9:00 AM**All Pending Motions**

**ALL PENDING
MOTIONS 9/11/91
Court Clerk:
SANDRA SMITH
Reporter/Recorder:
YVONNE
VALENTIN Heard
By: Lee Gates**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Lowry, Teresa

Attorney

JOURNAL ENTRIES

- DEFENDANT'S PROPER PERSON MOTION FOR APPOINTMENT OF COUNSEL /
DEFENDANT'S PROPER PERSON MOTION FOR AN EXTENSION OF TIME TO FILE POST-
CONVICTION RELIEF

Ms. Lowry advised Court that State has not filed a response since these motions were previously
denied by Judge Wendell. COURT ORDERED: Motions are denied.

CUSTODY (NSP)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 08, 1992**

87C079346-1

The State of Nevada vs Todd M Leavitt

July 08, 1992**9:00 AM****All Pending Motions****ALL PENDING
MOTIONS 7/8/92****Court Clerk:****SANDRA BROUGH****Reporter/Recorder:****YVONNE****VALENTIN Heard****By: Lee Gates****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Chairez, Don P.

Attorney

JOURNAL ENTRIES

- DEFT.'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS....MOTION FOR APPOINTMENT OF COUNSEL....PETITION FOR POST-CONVICTION RELIEF

Mr. Chairez advised he does not have a copy of the complaint or the writ as this is an MVU case; requested the matter continued until Friday in order to discuss the case with Mel Harmon. SO ORDERED.

NSP....DEFT.'S PRO PER MOTIONS AS ABOVE MENTIONED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 10, 1992**

87C079346-1

The State of Nevada vs Todd M Leavitt

July 10, 1992**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS FOR 7-10-
92 Relief Clerk:
TINA HURD
Reporter/Recorder:
YVONNE
VALENTIN Heard
By: Lee Gates**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Edwards, Scott W.

Attorney

JOURNAL ENTRIES

- DEFT.'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS...DEFT.'S PRO PER MOTION FOR APPOINTMENT OF COUNSEL...DEFT.'S PETITION FOR POST-CONVICTION RELIEF

State advised they received several motions for post-conviction relief this morning and requested two weeks to respond.

CUSTODY (NSP)

7-27-92 9:00 A.M. DEFT.'S PRO PER MOTIONS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 27, 1992**

87C079346-1

The State of Nevada vs Todd M Leavitt

July 27, 1992**9:00 AM****All Pending Motions****ALL PENDING****MOTIONS 7/27/92****Court Clerk:****SANDRA BROUGH****Reporter/Recorder:****YVONNE****VALENTIN Heard****By: Lee Gates****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Henry, William P.

Attorney

JOURNAL ENTRIES

- DEFT.'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS ... PRO PER MOTION FOR APPOINTMENT OF COUNSEL ... PETITION FOR POST-CONVICTION RELIEF COURT ORDERED, matters continued until Wednesday.

NSP ... 7/29/92 @ 9:00 A.M. DEFT.'S PRO PER MOTIONS AS ABOVE STATED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 29, 1992**

87C079346-1

The State of Nevada vs Todd M Leavitt

July 29, 1992**9:00 AM****All Pending Motions****ALL PENDING****MOTIONS 7/29/92****Court Clerk:****SANDRA BROUGH****Reporter/Recorder:****YVONNE****VALENTIN Heard****By: Lee Gates****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Berrett, Bill A.

Attorney

Myers, Andrew S.

Attorney

JOURNAL ENTRIES

- DEFT.'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS ... PRO PER MOTION FOR APPOINTMENT OF COUNSEL ... PETITION FOR POST-CONVICTION RELIEF DEFT.'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS: COURT ORDERED, motion GRANTED.

DEFT.'S PRO PER MOTION FOR APPOINTMENT OF COUNSEL: State provided the Court with a copy of its response and advised the appointment of counsel would be primarily for deft.'s petition for post-conviction relief. Argument by the State. Court stated it is in agreement with the State but in the interest of justice it will appoint counsel to present deft.'s points in a more favorable light. COURT ORDERED, motion GRANTED; Andrew Myers appointed as counsel. Mr. Myers present and requested the Court allow him 60 days. SO ORDERED.

DEFT.'S PETITION FOR POST-CONVICTION: COURT ORDERED, matter continued.

NSP ... 9/30/92 @ 9:00 A.M. STATUS CHECK ... DEFT.'S PETITION FOR POST- CONVICTION

87C079346-1

RELIEF

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 30, 1992**

87C079346-1

The State of Nevada vs Todd M Leavitt

September 30, 1992**9:00 AM****Petition**

**PRO PER PETITION
FOR POST
CONVICTION
RELIEF Relief Clerk:
SANDRA SMITH
Reporter/Recorder:
YVONNE
VALENTIN Heard
By: GATES, LEE A**

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

Myers, Andrew S.

Attorney

Porterfield Jr, Owen W.

Attorney

JOURNAL ENTRIES

- Mr. Myers advised Court he has not received all the documents and requested a continuance.
COURT ORDERED: Matter continued.
CUSTODY (NSP)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****November 23, 1992**

87C079346-1

The State of Nevada vs Todd M Leavitt

November 23, 1992**9:00 AM****Petition**

**PRO PER PETITION
FOR POST
CONVICTION
RELIEF Court Clerk:
SANDRA BROUGH
Reporter/Recorder:
YVONNE
VALENTIN Heard
By: Lee Gates**

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

Kephart, William D.
Myers, Andrew S.

Attorney
Attorney

JOURNAL ENTRIES

- Mr. Myers advised that he is ready to do the work on this case, however, Mr. James Erbeck was trial counsel; Mr. Erbeck says he needs until the middle of November to find his file and Mr. Myers needs his file. Further, the other attorney who worked on the case, Craig Creel, moved out of town. Mr. Myers moved for the matter to be set for status check. State inquired whether they would argue deft.'s motion. Court stated no and ORDERED deft.'s Pro Per Petition for Post Conviction Relief, OFF CALENDAR.

NPS ... 12/14/92 @ 9 A.M. STATUS CHECK

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****December 14, 1992**

87C079346-1

The State of Nevada vs Todd M Leavitt

December 14, 1992**9:00 AM****Status Check****STATUS CHECK****Court Clerk:****SANDRA BROUGH****Reporter/Recorder:****YVONNE****VALENTIN Heard****By: Lee Gates****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Carroll, Thomas M.

Attorney

Erbeck, James W.

Attorney

Leavitt, Todd M

Defendant

Myers, Andrew S.

Attorney

JOURNAL ENTRIES

- Mr. Erbeck stated he was subpoenaed to appear by Mr. Myers, the file is at Mr. Erbeck's former law firm's storage and Mr. Myer's secretary called his office yesterday at 10:40 a.m. stating that they needed the file. Conference at the bench. COURT ORDERED, matter continued for status check in 30 days; Mr. Erbeck to provide Mr. Myers with the file. Matter trailed and recalled with Mr. Myers present. Court stated it ordered Mr. Erbeck to provide the file to Mr. Myers. Clerk to furnish Mr. Erbeck with a copy of the minutes.

CUSTODY ... 1/13/93 @ 9 A.M. STATUS CHECK

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 13, 1993**

87C079346-1

The State of Nevada vs Todd M Leavitt

January 13, 1993**9:00 AM****Status Check****STATUS CHECK****Court Clerk:****SANDRA BROUGH****Reporter/Recorder:****YVONNE****VALENTIN Heard****By: GATES, LEE A****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Chairez, Don P.

Attorney

Myers, Andrew S.

Attorney

JOURNAL ENTRIES

- Matter trailed for Mr. Myer's presence. Upon the Court's inquiry, Mr. Myers stated he has a problem, Mr. Erbeck says that he cannot locate the file therefore, Mr. Myers has no way to judge the effectiveness of counsel if he cannot look at Mr. Erbeck's file. Further, he will call Mr. Erbeck one more time and if he is not able to obtain the file he will seek an affidavit from Mr. Erbeck stating that Mr. Erbeck was counsel of record and that he cannot find the file; moved to continue the matter.

COURT ORDERED, matter continued.

NSP ... 1/27/93 @ 9 A.M. STATUS CHECK

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 27, 1993**

87C079346-1

The State of Nevada vs Todd M Leavitt

January 27, 1993**9:00 AM****Status Check****STATUS CHECK****Court Clerk:****SANDRA BROUGH****Reporter/Recorder:****YVONNE****VALENTIN Heard****By: GATES, LEE A****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Bell, Stewart L.

Attorney

Edwards, Scott W.

Attorney

JOURNAL ENTRIES

- Mr. Bell advised the file is unlocateable and he has an affidavit from Mr. Erbeck. Further, Mr. Myers needs more time; moved to continue the matter for 60 days. COURT ORDERED, mat continued.

CUSTODY ... 3/26/93 @ 9 A.M. STATUS CHECK

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 26, 1993**

87C079346-1

The State of Nevada vs Todd M Leavitt

March 26, 1993**9:00 AM****Status Check****STATUS CHECK****Relief Clerk: DENISE
TRUJILLO****Reporter/Recorder:
YVONNE****VALENTIN Heard
By: GATES, LEE A****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Leavitt, Todd M

Defendant

Myers, Andrew S.

Attorney

Porterfield Jr, Owen W.

Attorney

JOURNAL ENTRIES

- Mr. Myers advised he just obtained affidavit from Mr. Erlich advising his file has been lost. Further, would request 30 days to research this case to determine if this Court still has jurisdiction and give State an opportunity to respond. COURT SO ORDERED. -- CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 26, 1993**

87C079346-1

The State of Nevada vs Todd M Leavitt

April 26, 1993**8:45 AM****Status Check****STATUS CHECK****Court Clerk:****SANDRA BROUGH****Reporter/Recorder:****YVONNE****VALENTIN Heard****By: Lee Gates****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Chairez, Don P.

Attorney

Myers, Andrew S.

Attorney

JOURNAL ENTRIES

- Deft. not present and in custody at the Nevada Department of Prisons.

Statements by Mr. Myers regarding the background of the case. He has reviewed the file with the Supreme Court Clerk and this Court's Clerk and believes deft.'s Motion for Extension of Time to File a Petition for Post-Conviction Relief was never heard. Ms. Lowry, DDA, at the 9/11/91 hearing date in front of this Court inadvertently stated deft.'s motion was previously denied and therefore this Court denied deft.'s motion at that time. However, it was the co-deft.'s motions that had been previously denied. He wants to address the substantive issues and requests the Court grant deft. an opportunity to file. Upon request, Mr. Myers provided a copy of the 9/11/91 minutes to the State. Court FINDS deft.'s time has expired; however, there was good cause for the expiration and it is no fault of the deft.'s. Mr. Myers requested 60 days to file a petition for post conviction and COURT SO ORDERED.

NSP ... 6/25/93 @ 8:45 A.M. STATUS CHECK

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 25, 1993**

87C079346-1

The State of Nevada vs Todd M Leavitt

June 25, 1993**8:45 AM****Status Check****STATUS CHECK****Court Clerk:****SANDRA BROUGH****Reporter/Recorder:****YVONNE****VALENTIN Heard****By: Lee Gates****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Berrett, Bill A.

Attorney

Davidson, Michael D.

Attorney

Leavitt, Todd M

Defendant

JOURNAL ENTRIES

- Mr. Davidson advised he is appearing on behalf of Mr. Myers. Mr. Myers was appointed for deft.'s Post Conviction Relief; he will need 45 days more days and requests the hearing set at that time.

Further, he will need an investigator to help him prepare and requests \$1,500 in fees. There being no opposition, COURT ORDERED, matter set for hearing in 45 days. FURTHER ORDERED, Mr. Myers awarded \$1,500 for investigator fees.

CUSTODY ... 8/9/93 @ 8:45 A.M. STATUS CHECK

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 09, 1993**

87C079346-1

The State of Nevada vs Todd M Leavitt

August 09, 1993**8:45 AM****Hearing**

**EVIDENTIARY
HEARING Court
Clerk: SANDRA
BROUGH
Reporter/Recorder:
YVONNE
VALENTIN Heard
By: GATES, LEE A**

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

Leavitt, Todd M
Myers, Andrew S.
Noxon, Arthur G.

Defendant
Attorney
Attorney

JOURNAL ENTRIES

- Statement by Mr. Myers that this is the worst case of ineffective assistance of counsel he has ever seen; he believes deft. was denied a fair trial; requested the matter set for evidentiary hearing.
COURT SO ORDERED.

NSP ... MARCH 2, 1994 @ 9:30 A.M. EVIDENTIARY HEARING (TWO DAYS)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 29, 1993**

87C079346-1

The State of Nevada vs Todd M Leavitt

September 29, 1993 9:00 AM**Motion for Fees**

**NOTICE OF
MOTION FOR FEES
IN EXCESS Court
Clerk: SANDRA
BROUGH
Reporter/Recorder:
YVONNE
VALENTIN Heard
By: Lee Gates**

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

Myers, Andrew S.
Paine, Charles A.

Attorney
Attorney

JOURNAL ENTRIES

- Mr. Myers moved to withdraw for personal and business reasons. Mr. Pat McDonald will accept the assignment and Mr. Myers will not charge the County to bring Mr. McDonald up to date. COURT ORDERED, Mr. Myers is tentatively allowed to withdraw and Mr. McDonald is permitted to substitute in. Matter continued for confirmation. Deft.'s motion is hereby off calendar. NSP ... 10/6/93 @ 8:45 A.M. CONFIRMATION OF COUNSEL (MCDONALD, P) ... 3/2/94 @ 10 A.M. EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 06, 1993**

87C079346-1

The State of Nevada vs Todd M Leavitt

October 06, 1993**8:45 AM****Motion for Confirmation of
Counsel****CONFIRMATION
OF COUNSEL
(MCDONALD, P)
Court Clerk:
SANDRA BROUGH
Reporter/Recorder:
YVONNE
VALENTIN Heard
By: Lee Gates****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Kephart, William D.

Attorney

McDonald, Patrick E.

Attorney

Myers, Andrew S.

Attorney

JOURNAL ENTRIES

- Deft. not present and in custody at the Nevada Department of Prisons.

Mr. McDonald confirmed as counsel. Mr. Myers moved to withdraw and presented an order to the Court. COURT ORDERED, Mr. Myers is permitted to withdraw. Order signed in open court.

NSP 3/4/94 @ 10 A.M. EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 02, 1994**

87C079346-1

The State of Nevada vs Todd M Leavitt

March 02, 1994**9:30 AM****Hearing**

**EVIDENTIARY
HEARING Relief
Clerk: SUSAN
BURDETTE/sb
Reporter/Recorder:
JOAN GRIMES
Heard By: Lee Gates**

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

Berrett, Bill A.

Attorney

Leavitt, Todd M

Defendant

McDonald, Patrick E.

Attorney

JOURNAL ENTRIES

- Counsel approached the bench. Court recessed.

Later, Court re-convened. Upon Court's inquiry, Mr. Berrett stated Defendant was sentenced in Department XI; State advised that his file indicates that in March, 1990, the matter was transferred to District Court XI. Mr. Berrett stated he sees no reason to have this completed in Department XI; Court responded he could not transfer the case without the approval of Judge Guy and stated he would confer with Judge Guy. COURT ORDERED: MATTER CONTINUED. Mr. McDonald requested a status check for Court's findings, and COURT SO ORDERED.

CUSTODY (NSP)

03-09-94 @ 8:45 A.M. -- STATUS CHECK

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 09, 1994**

87C079346-1

The State of Nevada vs Todd M Leavitt

March 09, 1994**8:45 AM****Status Check****STATUS CHECK****Court Clerk:****SANDRA ISRAEL****Reporter/Recorder:****YVONNE****VALENTIN Heard****By: Lee Gates****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

HILL, STEVEN

Leavitt, Todd M

Attorney

Defendant

JOURNAL ENTRIES

- Following a conference at the bench, Court stated Mr. McDonald is unable to be present this morning. It spoke with counsel after the last date and pursuant to that conversation counsel and the Court feels that since Judge Guy heard the trial he would be in a better position to hear deft.'s motion. Therefore, pursuant to the stipulation of counsel, COURT ORDERED, THIS MATTER TRANSFERRED TO JUDGE GUY FOR HEARING ON DEFT.'S MOTION. Deft. requested that either he be returned to prison during the interim or that his legal papers be brought to him. COURT ORDERED, DEFT. TO BE RETURNED TO THE PRISON UNTIL THE NEW HEARING DATE. Clerk advised Dept. XI will contact counsel with the new hearing date.

NSP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 31, 1994**

87C079346-1

The State of Nevada vs Todd M Leavitt

March 31, 1994**9:00 AM****Request of Court****AT THE REQUEST****OF THE COURT****Court Clerk: TINA****HURD****Reporter/Recorder:****TERESA****DeROSSETT Heard****By: BRENNAN,****JAMES****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Gardner, Gerald J.

Attorney

JOURNAL ENTRIES

- State advised Mr. McDonald had a hearing at 11:00 a.m. in another building and could not stay.
COURT ORDERED, MATTER CONTINUED for Judge Guy to hear; Clerk to notify Mr. McDonald.
CUSTODY (NDP)
(Mr. McDonald's office notified at 1:53 p.m. this date. th)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 07, 1994**

87C079346-1

The State of Nevada vs Todd M Leavitt

April 07, 1994**9:00 AM****Request of Court**

**AT THE REQUEST
OF THE COURT
Court Clerk: NANCY
BANKS
Reporter/Recorder:
PATRICIA LOFFT
Heard By: Addeliar
Guy, III**

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

Gardner, Gerald J.
McDonald, Patrick E.

Attorney
Attorney

JOURNAL ENTRIES

- The Court has taken notice and Judge Gates appoint Andrew Myers to this case. Mr. McDonald advised Mr. Myers gave the case to him. Further, advised this Department heard the trial and it should not have been in Department VIII. COURT ORDERED, Mr. McDonald is appointed as counsel for Defendant Leavitt. Mr. McDonald advised Mr. Myers had never been able to obtain the file from Mr. Erbeck. Counsel to obtain the transcript as if what the Defendant says is correct this Court would have no problems with a new trial.

CUSTODY (NSP)

7/28/94 @ 9:00 A.M. - STATUS CHECK

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****July 28, 1994**

87C079346-1

The State of Nevada vs Todd M Leavitt

July 28, 1994**9:00 AM****Status Check****STATUS CHECK****Court Clerk: TINA
HURD****Reporter/Recorder:
PATRICIA LOFFT****Heard By: Addeliar
Guy, III****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

McDonald, Patrick E.

Attorney

Tobiasson, Melanie A.

Attorney

JOURNAL ENTRIES

- Mr. McDonald submitted a supplemental to deft.'s petition for post-conviction relief to the Court. Upon Court's inquiry, Mr. McDonald advised a hearing will take about half a day. Colloquy reference a hearing date. COURT ORDERED, matter set for hearing; Mr. McDonald to prepare an order for transport.

NDP

11-17-94 9:30 AM HEARING: POST-CONVICTION RELIEF

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 11, 1994**

87C079346-1

The State of Nevada vs Todd M Leavitt

October 11, 1994**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS 10-11-94
Court Clerk: JOYCE
BROWN
Reporter/Recorder:
PATRICIA LOFFT
Heard By: Addeliar
Guy, III**

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

McDonald, Patrick E.

Attorney

Tobiasson, Melanie A.

Attorney

JOURNAL ENTRIES

- DEFENDANT'S PRO PER MOTION FOR SUBSTITUTION AND DISMISSAL OF LEGAL COUNSEL ...DEFENDANT'S PRO PER MOTION TO STRIKE...DEFENDANT'S PRO PER MOTION TO VACATE THE EVIDENTIARY HEARING

Court advised an Order to Transport for the Defendant is needed and suggested Mr. McDonald talk to his client. Conference at Bench. COURT ORDERED matter CONTINUED and District Attorney to provide an Order to Transport.

NDP

CONTINUED TO: 11-10-94 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****November 10, 1994**

87C079346-1

The State of Nevada vs Todd M Leavitt

November 10, 1994**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS 11-10-94
Court Clerk: JOYCE
BROWN
Reporter/Recorder:
PATRICIA LOFFT
Heard By: Addeliar
Guy, III**

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

Leavitt, Todd M

Defendant

McDonald, Patrick E.

Attorney

Porterfield Jr, Owen W.

Attorney

JOURNAL ENTRIES

- DEFENDANT'S PRO PER MOTION FOR SUBSTITUTION AND DISMISSAL OF LEGAL COUNSEL.. DEFENDANT'S PRO PER MOTION TO STRIKE...DEFENDANT'S PRO PER MOTION TO VACATE THE EVIDENTIARY HEARING

Statements by Defendant concerning first motion advising that he has been unable to contact Mr. McDonald by letter or telephone. Court advised Defendant he signed an Order to bring Defendant back here so the attorney could see him. At Court's inquiry, Defendant advised he has had six attorneys on this case. Mr. McDonald advised he has reviewed all the file and will not include some things the Defendant wants because they are not proper. Mr. Porterfield stated their response will be filed today. Court sdvised Mr. McDonald to see his client and ORDERED, Defendant's Motion For Substitution and Dismissal of Legal Counsel is DENIED without prejudice; Defendant's Motion to Vacate the Evidentiary Hearing is GRANTED and the 11-17-94 hearing date is VACATED;

Defendant's Motion to Strike is taken under advisement, and matter CONTINUED for further proceedings.

NDP

12-1-94 9:00 AM FURTHER PROCEEDINGS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****December 01, 1994**

87C079346-1

The State of Nevada vs Todd M Leavitt

December 01, 1994**9:00 AM****Further Proceedings**

**FURTHER
PROCEEDINGS
Court Clerk: TINA
HURD
Reporter/Recorder:
ANITA SPRINGS-
WALKER Heard By:
Addeliar Guy, III**

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

Gardner, Gerald J.
Leavitt, Todd M
McDonald, Patrick E.

Attorney
Defendant
Attorney

JOURNAL ENTRIES

- Mr. McDonald advised we are here on Post-Conviction Relief and the last time on calendar, deft. brought an ex parte motion to have Mr. McDonald dismissed. Mr. McDonald advised he has spoken with deft. LEAVITT and deft. wants Mr. McDonald to continue to represent him and believes matters have been resolved to deft.'s satisfaction. Deft. concurred. Mr. McDonald advised he is not familiar with the Writ of Habeas Corpus and would request two weeks. COURT ORDERED, CONTINUED two weeks. Mr. McDonald advised deft. would request to be returned to Ely in the meantime. COURT ORDERED, DENIED as it is too hard for counsel to reach deft. and there are massive snow storms there. Deft. requested a visit with his family since he will be here for his son's birthday. COURT ORDERED, GRANTED. Mr. McDonald to prepare an Order.

NPD

12-15-94 9:00 AM DEFT.'S PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****December 15, 1994**

87C079346-1

The State of Nevada vs Todd M Leavitt

December 15, 1994**9:00 AM****Petition for Writ of Habeas
Corpus**

**DEFENDANT'S
PETITION FOR
WRIT OF HABEAS
CORPUS Court
Clerk: TINA HURD
Reporter/Recorder:
ANITA SPRINGS-
WALKER Heard By:
Addeliar Guy, III**

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

Gardner, Gerald J.
Leavitt, Todd M
McDonald, Patrick E.

Attorney
Defendant
Attorney

JOURNAL ENTRIES

- Court advised he has read the motion and does not understand why it takes two years to come to hearing. The motion was filed timely, however, deft. has had several attorneys in the meantime. Court advised several items in the motion should have been taken up on appeal as they concern items before the jury and they have the right to determine who is telling the truth and who is not. Court stated ground #8 alleges ineffective assistance of counsel and the Court believes there should be a hearing on that. Mr. McDonald advised his supplemental dealt solely with that issue. State advised they would oppose the setting of a hearing in this matter. This trial took place many years ago and deft.'s time to file Post-Conviction Relief should have taken place in 1990. The State would be at an extreme disadvantage as the deputy handling the matter would have no independent recollection. Court advised he would normally agree but this case has been grossly mishandled. Mr.

McDonald advised he saw Mr. Erbeck and inquired reference this case and was advised that Mr. Erbeck has found an ROC stating he turned over the entire file to Craig Creel, however, Mr. McDonald advised he has not been able to verify this. COURT ORDERED, matter set for hearing. NDP

4-6-95 10:00 AM HEARING: POST-CONVICTION RELIEF

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 06, 1995**

87C079346-1

The State of Nevada vs Todd M Leavitt

April 06, 1995**10:00 AM****Hearing**

**HEARING: POST
CONVICTION
RELIEF Court Clerk:
TINA HURD
Reporter/Recorder:
JANICE LISTON
Heard By:
BRENNAN, JAMES**

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

Leavitt, Todd M

Defendant

McDonald, Patrick E.

Attorney

Robinson, Lynn M.

Attorney

JOURNAL ENTRIES

- Mr. McDonald advised he did not know Judge Guy was ill and received no notice, however, he has spoken with the Clerk, the District Attorney and Mr. Erbeck, who is a witness in this matter, and would ask for a June 1 date for this hearing. Mr. McDonald advised he would also ask the Court to order that the deft. spend the night tonight so he may speak with him and then be released back to the prison tomorrow. Further, deft's father and stepmother are here from California and Mr. McDonald requested a contact visit. State had no objection. Colloquy between Court and Clerk reference Judge Guy's policy as to contact visits. COURT ORDERED, deft. to remain at the detention center overnight and will be allowed a contact visit in line with Judge Guy's policy; matter CONTINUED.

NDP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 01, 1995**

87C079346-1

The State of Nevada vs Todd M Leavitt

June 01, 1995**10:00 AM****Hearing**

**HEARING: POST
CONVICTION
RELIEF Court Clerk:
TINA HURD
Reporter/Recorder:
ANITA SPRINGS-
WALKER Heard By:
Addeliar Guy, III**

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

Jorgenson, Eric G.

Attorney

Leavitt, Todd M

Defendant

McDonald, Patrick E.

Attorney

JOURNAL ENTRIES

- Court advised he looked through the records yesterday and there are some glaring errors and several judges involved. Judge Gates appears to have overruled Judge Wendell and another judge and the matter should have been here in this Dept. Court advised the co-deft. Emil was heard in Dept. VIII, not this deft. Court advised he had requested counsel get this straightened out. Mr. McDonald stated he believes he is deft's fifth attorney since the preliminary hearing and he did not do those motions. Mr. McDonald advised he is not in a position today to address all the issues the Court has raised on procedural errors and needs to go through whatever records deft. has. Further, Mr. McDonald advised he needs to speak with Mr. Myers and Mr. Jorgenson. Mr. McDonald requested 30 days and would request deft. remain at Indian Springs where he is much more accessible than he is at Ely. COURT ORDERED, deft. REMANDED to the custody of the Sheriff to be held at Indian Springs until further order of this Court. FURTHER ORDERED, matter CONTINUED

thirty days and deft. to be present at the next hearing. Officer Harrah from the Nevada Dept. of Prisons present and, upon inquiry by the State, advised he did not need another order for transport.
NDP

7-6-95 9:00 AM STATUS CHECK: CASE FILE / PROCEDURAL ERRORS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 06, 1995**

87C079346-1

The State of Nevada vs Todd M Leavitt

July 06, 1995**9:00 AM****Status Check****STATUS CHECK:**

**CASE FILE /
PROCEDURAL
ERRORS Court
Clerk: JOYCE
BROWN**

**Reporter/Recorder:
ANITA SPRINGS-
WALKER Heard By:
GUY, III, ADDELIAR
D**

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

Bloxham, Ronald C.

Attorney

Leavitt, Todd M

Defendant

McDonald, Patrick E.

Attorney

JOURNAL ENTRIES

- Mr. McDonald advised they were here a month ago to start an evidentiary hearing; he and Mr. Jorgenson met with Court in Chambers, and did not find motions filed by State or previous Counsel. He further advised Judge Gates found good cause and allowed him to proceed with evidentiary hearing; also found after his conviction and sentence, and his appeal denied by the Supreme Court, there were filings made by the Defendant on his own behalf; rulings were made, but he did not receive them in a timely manner and could not respond to them. Mr. McDonald advised that is what Judge Gates relied upon to allow the hearing. Mr. McDonald suggested that the matter be set for an early afternoon some time, he would bring in the documents and present to the Court and to the State

as to when decisions were made and how the Defendant responded. At Court's inquiry as to what happened between April of 1993 and July 1995, Mr. McDonald advised at one time Deputy District Attorney Barrett told him that this Court had heard the trial and Defendant's Mother and Step-father retained or attempted to retain an attorney and at that time this Court recused because of a conflict of interest. COURT ORDERED, matter CONTINUED and Counsel to bring in documents for Court to view. Mr. McDonald advised there were two Defendants in the case originally and on the eve of trial, the original Counsel was replaced by Mr. Erbeck and a motion to bifurcate was granted. The other case was heard by Judge Wendell and this was heard in this Court some five months later; and Judge Wendell had denied his initial Pro Per petition for Post- Conviction Relief and denied a motion for enlargement of time. Defendant requested that he be allowed to return to prison and then returned for the next hearing. Court stated no objections and SO ORDERED.

NDP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 12, 1995**

87C079346-1

The State of Nevada vs Todd M Leavitt

July 12, 1995**11:00 AM****Status Check**

STATUS CHECK:
CASE FILE /
PROCEDURAL
ERRORS Court
Clerk: TINA HURD
Reporter/Recorder:
ANITA SPRINGS-
WALKER Heard By:
Addeliar Guy, III

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

Bloxham, Ronald C.

Attorney

Leavitt, Todd M

Defendant

McDonald, Patrick E.

Attorney

JOURNAL ENTRIES

- Mr. McDonald advised, when in Court last, he informed the Court at that time he would review the record as best he could and explain how it got to this point. On 5/26/88, this deft. was sentenced to two Lifes Without the Possibility of Parole. On 8-6-88, James Erbeck, who was trial counsel, brought a motion to withdraw that was granted and Craig Creel was appointed for appeal purposes. The next entry in the minutes is 8-8-90 and is Mr. Creel's motion to withdraw which was granted. Mr. McDonald advised he cannot find any other entry where another attorney was appointed to assist the deft. until July of 1992 when Andy Myers was appointed. On 11-19-90, in Dept. VIII, the judge made a ruling on a pro per motion of notice of intent to file post-conviction relief and good cause for delay. The deft. was not present and the Court granted the enlargement of time to 12-28-90. Deft. was not in court and never received a copy of the order enlarging his time. On or about 12-18-90, deft. wrote the

Clerk of the Court, Loretta Bowman, requesting that information. On 12-27-90, deft. received a response back advising he had until 12-28-90 to file his petition for post-conviction relief. Upon receiving that response, deft. filed a motion for enlargement of time in January of 1991 which was heard again by Dept. VIII and Mr. Grossman appeared and advised they had not seen the documents. On 1-16-91, Mr. Grossman requested 30-45 days to get what he needed from the District Attorney and file a petition. In the interim, the Supreme Court denied deft's appeal. The matter never appears back on calendar. Mr. McDonald advised he does have copies of letters sent by Mr. Grossman and courtesy copied to the deft. refunding the balance of the retainer they had given Mr. Grossman and, by the tenor of the letters, it appears they were not able to pay his entire fee so he did not file the petition. After receiving the letter from Mr. Grossman, deft. sent more pro per motions that were set before Judge Gates on 9-11-91 and the State advised they never filed a response as the motions were previously denied by Judge Wendell. Mr. McDonald advised he cannot find in the record where Judge Wendell denied any motions. Mr. McDonald advised his contention is that information was erroneously given to Judge Gates and he denied the motions. On 7-29-92, Judge Gates appointed Andy Myers to look into the file and report back what had happened in this case. Mr. McDonald advised he does not have a transcript of the 4-26-93 hearing to know what Mr. Myers informed the Court. Court requested a transcript of that proceeding. Mr. McDonald advised Mr. Myers appeared six different times from 9-30-92 to 3-26-93 and each time told the Court he had been unable to obtain the file from Mr. Creel or Mr. Erbeck. Finally, on 3-26-93, Mr. Erbeck stated he may have lost the file and cannot find it. On 4-26-93, the minutes reflect Mr. Myers presented his argument to the Court and he reviewed the matter with the Court Clerk and the Supreme Court Clerk and he believed deft's motion for enlargement of time was never heard, however, Ms. Lowry earnestly represented to the Court that the motion was denied. Judge Gates found the time had expired but that there was good cause for delay and granted time for Mr. Myers to file a supplemental to the pro per petition for post-conviction relief. Court noted for the record that the appeal was denied. Mr. McDonald advised counsel was not appointed for post-conviction relief after the appeal was denied, deft. was never notified he was granted an enlargement of time and deft. was never present when a number of these matters were heard. State advised they filed a return to the petition for post-conviction relief on 11-17-94. Mr. McDonald advised again he cannot find in the minutes where it was ever denied. Colloquy reference possible denial of any motions. Court advised Judge Wendell handled the co-deft. and this Court handled deft. Leavitt and, somewhere in between, Judge Gates and Judge Wendell apparently thought it was their case and someone finally advised, no, it was tried before Judge Guy, however, this Court believes he is bound by the record of the other judges. Court advised he has Judge Wendell's order from 1-16-91 denying without prejudice the motion to enlarge time and Mr. McDonald has indicated deft. was not present and was not advised. Court advised, with the file in this status, he is inclined to grant deft. the motion to file his post-conviction relief and, if the State wants a stay to contest this matter, the Court will grant it. State advised he has a real problem with where we are at now. Court advised deft. was not present when the order was done and we have no records. State advised, right now, he does not believe the issues are properly formed or phrased for the State to respond to; the specificity is not laid out in the petition. Court stated he believes the investigator was hired prior to the Court receiving the order. Mr. McDonald advised the investigator's record would show to the contrary, that he did nothing until trial started. State advised of other problems with the pleadings. Court advised he has granted deft. time to file whatever he

needs to file and ORDERED, enlargement necessary is GRANTED for deft. to proceed with the post-conviction relief and, if the State wants to file a motion for more definite statement, the Court has no problem with that. State advised, right now, this is a naked, bald allegation and the Supreme Court has stated no hearing is required and requested the Court order defense counsel to prepare, with specificity, where he feels trial counsel was ineffective so the State can respond. Upon Court's inquiry, Mr. McDonald advised he has three boxes of materials to review and to give the State specificity, he would ask for a minimum of 30 days. COURT ORDERED, Mr. McDonald has 45 days to file the petition. Court stated, with the record as muddled as it is, the Court feels the deft. has the right to file his petition. Court directed the Court Recorder to prepare a transcript of this record and provide it to counsel so they may know what to do. Mr. McDonald requested deft. be kept at Indian Springs so he can have access to him. COURT ORDERED, if there are no security problems, deft. is to remain at Indian Springs until September 7 or until further order of the Court.

NDP

8-31-95 9:00 AM STATUS CHECK: PETITION FOR POST-CONVICTION RELIEF

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 31, 1995**

87C079346-1

The State of Nevada vs Todd M Leavitt

August 31, 1995**9:00 AM****Status Check**

STATUS CHECK:
PETITION FOR
POST-
CONVICTION
RELIEF Court Clerk:
JOYCE BROWN
Reporter/Recorder:
ANITA SPRINGS-
WALKER Heard By:
GUY, III, ADDELIAR
D

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

Brasier, Karen E.

Attorney

Leavitt, Todd M

Defendant

Rushton, Kimberly M.

Attorney

JOURNAL ENTRIES

- Ms. Brasier advised she was appearing for Patrick McDonald and he requested forty-five more days to add specifics to the Post-Conviction Relief; and he has spoken to two witness, but needs more time. Conference at Bench. COURT ORDERED, matter CONTINUED for ninety days.
 NDP

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****November 30, 1995**

87C079346-1

The State of Nevada vs Todd M Leavitt

November 30, 1995**9:00 AM****Status Check****STATUS CHECK:
PETITION FOR
POST-
CONVICTION
RELIEF Court Clerk:
SUSAN
BURDETTE/sb
Reporter/Recorder:
ANITA SPRINGS-
WALKER Heard By:
ROBISON,
NORMAN C.****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Leavitt, Todd M

Defendant

McDonald, Patrick E.

Attorney

Noxon, Arthur G.

Attorney

JOURNAL ENTRIES

- Mr. McDonald requested an additional two (2) weeks to complete the Supplemental Petition. Mr. Noxon noted no opposition and requested to set the time for State's response in three (3) weeks if the Supplement has been completed. COURT ORDERED, matter CONTINUED.
NDP

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****December 21, 1995**

87C079346-1

The State of Nevada vs Todd M Leavitt

December 21, 1995**9:00 AM****Status Check****STATUS CHECK:
PETITION FOR
POST-
CONVICTION
RELIEF Court Clerk:
JOYCE BROWN
Reporter/Recorder:
ANITA SPRINGS-
WALKER Heard By:
ROBISON,
NORMAN C.****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Brasier, Karen E.

Attorney

Noxon, Arthur G.

Attorney

JOURNAL ENTRIES

- Ms. Brasier requested a continuance of two weeks. No objection by State. COURT ORDERED, matter CONTINUED. Mr. Noxon requested that a time be set at that time for the State's response, and Court agreed to the request.
NDP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 04, 1996**

87C079346-1

The State of Nevada vs Todd M Leavitt

January 04, 1996**9:00 AM****Status Check**

**STATUS CHECK:
PETITION FOR
POST-
CONVICTION
RELIEF Court Clerk:
JOYCE BROWN
Reporter/Recorder:
ANITA SPRINGS-
WALKER Heard By:
ROBISON,
NORMAN C.**

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

Leavitt, Todd M
Owens, Steven S.

Defendant
Attorney

JOURNAL ENTRIES

- Mr. Owens advised that Mr. McDonald had checked in earlier with him and Mr. McDonald was requesting an additional week. At Court's inquiry, Defendant waived the presence of Counsel today. COURT ORDERED, matter CONTINUED.
NDP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 18, 1996**

87C079346-1

The State of Nevada vs Todd M Leavitt

January 18, 1996**9:00 AM****Status Check**

STATUS CHECK:
PETITION FOR
POST-
CONVICTION
RELIEF Court Clerk:
JOYCE BROWN
Reporter/Recorder:
ANITA SPRINGS-
WALKER Heard By:
DOUGLAS,
MICHAEL L

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

Herndon, Douglas W.
 Leavitt, Todd M
 McDonald, Patrick E.

Attorney
 Defendant
 Attorney

JOURNAL ENTRIES

- Mr. McDonald advised the matter was on calendar to check the progress in filing an amended petition with the State, but due to circumstances in his office which date back to early November, he had not been able to complete the petition. Mr. McDonald requested a continuance of two weeks. No objections by State. COURT ORDERED. matter CONTINUED.
 NCP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 01, 1996**

87C079346-1

The State of Nevada vs Todd M Leavitt

February 01, 1996**9:00 AM****Status Check**

STATUS CHECK:
PETITION FOR
POST-
CONVICTION
RELIEF Court Clerk:
JOYCE BROWN
Reporter/Recorder:
ANITA SPRINGS-
WALKER Heard By:
Michael Douglas

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

Coumou, Lucinda L.
 Leavitt, Todd M
 McDonald, Patrick E.

Attorney
 Defendant
 Attorney

JOURNAL ENTRIES

- Mr. McDonald advised he was to have the supplemental filed today, but could not do that because of illness and asked to have until close of Clerk's office on Monday to file. He further advised he would ROC to the District Attorney's office, as they would want to file a written response, then a date could be set. COURT ORDERED, matter CONTINUED for argument and if nothing is filed by then, Court will take the matter off calendar and then Counsel can come back. Mr. McDonald advised the matter had been set for an evidentiary hearing and on that day the State convinced the Court a supplemental needed to be filed. COURT ORDERED, matter would be on for ARGUMENT AND EVIDENTIARY HEARING.

NDP

87C079346-1

3-8-96 9:00 AM ARGUMENT...EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 22, 1996**

87C079346-1

The State of Nevada vs Todd M Leavitt

March 22, 1996**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS (03-22-96)
Court Clerk: SUSAN
BURDETTE/sb
Reporter/Recorder:
ANITA SPRINGS-
WALKER Heard By:
Michael Douglas**

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

Leavitt, Todd M

Defendant

McDonald, Patrick E.

Attorney

Owens, Steven S.

Attorney

JOURNAL ENTRIES

- ARGUMENT: DEFT'S PETITION FOR POST-CONVICTION RELIEF ... EVIDENTIARY HEARING
At 9:28 a.m., Court convened with all parties present. Mr. McDonald noted he has not received any written response from the State. Mr. Owens stated he has not filed anything but does object to the Writ of Habeas Corpus for Post-Conviction Relief. Mr. Owens moved to invoke the exclusionary rule, and COURT SO ORDERED. Mr. McDonald stated he would submit it on what he has filed. Testimony and exhibits presented. (See worksheets.) After the lunch recess, Mr. McDonald stated for the record that Mr. Owens and he met with Court in chambers regarding the difference in testimony in the Preliminary Hearing in which both Defts were present, and the trial transcript of Deft. Emil in Dept. VIII and the trial transcript of Deft. Leavitt in Dept. XI, and will extract portions of the trial transcripts. Mr. Owens concurred and stated he has no objection to them being made a part of the record here. Testimony and exhibits presented. (See worksheets.) Following the testimony of Deft.

Leavitt, Defense rested. Testimony and exhibits presented. (See worksheets.) Following the testimony of Mr. O'Callaghan, State rested. Court directed counsel to file supplemental brief as to ineffective assistance of counsel and whether it makes a difference in the outcome, augmenting this record with portions of the trial transcript and the Preliminary Hearing transcript. Court directed counsel to be concise as to the areas raised as this matter will not be retried at this time. COURT ORDERED, Briefing Schedule to issue: Defense to file SUPPLEMENT by April 22, 1996; State to file REPLY by May 6; Defense to file RESPONSE by May 13; and matter set for HEARING COURT's DECISION. Court noted that if the timing changes, Court will so notify counsel. At 4:33 p.m., Court recessed.

NDP

05-31-96 9:00 AM HEARING: COURT'S DECISION

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 31, 1996**

87C079346-1

The State of Nevada vs Todd M Leavitt

May 31, 1996**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS (5-31-96)
Court Clerk: SUSAN
BURDETTE/sb
Relief Clerk:
DOROTHIE KROLL
Reporter/Recorder:
ANITA SPRINGS-
WALKER Heard By:
Michael Douglas**

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

PRESENT:	Bloxham, Ronald C.	Attorney
	Leavitt, Todd M	Defendant
	McDonald, Patrick E.	Attorney

JOURNAL ENTRIES

- DEFT'S PRO PER MOTION FOR APPOINTMENT OF COUNSEL...DEFT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS...DEFT'S PRO PER MOTION FOR SCHEDULING OF PREEMPTORY WRIT OF MANDAMUS AND MOTION FOR ORDER TO PRODUCE... DEFT'S PRO PER PETITION FOR PREEMPTORY WRIT OF MANDAMUS...HEARING: COURT'S DECISION RE: DEFT'S PETITION FOR POST-CONVICTION RELIEF

Court found that because Deft has counsel of record, Deft's Pro Per Motions are fugitive documents, the documents are not properly before the Court and premature, and ORDERED, Deft's Pro Per Motion for Appoint of Counsel DENIED; Deft's Pro Per Motion for Leave to Proceed in Forma Pauperis DENIED; Deft's Pro Per Motion for Scheduling of Preemptory Writ of Mandamus and

Motion for Order to Produce DENIED; Deft's Pro Per Petition for Preemptory Writ of Mandus DENIED. Arguments by Mr. McDonald as to Deft's Pro Per Motions, and noting the disclaimer with the conclusion to State's Opposition to the Motions, noting the ineffective assistance of counsel which made a difference in Deft's trial, and stating he has filed a supplemental package.

Court noted that in regards to Deft's Petition for Post-Conviction Relief, the direct appeal was dismissed by the Nevada Supreme Court in September, 1989, noting the issues that there was no physical evidence connecting Deft. to the crime and the trial was held five (5) years after the murder. As to ineffective assistance of counsel, Court noted the Supreme Court, in reviewing competency of counsel, basically starts with the presumption that counsel is competent and then allows the parties to work backwards. Court stated his findings as to the questions as to whether the pre-trial preparation was adequate, cited the Strickland case, and noted the significant issues of (1) a jailhouse snitch which Mr. Erbeck was able to keep out of the trial; a telephone conversation Mr. Erbeck was able to keep out; and (3) some fiber evidence. As to the hearing before the Court, Court noted his concern that Mr. Erbeck's file was misplaced, he had limited recollection of what happened inside and outside the Courtroom because of the delay in this matter coming before the Court, so he was attempting to reconstruction his memory based on having certain transcripts before Court, and ORDERED, Deft's Petition for Post-Conviction Relief DENIED, finding that Mr. Erbeck's performance was bothersome as to effective counsel or lack thereof after reviewing the total transcript, the position at time of trial, and inability to show that it would have made a difference as to affecting the outcome. Mr. McDonald noted Deft. has a right to appeal this decision, and requested the Court appoint counsel for Deft. to put together an effective appeal. Court directed Mr. McDonald to submit the request in writing because at this time, Court is not sure if Deft. is entitled to appointment of additional counsel. Statement by Mr. McDonald, who then requested to withdraw as counsel of record. COURT ORDERED, request GRANTED, which now frees Deft. to petition the Court in forma pauperis in any matter. Mr. McDonald requested the transcript be prepared and made a part of this record, and COURT SO ORDERED.

NDP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 11, 1996**

87C079346-1

The State of Nevada vs Todd M Leavitt

July 11, 1996**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS (07-11-96)
Court Clerk: SUSAN
BURDETTE/sb
Relief Clerk: ALICE
LAIZURE
Reporter/Recorder:
ANITA SPRINGS-
WALKER Heard By:
Michael Douglas**

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

Coumou, Lucinda L.

Attorney

JOURNAL ENTRIES

- DEFT'S PRO PER MOTION FOR APPOINTMENT OF COUNSEL ... DEFT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS ON APPEAL TO THE SUPREME COURT
Court noted he is not clear as to whether previous counsel was appointed by the Court or retained by Deft's family. Court further noted Mr. MacDonald McDonald's request to withdraw after representing Deft. on the Writ was granted; pursuant to NRS 177.345, the Public Defender's office is not available due to a previous conflict, and ORDERED, matters CONTINUED; Court's office to contact Joseph Abood, Esq., as to representing Deft. on appeal. COURT FURTHER ORDERED, matter set for CONFIRMATION OF COUNSEL.

NDP

07-18-96 9:00 AM CONFIRMATION OF COUNSEL (JOSEPH ABOOD) ... DEFT'S PRO PER MOTION FOR APPOINTMENT OF COUNSEL ... DEFT'S PRO PER MOTION FOR LEAVE TO PROCEED IN

FORMA PAUPREIS ON APPEAL TO THE SUPREME COURT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 18, 1996**

87C079346-1

The State of Nevada vs Todd M Leavitt

July 18, 1996**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS 7-18-96
Court Clerk: JOYCE
BROWN
Reporter/Recorder:
ANITA SPRINGS-
WALKER Heard By:
Michael Douglas**

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

Noxon, Arthur G.

Attorney

Oram, Christopher R.

Attorney

JOURNAL ENTRIES

- CONFIRMATION OF COUNSEL (ABOOD)...DEFT'S PRO PER MOTION FOR APPOINTMENT OF COUNSEL...DEFT'S PRO PER MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS ON APPEAL TO THE SUPREME COURT

Court advised the original call went out to Mr. Abood, tried to contact him last night as he was Counsel on direct appeal and on a writ which this Court dealt with previously, and no authority to retain an attorney at this time. COURT ORDERED, Deft's Pro Per Motion For Appointment Of Counsel DENIED; Deft's Pro Per Motion For Leave To Proceed In Forma Pauperis On Appeal To The Supreme Court GRANTED; and no action on Confirmation of Counsel.

NDP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 24, 1996**

87C079346-1

The State of Nevada vs Todd M Leavitt

September 24, 1996**9:00 AM****Request of Court**

**AT THE REQUEST
OF THE COURT PER
SUPREME COURT
ORDER Court Clerk:
JOYCE BROWN
Reporter/Recorder:
ANITA SPRINGS-
WALKER Heard By:
Michael Douglas**

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

PRESENT: Herndon, Douglas W. Attorney

JOURNAL ENTRIES

- Court advised Defendant Leavitt had petitioned this Court for post conviction relief which was denied by this Court; no formal order had been prepared and the District Attorney needed to prepare an order. Court advised the petition was denied on May 31, 1996. After reviewing the file, Mr. Herndon advised Mr. Bloxham was in Court on that date and he would see that the order was prepared. COURT FURTHER ORDERED, matter continued for a status check concerning the order. Court advised he had an order from the State Supreme Court concerning this matter; and this Court did not wish to reconsider the matter.

NDP

10-10-96 9:00 STATUS CHECK: AS TO ORDER

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 10, 1996**

87C079346-1

The State of Nevada vs Todd M Leavitt

October 10, 1996**9:00 AM****Status Check****STATUS CHECK:****AS TO ORDER****Court Clerk: JOYCE
BROWN****Reporter/Recorder:****ANITA SPRINGS-****WALKER Heard By:****Michael Douglas****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Noxon, Arthur G.

Attorney

JOURNAL ENTRIES

- Court advised State was to prepare an order. Mr. Noxon advised Findings Of Fact, Conclusions Of Law was filed and sent to Pat McDonald and presented a filed copy to the Court. Court advised Clerk's office needed to send a copy to the State Supreme Court as they had not received a final order.
NDP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 08, 1999**

87C079346-1

The State of Nevada vs Todd M Leavitt

July 08, 1999**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS (7-8-99)
Court Clerk: JOYCE
BROWN
Reporter/Recorder:
CATHY NELSON
Heard By: Michael
Douglas**

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

Kephart, William D.

Attorney

JOURNAL ENTRIES

- PATRICIA M. ERICKSON, ESQ'S REQUEST TO WITHDRAW AS COUNSEL AND DEFT TO FILE PRO PER PETITION FOR WRIT OF HABEAS CORPUS...DEFT'S PRO PER MOTION FOR APPOINTMENT OF EFFECTIVE COUNSEL DURING LITIGATION OF PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

Ms. Erickson advised she was Federal Counsel for this Defendant; Mr. Maglaris, who was Counsel of record, had been disbarred; and she wanted to be appointed. She further advised the first matter was calendared incorrectly; it should have been "Patricia M. Erickson, Esq's Request For Withdrawal of Chris Maglaris as Counsel and Deft To File Pro Per Petition For Writ Of Habeas Corpus". Petition For Writ of Habeas Corpus with Exhibits FILED IN OPEN COURT and the District Attorney served with a copy of the petition and exhibits.

Mr. Kephart advised for the record, they did receive on July 6th a copy of the motion for appointment of Counsel; he was going to ask for an opportunity to answer. He further advised Mr. Roger would be handling the matter and he needed to review it. Court was not ready to rule on this; it was

important to have a complete record; and Court would like something from the State. The following briefing schedule was set:

STATE'S RESPONSE 7-22-99 REPLY 7-29-99 ARGUMENT 8-12-99

Court noted a document in the file, an order dated 9-30-91, denying Deft's petition for post-conviction relief and dismissal of appeal. Court noted Mr. Wolf had been attorney for the Defendant; the motion was brought by Mr. Maglaris; and he was dismissed in April of 1999.

NDP

8-12-99 9:00 AM ARGUMENT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 12, 1999**

87C079346-1

The State of Nevada vs Todd M Leavitt

August 12, 1999**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS (08-12-99)
Court Clerk: SUSAN
BURDETTE/sb
Reporter/Recorder:
CATHY NELSON
Heard By: Michael
Douglas**

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

PRESENT: O'Callaghan, Michael N. Attorney

JOURNAL ENTRIES

- DEFT'S MOTION TO EXTEND TIME ... ARGUMENT: PATRICIA M. ERICKSON, ESQ' REQUEST FOR WITHDRAWAL OF CHRIS MAGLARAS AS COUNSEL AND DEFT TO FILE PRO PER PETITION FOR WRIT OF HABEAS CORPUS ... ARGUMENT: DEFT'S PRO PER MOTION FOR APPOINTMENT OF EFFECTIVE COUNSEL DURING LITIGATION OF PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

Patricia Erickson, Esq. present. Ms. Erickson stated she was involved in helping an attorney on a capital brief and requested one (1) more week to respond. She further stated she wished to clarify that the State has responded alleging procedural bar and laches. Court found that will be dealt with at time of argument, and ORDERED, matters set for ARGUMENT IN ONE (1) WEEK. Ms. Erickson requested that she have one (1) week to file her response and the matter be set for argument one (1) week thereafter. COURT ORDERED, request DENIED; matters will be argued in ONE (1) WEEK.
NDP

08-19-99 9:00 AM ARGUMENT: PATRICIA M. ERICKSON, ESQ'S REQUEST FOR WITHDRAWAL

OF CHRIS MAGLARAS AS COUNSEL AND DEFT TO FILE PRO PER PETITION FOR WRIT OF HABEAS CORPUS ... ARGUMENT: DEFT'S PRO PER MOTION FOR APPOINTMENT OF EFFECTIVE COUNSEL DURING LITIGATION OF PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 19, 1999**

87C079346-1

The State of Nevada vs Todd M Leavitt

August 19, 1999**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS (8-19-99)
Court Clerk: JOYCE
BROWN/JB Relief
Clerk: KATHY
STAITE
Reporter/Recorder:
CATHY NELSON
Heard By: Michael
Douglas**

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

PRESENT: O'Callaghan, Michael N. Attorney

JOURNAL ENTRIES

- ARGUMENT: PATRICIA M. ERICKSON, ESQ'S REQUEST FOR WITHDRAWAL OF CHRIS MAGLARAS AS COUNSEL AND DEFT TO FILE PRO PER PETITION FOR WRIT OF HABEAS CORPUS...ARGUMENT: DEFT'S PRO PER MOTION FOR APPOINTMENT OF EFFECTIVE COUNSEL DURING LITIGATION OF PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

Ms. Erickson advised this was not her request exactly, but because of a Federal Court order; however, if the Court thought someone else should be appointed, that would be fine. She further advised she had represented the Defendant for six years and thought the case needed Counsel appointed. Mr. O'Callaghan advised there had to be a time when this had to end.

Court advised the previous Counsel had been dis-barred; the Court had a request for pro per petition; the State had asserted there had been excessive petitions filed; as to appeal the Defendant

had a right to appointment of Counsel; under Habeas Corpus it was under certain circumstances only; and the Court's preference was not to appoint Counsel noting no justification statutorily to do so. Ms. Erickson presented argument. Court advised he had not submitted anything new to this Court to qualify for that representation; nothing from the Defendant showing he was entitled to that; and looking at flat statutory requirements, he had not said he was indigent. Court further advised it was the Defendant's obligation; if Ms. Erickson wanted to assist him, that was her choice. Ms. Erickson asked for a continuance of two weeks. Mr. O'Callaghan advised the problem was repeated petitions. COURT ORDERED matter CONTINUED two weeks and they would be discussing the indigent status.

NDP

CONTINUED TO: 9-7-99 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 07, 1999**

87C079346-1

The State of Nevada vs Todd M Leavitt

September 07, 1999**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS (09-07-99)
Court Clerk: SUSAN
BURDETTE/sb
Reporter/Recorder:
CATHY NELSON
Heard By: Michael
Douglas**

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

PRESENT: O'Callaghan, Michael N. Attorney

JOURNAL ENTRIES

- ARGUMENT: PATRICIA M. ERICKSON, ESQ'S REQUEST FOR WITHDRAWAL OF CHRIS MAGLARAS AS COUNSEL AND DEFT. TO FILE PRO PER PETITION FOR WRIT OF HABEAS CORPUS ... ARGUMENT: DEFT'S PRO PER MOTION FOR APPOINTMENT OF EFFECTIVE COUNSEL DURING LITIGATION OF PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

Ms. Erickson stated that on September 3, she filed Deft's Declaration, which clearly establishes that Deft. has not been employed in the past twelve (12) months and has \$268.00 in the Inmate Account; she has received from the Department of Prisons an Inmate Account statement for Deft. from August, 1998, through August 18, 1999, which indicates that Deft. has basically received \$100.00 per month in the inmate account. As to the appointment of counsel, she requested that counsel be appointed, noting the aggravating matters; if this case is overturned for any reason, the death penalty challenge is subject to be overturned and the consequences are considerable to Deft., citing NRS 34.750, and noting the State cited an incorrect ruling as to procedural bar; this issue has never been ruled on by a

State Court, cited NRS 34.726 is not applicable as it was signed in 1993 and prior to same, the post-conviction was a two-step process, and gave a brief explanation of same. Court noted the issue as to Chris Maglaras. Ms. Erickson stated this is a very tactical area, noting that Deft. is on death row and does not have access to law books, noted the importance of him doing the research, and noted the complexity of the issue and the inability of Deft. to do research on his own, and requested that counsel be appointed, citing NRS 34.750, noting Deft. being on death row in Ely is complicated. Mr. O'Callaghan stated it is only complicated as to defense counsel as Ms. Erickson is boot strapping; it has to come to an end at some point; and argued that with regards to the Affidavit brought up by Ms. Erickson, he has not seen the Affidavit as to indigence. Ms. Erickson showed same to Mr. O'Callaghan. Court stated he has reviewed same, and the papers supplied to the Court indicating that Deft. is indigent. As to Mr. Maglaras, COURT ORDERED, he is RELIEVED as COUNSEL due to his disbarment. As to the issue of appointment of counsel, Court found Deft. received Life Without Possibility of Parole in this case, it is not mandatory that this Court appoint counsel for post-conviction relief, and ORDERED, Appointment of counsel DENIED as this Court feels it would be inappropriate; Deft. ALLOWED TO PROCEED IN PRO PER based on the Affidavit, noting this does not mean that the Court is making any ruling at this point. Mr. O'Callaghan stated he has not responded to the merits as it is a fugitive document. Court stated he will accept it as a Post-Conviction document filed by Deft. Mr. O'Callaghan requested sixty (60) days to respond, and COURT SO ORDERED, noting that if during the sixty (60) days, Deft. does not wish to proceed with what has been filed on his behalf, the Court is to be notified. Upon Mr. O'Callaghan's inquiry as to Ms. Erickson representing Deft. pro bono, Court stated he will leave it up to Deft. and Ms. Erickson. Ms. Erickson stated she can be served and will make sure Deft. receives copies of the State's reply, noting the State has filed an Opposition to the Motion for Appointment of Counsel. COURT ORDERED, Briefing Schedule to issue: - State to respond by November 16; - Ms. Erickson to reply by December 14, 1999; and matter set for HEARING.

NDP

01-12-00 9:00 AM HEARING: DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 21, 1999**

87C079346-1

The State of Nevada vs Todd M Leavitt

September 21, 1999**9:00 AM****Motion**

**STATE'S REQUEST
CLARIFICATION
OF ISSUES TO
WHICH THE STATE
WILL RESPOND
Court Clerk: SUSAN
BURDETTE/sb
Relief Clerk:
BLANCA
MADRIGAL
Reporter/Recorder:
CATHY NELSON
Heard By: Michael
Douglas**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Rutledge, Brian S.

Attorney

JOURNAL ENTRIES

- Deft. not present. Mr. Rutledge stated the Deputy made an indication in the file that the State needs to file a Response to the Petition for Writ of Habeas Corpus, and noted the State filed a response July 20. Court found that due to possible representation of Deft., Ms. Erickson requests this matter be continued to Monday; she will appear at that time as to whether she will be filing a Supplemental Petition on behalf of Deft., and ORDERED, matter set for STATUS CHECK.

NDP

09-27-99 9:00 AM STATUS CHECK: DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS

01-12-00 9:00 AM HEARING: DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS

PRINT DATE: 11/19/2015

Page 62 of 76

Minutes Date: January 16, 1991

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 27, 1999**

87C079346-1

The State of Nevada vs Todd M Leavitt

September 27, 1999**9:00 AM****Status Check**

**STATUS CHECK:
DEFT'S PRO PER
PETITION FOR
WRIT OF HABEAS
CORPUS Court
Clerk: JOYCE
BROWN/JB Relief
Clerk: BLANCA
MADRIGAL
Reporter/Recorder:
CATHY NELSON
Heard By: Douglas,
Michael L**

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

Rutledge, Brian S.

Attorney

JOURNAL ENTRIES

- COURT ORDERED matter CONTINUED to Wednesday.
NDP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 29, 1999**

87C079346-1

The State of Nevada vs Todd M Leavitt

September 29, 1999**9:00 AM****Status Check**

STATUS CHECK:
DEFT'S PRO PER
PETITION FOR
WRIT OF HABEAS
CORPUS Court
Clerk: JOYCE
BROWN/JB Relief
Clerk: BLANCA
MADRIGAL
Reporter/Recorder:
CATHY NELSON
Heard By: Michael
Douglas

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

Rutledge, Brian S.

Attorney

JOURNAL ENTRIES

- Court advised this was on for a status check; the Court had declined appointment of Ms. Erickson; inquired if she was going to be representing him without the appointment; and if anything additional was going to be filed by Defendant or on behalf of the Defendant. Court noted the State had filed opposition. Ms. Erickson advised the Court ordered the response in sixty days; she would be representing the Defendant Pro Bono, but asked for re-imbursement for supplies, copying, etc. COURT ORDERED Counsel's request GRANTED. Ms. Erickson advised she would be responding to the opposition and asked for forty-five days. COURT FURTHER ORDERED Defendant's response to be received by November 17th; and hearing set for December 1, 1999.

NDP

PRINT DATE: 11/19/2015

Page 64 of 76

Minutes Date: January 16, 1991

12-1-99 9:00 AM HEARING ARGUMENT: DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS

CLERK'S NOTE: After Court had recessed, COURT ORDERED the hearing date set for January 12, 2000, VACATED. 9-29-99/JB

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****December 01, 1999**

87C079346-1

The State of Nevada vs Todd M Leavitt

December 01, 1999**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS 12/1/99
Court Clerk: AMBER
FARLEY
Reporter/Recorder:
CATHY NELSON
Heard By: Michael
Douglas**

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

Rutledge, Brian S.

Attorney

JOURNAL ENTRIES

- DEFT'S MOTION TO CONTINUE HEARING ON PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) AND MOTION TO EXTEND TIME FOR FILING PETITIONER'S REPLY TO STATE'S OPPOSITION...DEFT'S MOTION FOR APPOINTMENT OF INVESTIGATOR...HEARING: DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS

Court stated its findings and ORDERED, Deft's Motion for Appointment of Investigator DENIED. Ms. Erickson stated she is in the middle of research for the Petition and needs more time to prepare. COURT ORDERED, Motion to Continue Hearing GRANTED. Hearing CONTINUED.
NDP

1/24/00 9:00 AM HEARING: DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 27, 2000**

87C079346-1

The State of Nevada vs Todd M Leavitt

January 27, 2000**9:00 AM****Hearing**

**HEARING
ARGUMENT:
DEFT'S PRO PER
PETITION FOR
WRIT OF HABEAS
CORPUS Court
Clerk: JOYCE
BROWN
Reporter/Recorder:
CATHY NELSON
Heard By: Michael
Douglas**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** O'Neale, Lawrence J.

Attorney

JOURNAL ENTRIES

- Mr. O'Neale advised he was standing in for Mr. O'Callaghan who could not be present today. Ms. Erickson read from documentation and presented lengthy argument including the State had focused on there was no right for effectiveness of Counsel on post-conviction and that missed the point completely, referring to the fifth and fourteenth amendment, the Defendant's right of due process, and fundamental fairness. she alleged he was not even in the State of Nevada when the crime was committed. She further advised they had direct appeal where he was entitled to an effective Counsel; the attorney needed to be questioned as to why certain questions were not raised; at post-conviction none of the facts were presented to the Court; alleged he had been denied his right of due process; and asked the Court for an evidentiary hearing on ineffectiveness of post-conviction Counsel. She

further argued the Supreme Court had to be consistent and asked the Court to raise the merits of the Petition for Writ of Habeas Corpus and have an evidentiary hearing on the Defendant's alibi and ineffectiveness of Counsel.

Mr. O'Neale advised the State strongly urged this Court to apply the rules to enforce the statutes; they have a petitioner who comes before the Court and says he doesn't have to follow the rules because they are not consistently followed and mean nothing; the Court had no right to go beyond the statutes; this is an old case which had been through the system many times; the statutes on filing things are clear; and he urged the Court to rule on the clear law as there had been no showing of cause or prejudice. He further argued it should not be decided on the merits; it was barred by time, and should be summarily denied. More argument from Ms. Erickson including she thought the rules were not followed consistently; there were issues which should have been raised at post-conviction; and alleged that everything in the petition was new.

Court had reviewed documents from both sides; the Court had gone back into the file itself to get a better idea of what was going on; the Court read from a document filed April 25, 1989, which was an order dismissing the appeal from the Supreme Court; the Jury rejected the Defendant's alibi; and the Supreme Court ordered the appeal dismissed. The Court read from another document which was filed September 30, 1991, which was before the Supreme Court and an appeal from District Court on post-conviction relief, concluding they were naked claims; the Defendant was not entitled to an evidentiary hearing; the Court had read the two decisions by the Supreme Court as to previous proceedings; and in going through what had been proffered, a large number of claims raised in this petition were previously before the Court and had been decided; and the District Court must rule on the merits as they see them with some guide by the Supreme Court or other review Court. The Court advised consistency was hard to encapsulate as each case was different. Court cited Moran vs McDaniel. Based upon reading the case; a review of documentation, Court finds that this Petition is barred as excessive, without good cause being asserted; and based on time bar and the number of things raised which have been raised previously and ruled upon, COURT ORDERED this excessive petition DENIED. State to prepare the order.

Ms. Erickson advised she would be filing an appeal and asked the Court to order the preparation of a transcript at State's expense; however, she would continue pro bono. Based on the request, COURT ORDERED transcript to be prepared at State's expense.

NDP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 29, 2006**

87C079346-1

The State of Nevada vs Todd M Leavitt

August 29, 2006**9:15 AM****Petition for Writ of Habeas
Corpus**

**PTN FOR WRIT OF
HABEAS CORPUS
/67 Court Clerk:
April Watkins
Reporter/Recorder:
Thelma Stapley
Heard By: Leavitt,
Michelle**

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

Owens, Steven S.

Attorney

JOURNAL ENTRIES

- Statements by counsel. Court stated Deft's counsel brought to the Court's attention the Co-Deft. shares the same last name as the Court. This Court's Judicial Executive Assistant was requested to contact Deft's counsel and advised to request any information as to this Co-Deft. Court further stated she has never met this person and this Court's father only has four nephews and Co-Deft's brother is not one of them. Ms. Erickson stated she is satisfied with the Court's response. Colloquy. COURT ORDERED, the following briefing schedule: State's Response due by November 7, 2006, Deft's Reply due by January 4, 2007, and matter set thereafter for argument and decision. FURTHER ORDERED, petition CONTINUED.

NDC

1/25/07 1:00 PM ARGUMENT/DECISION

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 25, 2007**

87C079346-1

The State of Nevada vs Todd M Leavitt

April 25, 2007**9:30 AM****Request**

**STATES REQUEST
STAUS CHECK OF
ARGUMENT Court
Clerk: April Watkins
Relief Clerk: Tia
Everett/te
Reporter/Recorder:
Thelma Stapley
Heard By: Michelle
Leavitt**

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

Owens, Steven S.

Attorney

JOURNAL ENTRIES

- COURT ORDERED, matter Set for Argument and Decision as to Deft's Petition for Writ of Habeas Corpus.

NDC

5/21/07 11:00 AM ARGUMENT/DECISION...PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 21, 2007**

87C079346-1

The State of Nevada vs Todd M Leavitt

May 21, 2007**11:00 AM****Hearing**

**ARGUMENT/DECISION: PTN FOR
WRIT HABEAS
CORPUS Court
Clerk: April Watkins
Relief Clerk: Tia
Everett/te
Reporter/Recorder:
Thelma Stapley
Heard By: Leavitt,
Michelle**

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

JOURNAL ENTRIES

- COURT ORDERED, matter CONTINUED at request Ms. Erickson.
NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 22, 2007**

87C079346-1

The State of Nevada vs Todd M Leavitt

May 22, 2007**9:30 AM****Hearing**

**ARGUMENT/DECISION: PTN FOR
WRIT HABEAS
CORPUS Court
Clerk: April Watkins
Relief Clerk: Tia
Everett/te
Reporter/Recorder:
Thelma Stapley
Heard By: Leavitt,
Michelle**

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

Owens, Steven S.

Attorney

JOURNAL ENTRIES

- COURT ORDERED, matter CONTINUED at request Ms. Erickson.
NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 24, 2007**

87C079346-1

The State of Nevada vs Todd M Leavitt

May 24, 2007**11:00 AM****Hearing**

**ARGUMENT/DECISION: PTN FOR
WRIT HABEAS
CORPUS Court
Clerk: April Watkins
Relief Clerk: Tia
Everett/te
Reporter/Recorder:
Thelma Stapley
Heard By: Michelle
Leavitt**

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

Owens, Steven S.

Attorney

JOURNAL ENTRIES

- Ms. Erickson requested Deft's presence be waived. COURT SO ORDERED. Ms. Erickson argued there is possible prosecutorial misconduct and Brady violations by the State. Court noted the issue of the failure to disclose the probation violation of the jury foreperson has been argued before. Additionally, Ms. Erickson advised she has provided the Court with information outside the record about incentives given to the witnesses Henslik and Koba by the State. Ms. Erickson further argued there is new evidence shows there were promises made to Henslik at the time of Deft. Emil's trial and Judge Pro stated he received a letter from Henslik stating the promises made to Henslik by the State. Further Judge Pro recognized there were detainers on Henslik in 12 different jurisdictions. Additionally, Ms. Erickson argued witness Koba was paid \$2,000.00 by secret witness program for his testimony in Deft. Emil's trial. Further this information provided to the Court regarding the 2 key

witnesses was learned subsequent to the appeals until now and would request Court allow discovery to establish the State had this information as well as allow an evidentiary hearing be held. Additionally, Ms. Erickson argued the State suppressed evidence. Mr. Owens opposed by arguing this case is 20 years old and has had 3 state petitions as well as federal appeals that have all been denied. Additionally, the last appeal was in 2000 which was denied and upheld by the Supreme Court and the Supreme Court has also ruled that Deft's counsel was not ineffective. Further as to the Henslik allegation there were no promises made for his testimony although this does not stop him from trying to elicit favors for testifying and there could have not been any foreknowledge on this. Mr. Owens argued as to the Koba allegation it is hard to rebut that Koba received payment for his testimony by secret witness. Mr. Owens advised he contacted secret witness and they only keeps records that go back three years. Additionally, the State feels there is not need for an evidentiary hearing and there may be a few new matters the Deft. has brought forward; however, nothing that would issue a reversal of the decision. Further arguments by counsel. Court noted information in this case has been available since 1988. Ms. Erickson requested Court grant discovery and evidentiary hearing. Court FINDS, all issues raised are time barred or have been raised previously at either District Court level or Nevada Supreme Court level or could have been raised; therefore, COURT ORDERED, petition DENIED. State to prepare order.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 10, 2007****87C079346-1****The State of Nevada vs Todd M Leavitt****October 10, 2007****9:00 AM****Minute Order**

**MINUTE ORDER
RE: DECLINING TO
SIGN WRIT OF
HABEAS CORPUS
Court Clerk: April
Watkins Heard By:
Michelle Leavitt**

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

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court is not inclined to sign the Petition. The Petition is procedurally time barred, and therefore, cannot be considered by this Court.

CLERK'S NOTE: The above minute order has been distributed to: Deft. Todd M. Leavitt, 26131, H.D.S.P., P.O. Box 650, Indian Springs, NV 89018-0650. aw

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

87C079346-1

The State of Nevada vs Todd M Leavitt

April 03, 2014**8:30 AM****Motion to Dismiss****HEARD BY:** Leavitt, Michelle**COURTROOM:** RJC Courtroom 14D**COURT CLERK:** Susan Jovanovich**RECORDER:** Kristine Cornelius**REPORTER:****PARTIES****PRESENT:**Duncan, Wesley K.
State of NevadaAttorney
Plaintiff**JOURNAL ENTRIES**

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC). State submitted on the pleadings. COURT ORDERED, Motion DENIED. State to prepare order.

NDC

CLERK'S NOTE: A copy of the above minute order has been delivered by regular mail to: Todd Leavitt, #26131, Southern Desert Correctional Center, P.O. Box 208, Indian Springs, NV 89018. ///

sj

Exhibit Log

Case: 87C079346--1

Case Style:

The State of Nevada vs Todd M Leavitt

Sort Order: Status

Exhibit ID	On Behalf Of	Status	Proj. Return /	Type	Exhibit Flag	Custody Date	Custody Detail
Exhibit #	Source	Date	Destroy	Description			
P	Plaintiff State of Nevada	EXHIBITS					
Comment:		ExhibitID : 108230					
D/A	Defendant Leavitt, Todd M	EXH TO WRIT OF HABEAS CORPUS				07/09/1999	District Court Criminal/Civil: Evidence Vault
Comment:		ExhibitID : 43857					
*LOCATION	Other State of Nevada	D: 09/26/2021		BOX UNIT 43 SHELF 1 (1)	09/26/2014	District Court Criminal/Civil: Evidence Vault	

Total Count: 3

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.

TODD M. LEAVITT,

Defendant(s).

Case No: C079346-1

Dept No: XII

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 19 day of November 2015.

Steven D. Grierson, Clerk of the Court

Mary Kielty

Mary Kielty, Deputy Clerk