

To The supreme court of the state of
Nevada

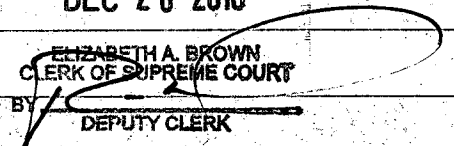
Evaristo Jonathan Garcia
#1108072
v. Appellant,

CASE # 71525

FILED

The State of Nevada
Respondent

DEC 20 2016

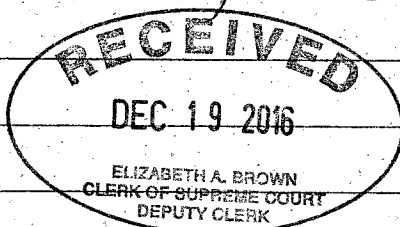
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

Appeal
(Direct Appeal From Petition For writ of
Habeas Corpus Postconviction)

No counsel

Appellant's opening

1. Counsel was ineffective At trial For Failing to Adequately Investigate State witness Edshel Calvillo.
2. Counsel was ineffective For allowing Illegal sentencing after jury conviction on weapon enhancement.



16-39565

3. Counsel was ineffective for not asking for a new trial or mistrial
4. Counsel was ineffective with defendant with direct appeal for not contacting defendant.

Jurisdictional Statement

- A) this is an appeal Petition For writ of Habeas corpus (Postconviction)
- B) Habeas (Postconviction) was Filed on June 10, 2016 in the District court
A Notice of Appeal was timely Filed on November 17, 2016.

Statements of the Case

Frist let me start By saying Sorry For any dates that are not accurate in there time Frime. and For not stateing cases I Find myself in Ely State Prison with out being able to properly use a Law Libaray. I Have no Attorney to Help me out to write my Appeal and or ~~th~~ to Help me Investigate my appeal IF you guys can assiat me in a Attorney to properly Help me out with my appeal I Have no money For one I Have a low IQ and no Help what SO EVER.

this is on case of Murder Second Degree, with use of a deadly weapon Count 11-Conspiracy to Commit Murder Found not Guilty Count 3-Weapon enhancements. When defendant was 16 years old on 2-6-06.

Statements of Facts

1.) Counsel was ineffective at Trial For not properly investigating state witness Edshel Calvillo

1. Counsel was ineffective For Failing to Adequately Investigate State witness, Edshel Calvillo, Before trial, Counsel didn't even know he was in custody for a material witness warrant

2. Counsel had years to locate state witness, Edshel Calvillo and question him before trial also to be ready for there cross-examination at trial even though Attorney had a few hours with him in a holding cells before cross-examination defendant feels they would of been a different outcome at trial when all his statements were hearsay

3. Counsel should have brought up the facts of his perjury on the last case he was testifying in Salvador Garcia case in a motion to discredit him before a judge before trial.

2.) Counsel was ineffective for allowing defendants illegal sentencing on jury conviction.

1. At trial the jury found defendant guilty on July 16, 2013 of Second degree Murder and weapon enhancement at sentencing defendant got a ten to life imprisonment and a equal and consecutive term for ten to life on the weapon enhancement

2. the new weapon enhancement law states different it only carries a 1 to 20 years defendant was charged and put in custody on Oct. 23, 2008 and was sentenced on Aug. 22, 2013.

3.) Counsel was ineffective for not asking for a new trial or mistrial.

1.) After counsel seen and heard DA's opening statements and jury's questionnaires on the gang enhancements where Fales and not enough to hold to the gang enhancements.

2. Two of The DA's witnesses presented at trial to testify at trial that where gang member ~~the~~ of so called street gang Puras Lokas and admitted them self of Being gang members. testified at trial that defendant had no ties to there gang and was not a gang member of Puras Lokas

3. Counsel and the DA, was so prejudice with there opening statements about defendant Being a gang member with no proof what so ever and the victim as well. just to drop the gang enhancement at the middle of trial when there was an issue with the jury members witch is on record where they say they didn't want to wait outside of the courtroom Because bold guys where giving them mean stares. defendant Belives that counsel could Have prevented this and there would of Been a differnt outcome at trial.

4.) Counsel was ineffective on defendant with His direct Appeal

1. the Hole time defendant was on His direct appeal Attorney Ross Goodman

In 2 1/2 years of appeal, counsel did not speak to him about grounds he was going to use on the direct appeal with defendant feel he could of been of help. Attorney Ross Goodman never talked to defendant on phone or visit he to discuss what was going on defendant has a number of letters asking him question and never got no responds from counsel defendant feels if counsel would have listen to some of his ideas things would have gone different at trial and direct appeal.

cc Filed By inmate

no counsel if you can please help me with a Attorney to help me at cause I really don't know what I'm doing

Respectfully

Evaristo Garcia #1108072

Estate Car #1108072

Date this December 15, 2016

Estate Car #1108072