

CLERK OF THE COURT

1 **NOAS**
2 **TERRENCE M. JACKSON, ESQ.**
3 Nevada Bar No. 00854
4 Law Office of Terrence M. Jackson
5 624 South Ninth Street
6 Las Vegas, NV 89101
7 T: 702-386-0001 / F: 702-386-0085
8 Terry.jackson.esq@gmail.com

9 *Counsel for Lazaro Martinez-Hernandez*

Electronically Filed
Jan 05 2017 02:57 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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IN THE EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

The State of Nevada,
Plaintiff,
v.
Lazaro Martinez-Hernandez,
Defendant.

District Case No.: 07-C-230237
Dept. XVII

NOTICE OF APPEAL

NOTICE is hereby given that the Defendant, LAZARO MARTINEZ-HERNANDEZ, by and through his attorney, TERRENCE M. JACKSON, ESQ., hereby appeals to the Nevada Supreme Court, from the Order denying his Post Conviction Writ of Habeas Corpus, file stamped and dated December 15, 2016.

Defendant, LAZARO MARTINEZ-HERNANDEZ states further that he is indigent and requests that the filing fees be waived.

Respectfully submitted this 23rd day of December, 2016.

/s/ Terrence M. Jackson

Terrence M. Jackson, Esquire
Nevada Bar No. 00854
Law Office of Terrence M. Jackson
624 South Ninth Street
Las Vegas, NV 89101
T: 702.386.0001 / F: 702.386.0085
Terry.jackson.esq@gmail.com
Counsel for Lazaro Martinez-Hernandez

1 **CERTIFICATE OF SERVICE**

2 I hereby certify I am an assistant to Terrence M. Jackson, Esq., not a party to
3 this action, and on the 23rd day of December, 2016, I served a true, correct and e-filed
4 stamped copy of the foregoing: Defendant, LAZARO MARTINEZ-HERNANDEZ'S,
5 NOTICE OF APPEAL as follows:
6

7 [X] Via Electronic Service (CM/ECF) to the Eighth Judicial District Court;

8 [X] Via the Supreme Court Drop Box on the 17th floor of the Regional Justice
9 Center;

10 [X] and by United States first class mail to the Nevada Attorney General and the
11 Defendant as follows:
12
13

14 STEVEN B. WOLFSON

15 Clark County District Attorney
16 steven.wolfson@clarkcountyda.com
17

STEVEN S. OWENS

Chief Deputy D.A. - Criminal
APPELLATE DIVISION
steven.owens@clarkcountyda.com
18

19 L. MARTINEZ-HERNANDEZ

20 1716 Weeping Willow
21 Las Vegas, NV 89104
22

ADAM LAXALT

Nevada Attorney General
100 North Carson Street
Carson City, Nevada 89701
23

24 By: /s/ Ila C. Wills
25 Assistant to T. M. Jackson, Esq.
26
27
28


CLERK OF THE COURT

ASTA
TERRENCE M. JACKSON, ESQ.
Nevada Bar No. 00854
Law Office of Terrence M. Jackson
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Las Vegas, NV 89101
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Terry.jackson.esq@gmail.com

Counsel for Lazaro Martinez-Hernandez

IN THE EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

v.

Lazaro Martinez-Hernandez,

Defendant.

District Case No.: 07-C-230237

Dept. XVII

CASE APPEAL STATEMENT

1. Appellant(s): LAZARO MARTINEZ-HERNANDEZ

2. Judge: MICHAEL VILLANI

3. Appellant(s): LAZARO MARTINEZ-HERNANDEZ

Counsel:

Terrence M. Jackson
624 South Ninth Street
Las Vegas, NV 89101
(702) 386-0001

4. Respondent: STATE OF NEVADA

Counsel:

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

...

1 **CERTIFICATE OF SERVICE**

2 I hereby certify I am an assistant to Terrence M. Jackson, Esq., not a party to
3 this action, and on the 23rd day of December, 2016, I served true, correct and e-filed
4 stamped copy of the foregoing: Defendant, Lazaro Martinez-Hernandez's, CASE
5 APPEAL STATEMENT as follows:
6

7 [X] Via Electronic Service (CM/ECF) to the Eighth Judicial District Court;

8 [X] Via the Supreme Court Drop Box on the 17th floor of the Regional Justice
9 Center;

10 [X] and by United States first class mail to the Nevada Attorney General and the
11 Defendant as follows:
12
13

14 STEVEN B. WOLFSON

15 Clark County District Attorney
16 steven.wolfson@clarkcountyda.com
17
18

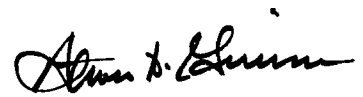
STEVEN S. OWENS

Chief Deputy D.A. - Criminal Appeals
steven.owens@clarkcountyda.com

19 Lazaro Martinez-Hernandez
20 1716 Weeping Willow
21 Las Vegas, NV 89104
22

ADAM LAXALT
Nevada Attorney General
100 North Carson Street
Carson City, Nevada 89701

23 By: /s/ Ila C. Wills
24 Assistant to T. M. Jackson, Esq.
25
26
27
28



CLERK OF THE COURT

1 REQT
2 TERRENCE M. JACKSON, ESQ.
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8 Terry.jackson.esq@gmail.com
9 *Counsel for LAZARO MARTINEZ-HERNANDEZ*

10
11 **IN THE EIGHTH JUDICIAL DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 THE STATE OF NEVADA,

14 Plaintiff,

15 v.

16 LAZARO MARTINEZ-HERNANDEZ,

17 Defendant.

CASE NO.: C-07-230237-1

DEPT. NO.: XVII

REQUEST FOR ROUGH DRAFT
TRANSCRIPT

18 TO: COURT RECORDER - DEPARTMENT XVII - MICHELLE RAMSEY

19 LAZARO MARTINEZ-HERNANDEZ, the defendant named above, requests preparation
20 of a rough draft transcript of certain portions of the proceedings before the district court, as follows:

21 **November 9, 2016** Hearing re: Argument on Writ of Habeas Corpus

22 Any and all proceedings, that is the entire transcript of each of the above hearings for Petition
23 for Habeas Corpus Writ in the Eighth Judicial District Court.

24 This notice requests a transcript of only those portions of the district court proceedings which
25 counsel reasonably and in good faith believes are necessary to determine whether appellate issues
26 are present. Voir dire examination of jurors, opening statements and closing arguments of trial
27 counsel, and the reading of jury instructions shall not be transcribed unless specifically requested
28 above.

I recognize that I must personally serve a copy of this form on the above named court
recorder and opposing counsel, and that the above named court recorder shall have ten days from the
receipt of this notice to prepare and submit to the district court the rough draft transcript requested
herein.

1 DATED this 23rd day of December, 2016.

2
3 //s// Terrence M. Jackson
4 Terrence M. Jackson, Esquire
5 Law Office of Terrence M. Jackson
6 State Bar No.: 00854
7 624 South Ninth Street
8 Las Vegas, NV 89101
9 T: 702-386-0001/ F: 702-386-0085
10 Terry.jackson.esq@gmail.com
11 *Counsel for Defendant Lazaro Martinez-Hernandez*

12 CERTIFICATE OF SERVICE

13 I hereby certify that on the 23rd day of December, 2016, I served a true and correct copy
14 of the foregoing Request for Rough Draft Transcripts on:

15 TO: **Michelle Ramsey, Court Recorder**
16 District Court, Department No. **XVII** (CR 11A)

17 By: //s// Ila C. Wills
18 Assistant to Terrence M. Jackson

19 CERTIFICATE OF ELECTRONIC FILING

20 I hereby certify that service of the above and foregoing was made this 23rd day of December,
21 2016, by CM/ECF via Electronic Filing to:

22 Steven B. Wolfson, Esquire
23 Clark County District Attorney
24 steven.wolfson@clarkcountydacountyda.com

25
26
27 By: /s/ Ila C. Wills
28 Assistant to Terrence M. Jackson

DEPARTMENT 17
CASE SUMMARY
CASE NO. 07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

§	Location:	Department 17
§	Judicial Officer:	Villani, Michael
§	Filed on:	02/07/2007
§	Case Number History:	
§	Cross-Reference Case	C230237
§	Number:	
§	Defendant's Scope ID #:	1493472
§	Lower Court Case # Root:	06F11149
§	Lower Court Case Number:	06F11149X
§	Supreme Court No.:	63650
		69169

CASE INFORMATION

Offense	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. ASSAULT WITH A DEADLY WEAPON (5024)	F	01/01/1900	Case Flags:	Appealed to Supreme Court
Statistical Closures				Case Note
02/01/2010 USJR Reporting Statistical Closure				<i>HOLD SAO - [Emailed Dept to verify date/time 05-18-12 - #18]</i>
Warrants				Custody Status - Not in Custody (COC)
Bench Warrant - Martinez-Hernandez, Lazaro (Judicial Officer: Villani, Michael)				
02/02/2010	Quashed			
04/10/2008	Issued			
Fine:	\$0			
Bond:	\$0			
Bench Warrant - Martinez-Hernandez, Lazaro (Judicial Officer: Villani, Michael)				
05/15/2007	Quashed			
03/13/2007	Issued			
Fine:	\$0			
Bond:	\$0			
Bonds				
Converted Surety Bond #ID948521 \$10,000.00				
4/14/2008	Exonerated			
6/13/2006	Posted			
Counts: 1				

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	07C230237
Court	Department 17
Date Assigned	12/28/2008
Judicial Officer	Villani, Michael

PARTY INFORMATION

Defendant	Martinez-Hernandez, Lazaro	<i>Lead Attorneys</i> Jackson, Terrence Michael <i>Retained</i> 7023860313(W)
Plaintiff	State of Nevada	Wolfson, Steven B 702-671-2700(W)

DATE




EVENTS & ORDERS OF THE COURT

INDEX







01/01/1900	Plea (Judicial Officer: User, Conversion)
	1. ASSAULT WITH A DEADLY WEAPON (5024)
	Not Guilty

DEPARTMENT 17
CASE SUMMARY
CASE NO. 07C230237



PCN: Sequence:

02/07/2007	 Criminal Bindover <i>CRIMINAL BINDOVER Fee \$0.00</i>	07C2302370001.tif pages
02/07/2007	Hearing <i>INITIAL ARRAIGNMENT</i>	07C2302370002.tif pages
02/16/2007	 Information <i>INFORMATION</i>	07C2302370006.tif pages
02/21/2007	Initial Arraignment (10:30 AM) Events: 02/07/2007 Hearing <i>INITIAL ARRAIGNMENT Court Clerk: Lore Vanderbusse Relief Clerk: Kari Portilla/kp Reporter/Recorder: Kiara Schmidt Heard By: Kevin Williams</i>	
02/21/2007	Hearing <i>ARRAIGNMENT CONTINUED</i>	07C2302370004.tif pages
02/21/2007	Hearing <i>CONFIRMATION OF COUNSEL</i>	07C2302370005.tif pages
02/28/2007	All Pending Motions (10:30 AM) <i>ALL PENDING MOTIONS (2-28-07) Court Clerk: Kari Portilla Relief Clerk: Lore Vanderbusse/lv Reporter/Recorder: Kiara Schmidt Heard By: Kevin Williams</i>	
02/28/2007	Arraignment Continued (1:30 PM) Events: 02/21/2007 Hearing <i>ARRAIGNMENT CONTINUED</i>	
02/28/2007	Motion for Confirmation of Counsel (1:30 PM) Events: 02/21/2007 Hearing <i>CONFIRMATION OF COUNSEL Heard By: Kevin Williams</i>	
02/28/2007	Motion <i>ALL PENDING MOTIONS (2-28-07)</i>	07C2302370007.tif pages
03/05/2007	Arraignment Continued (1:30 PM) <i>ARRAIGNMENT CONTINUED</i>	
03/05/2007	Motion for Confirmation of Counsel (1:30 PM) <i>CONFIRMATION OF COUNSEL Heard By: Kevin Williams</i>	
03/05/2007	All Pending Motions (1:30 PM) <i>ALL PENDING MOTIONS 3-5-07 Court Clerk: Tina Hurd Reporter/Recorder: Kiara Schmidt Court Interpreter: LAURA VILLAR Heard By: James Brennan</i>	
03/05/2007	Motion <i>ALL PENDING MOTIONS 3-5-07</i>	07C2302370008.tif pages
03/08/2007	 Motion <i>PD'S MTN TO WITHDRAW AS COUNSEL /8</i>	07C2302370011.tif pages
03/13/2007	Motion to Withdraw as Counsel (8:30 AM) Events: 03/08/2007 Motion <i>PD'S MTN TO WITHDRAW AS COUNSEL /8 Relief Clerk: Sharon Chun Reporter/Recorder: Michelle Ramsey Heard By: James Brennan</i>	








DEPARTMENT 17
CASE SUMMARY
CASE NO. 07C230237

03/13/2007	Bench Warrant <i>NO BAIL BENCH WARRANT ISSUED</i>	07C2302370012.tif pages
03/13/2007	Order <i>ORDER OF INTENT TO FORFEIT</i>	07C2302370013.tif pages
03/15/2007	 Notice of Intent to Forfeit <i>NOTICE OF INTENT TO FORFEIT</i>	07C2302370014.tif pages
03/15/2007	Hearing <i>SHOW CAUSE HEARING</i>	07C2302370015.tif pages
03/26/2007	 Conversion Case Event Type <i>BENCH WARRANT</i>	07C2302370016.tif pages
04/30/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT PRELIMINARY HEARING</i>	07C2302370018.tif pages
05/04/2007	 Bench Warrant <i>BENCH WARRANT RETURN /12</i>	07C2302370019.tif pages
05/08/2007	Bench Warrant Return (8:30 AM) Events: 05/04/2007 Bench Warrant <i>BENCH WARRANT RETURN /12 Court Clerk: Kristen Brown Relief Clerk: Roshonda Mayfield/rm Reporter/Recorder: Michelle Ramsey Court Interpreter: RENEE OCOUGNE DE GASCON Heard By: Michael Villani</i>	
05/08/2007	Hearing <i>CONFIRMATION OF COUNSEL (VJ 5/15/07)</i>	07C2302370020.tif pages
05/11/2007	 Motion <i>DEFT'S O.R. RELEASE/BAIL REDUCTION /15</i>	07C2302370022.tif pages
05/11/2007	 Appearance Filed By: Defendant Martinez-Hernandez, Lazaro <i>NOTICE OF APPEARANCE</i>	07C2302370023.tif pages
05/15/2007	Motion for Own Recognizance Release/Setting Reasonable Bail (8:30 AM) Events: 05/11/2007 Motion <i>DEFT'S O.R. RELEASE/BAIL REDUCTION /15 Court Clerk: Kristen Brown Relief Clerk: Roshonda Mayfield/rm Reporter/Recorder: Michelle Ramsey Court Interpreter: Consuelo Cisneros Heard By: Michael Villani</i>	
05/17/2007	CANCELED Motion for Confirmation of Counsel (8:00 AM) Events: 05/08/2007 Hearing <i>Vacated</i>	
06/05/2007	Calendar Call (8:00 AM) <i>CALENDAR CALL Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani</i>	
06/05/2007	Hearing <i>STATUS CHECK: NEGOTIATIONS/TRIAL SETTING</i>	07C2302370024.tif pages
06/07/2007	CANCELED Calendar Call (8:30 AM) <i>Vacated</i>	
06/11/2007	CANCELED Jury Trial (1:30 PM)	




DEPARTMENT 17
CASE SUMMARY
CASE NO. 07C230237

	<i>Vacated</i>	
06/26/2007	Status Check (8:00 AM) Events: 06/05/2007 Hearing <i>STATUS CHECK: NEGOTIATIONS/TRIAL SETTING Court Clerk: Kristen Brown Relief Clerk: Roshonda Mayfield/rm Reporter/Recorder: Michelle Ramsey Court Interpreter: HECTOR VAZQUEZ-MENA Heard By: Villani, Michael</i>	
07/03/2007	Status Check (8:30 AM) <i>STATUS CHECK: NEGOTIATIONS/TRIAL SETTING Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Court Interpreter: Consuelo Cisneros Heard By: Villani, Michael</i>	
07/19/2007	Status Check (8:30 AM) <i>STATUS CHECK: NEGOTIATIONS/TRIAL SETTING Court Clerk: Roshonda Mayfield/rm Reporter/Recorder: Debbie Winn Court Interpreter: PHILLIP CUARTAS Heard By: THOMPSON, J. CHARLES</i>	
07/26/2007	Status Check (8:00 AM) <i>STATUS CHECK: NEGOTIATIONS/TRIAL SETTING Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Court Interpreter: Carlos Calvos Heard By: J. CHARLES THOMPSON</i>	
10/05/2007	CANCELED Show Cause Hearing (9:05 AM) Events: 03/15/2007 Hearing <i>Vacated</i>	
01/29/2008	Calendar Call (8:30 AM) <i>CALENDAR CALL Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Villani, Michael</i>	
01/31/2008	Calendar Call (7:45 AM) <i>CALENDAR CALL Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Court Interpreter: Guillermo Palomo Heard By: Michael Villani</i>	
02/01/2008	Overflow (9:00 AM) <i>OVERFLOW (17) D. WESTMEYER/M. KOLIAS 1-2 DAYS/ 6 WITNESSES/0 OUT-OF-STATE Relief Clerk: Carol Donahoo Reporter/Recorder: Renee Vincent Heard By: Stewart Bell</i>	
02/04/2008	CANCELED Jury Trial (10:00 AM) <i>Vacated</i>	
02/04/2008	Jury Trial (10:00 AM) <i>TRIAL BY JURY Court Clerk: Sandra Jeter Reporter/Recorder: Rachelle Hamilton Court Interpreter: Cristina Sanchez Heard By: Glass, Jackie</i>	
02/04/2008	 Jury List <i>DISTRICT COURT JURY LIST</i>	07C2302370035.tif pages
02/05/2008	Jury Trial (10:30 AM) <i>TRIAL BY JURY Court Clerk: Sandra Jeter Reporter/Recorder: Rachelle Hamilton Court Interpreter: Cristina Sanchez Heard By: Jackie Glass</i>	
02/05/2008	Conversion Case Event Type <i>SENTENCING</i>	07C2302370032.tif pages
02/05/2008	 Judgment <i>VERDICT</i>	07C2302370033.tif pages
		07C2302370036.tif pages

DEPARTMENT 17
CASE SUMMARY
CASE NO. 07C230237















02/05/2008	 Amended Jury List <i>AMENDED CRIMINAL JURY LIST</i>	
02/05/2008	 Instructions to the Jury <i>INSTRUCTIONS TO THE JURY</i>	07C2302370037.tif pages
02/06/2008	 Proposed Jury Instructions Not Used At Trial <i>DEFENDANTS PROPOSED JURY INSTRUCTIONS NOT USED AT TRIAL</i>	07C2302370038.tif pages
02/08/2008	 Conversion Case Event Type <i>DECLARATION OF DANIEL WESTMEYER</i>	07C2302370039.tif pages
04/10/2008	Sentencing (8:30 AM) Events: 02/05/2008 Conversion Case Event Type <i>SENTENCING Court Clerk: Sandra Jeter Reporter/Recorder: Rachelle Hamilton Court Interpreter: RENEE OCOUGNE DE GASCON Heard By: Jackie Glass</i>	
04/10/2008	Disposition (Judicial Officer: User, Conversion) 1. ASSAULT WITH A DEADLY WEAPON (5024) Guilty PCN: Sequence:	
04/10/2008	Disposition (Judicial Officer: User, Conversion)	
04/10/2008	Sentence (Judicial Officer: User, Conversion) 1. ASSAULT WITH A DEADLY WEAPON (5024) Adult Adjudication Converted Disposition: Sentence# 0001: SUSPENDED Minimum 12 Months to Maximum 36 Months Placement: NSP Converted Disposition: Sentence# 0002: PROBATION WITH CONDITIONS Minimum 3 Years to Maximum 3 Years Converted Disposition: Sentence# 0003: COUNSELING PROGRAM Converted Disposition: Sentence# 0004: DNA FEE/GENETIC MARKERS ANALYSIS Amount: \$150.00 Converted Disposition: Sentence# 0005: ADMINISTRATION FEE Amount: \$25.00	
04/25/2008	 Judgment <i>JUDGMENT OF CONVICTION/ADMIN ASSESSMENT</i>	07C2302370040.tif pages
04/25/2008	Judgment <i>JUDGMENT OF CONVICTION/GENETIC TESTING</i>	07C2302370041.tif pages
05/05/2008	 Order <i>ORDER ADMITTING DEFENDANT TO PROBATION AND FIXING THE TERMS THEREOF</i>	07C2302370042.tif pages
12/24/2008	 Bench Warrant <i>BENCH WARRANT ISSUED</i>	07C2302370044.tif pages
12/30/2008	Conversion Case Event Type	07C2302370045.tif pages

DEPARTMENT 17
CASE SUMMARY
CASE NO. 07C230237
















	<i>STATUS CHANGE: ACTIVE TO WARRANT</i>	
11/12/2009	Conversion Case Event Type <i>STATUS CHANGE: WARRANT TO ACTIVE</i>	07C2302370046.tif pages
11/12/2009	Hearing <i>REVOCATION OF PROBATION</i>	07C2302370047.tif pages
12/01/2009	Revocation of Probation (8:15 AM) Events: 11/12/2009 Hearing <i>REVOCATION OF PROBATION Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Villani, Michael</i>	
12/03/2009	Revocation of Probation (8:15 AM) <i>REVOCATION OF PROBATION Relief Clerk: REBECCA FOSTER Reporter/Recorder: Michelle Ramsey Court Interpreter: JEFFREY HANKS Heard By: Villani, Michael</i>	
12/15/2009	Revocation of Probation (8:15 AM) <i>REVOCATION OF PROBATION Relief Clerk: Nicole McDevitt Reporter/Recorder: Michelle Ramsey Heard By: Villani, Michael</i>	
01/07/2010	Revocation of Probation (8:15 AM) <i>REVOCATION OF PROBATION Relief Clerk: Tia Everett/te Reporter/Recorder: Michelle Ramsey Court Interpreter: FRANCISCO J MADRIGAL Heard By: Villani, Michael</i>	
01/07/2010	Hearing <i>CONFIRMATION OF COUNSEL (ARNOLD,C)</i>	07C2302370048.tif pages
01/21/2010	Revocation of Probation (8:15 AM) <i>REVOCATION OF PROBATION Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Heard By: Michael Villani</i>	
01/21/2010	Motion for Confirmation of Counsel (8:15 AM) Events: 01/07/2010 Hearing <i>CONFIRMATION OF COUNSEL (ARNOLD,C) Heard By: Michael Villani</i>	
01/21/2010	All Pending Motions (8:15 AM) <i>ALL PENDING MOTIONS 1-21-10 Court Clerk: Kristen Brown Reporter/Recorder: Michelle Ramsey Court Interpreter: Ricardo Pico Heard By: Michael Villani</i>	
01/21/2010	Motion <i>ALL PENDING MOTIONS 1-21-10</i>	07C2302370049.tif pages
01/21/2010	Amended Sentence (Judicial Officer: User, Conversion) 1. ASSAULT WITH A DEADLY WEAPON (5024) Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:12 Months, Maximum:36 Months Credit for Time Served: 96 Days	
02/01/2010	 Judgment <i>AMENDED JUDGMENT OF CONVICTION</i>	07C2302370050.tif pages
08/02/2010	 Motion to Withdraw As Counsel Filed By: Attorney Public Defender <i>Callister & Associates Motion to Withdraw as Counsel For Defendant, Lazaro Martinez- Hernandez</i>	
08/17/2010	 Motion to Withdraw as Counsel (8:15 AM) (Judicial Officer: Villani, Michael)	

DEPARTMENT 17
CASE SUMMARY
CASE NO. 07C230237

Callister & Associates' Motion To Withdraw As Counsel For Defendant Lazaro Martinez-Hernandez
















08/20/2010	 Motion Filed By: Defendant Martinez-Hernandez, Lazaro <i>Motion for Transcripts at State Expense</i>
08/23/2010	 Order to Withdraw as Attorney of Record Filed by: Defendant Martinez-Hernandez, Lazaro <i>Order Granting Callister + Associates Motion to Withdraw as Counsel for Deft Lazaro Martinez-Hernandez</i>
08/27/2010	 Opposition to Motion Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Motion for Transcript at State Expense</i>
08/31/2010	 Motion (8:15 AM) (Judicial Officer: Villani, Michael) 08/31/2010, 09/07/2010 Events: 08/20/2010 Motion <i>Defendant's Pro Per Motion For Transcripts At State's Expense</i>
10/05/2010	 Status Check (8:15 AM) (Judicial Officer: Barker, David) <i>Defendant's Pro Per Motion for Transcripts at State's Expense</i>
02/01/2011	 Petition for Writ of Habeas Corpus
03/29/2011	 Petition for Writ of Habeas Corpus (8:15 AM) (Judicial Officer: Villani, Michael) Events: 02/01/2011 Petition for Writ of Habeas Corpus
06/07/2011	 Request <i>Request For Transcript</i>
06/17/2011	 Transcript of Proceedings Party: Plaintiff State of Nevada <i>Recorder's Transcript of Hearing RE: Revocation of Probation - Heard 01/21/2010</i>
07/14/2011	 Transcript of Proceedings Party: Plaintiff State of Nevada <i>Transcript of Proceedings Trial by Jury Volume II Tuesday February 5 2008</i>
07/14/2011	 Transcript of Proceedings Party: Plaintiff State of Nevada <i>Rough Draft Transcript of Proceedings Sentencing Thursday April 10 2008</i>
07/14/2011	 Transcript of Proceedings Party: Plaintiff State of Nevada <i>Rough Draft Transcript of Proceedings: Trial by Jury Volume 1 - Heard 02-04-08</i>
10/26/2011	 Ex Parte Filed By: Defendant Martinez-Hernandez, Lazaro <i>Ex Parte Application for Excess Investigator Fees</i>
01/24/2012	 Hearing (8:15 AM) (Judicial Officer: Villani, Michael) <i>Petition for Writ of Habeas Corpus</i>

DEPARTMENT 17
CASE SUMMARY
CASE NO. 07C230237















05/11/2012	 Hearing (9:30 AM) (Judicial Officer: Villani, Michael) <i>Hearing: Defendant's Petition for Writ of Habeas Corpus (Post-Conviction)</i>
05/17/2012	 Stipulation and Order Filed by: Defendant Martinez-Hernandez, Lazaro <i>Stipulation and Order</i>
05/18/2012	 Supplemental Brief <i>Supplemental Brief for Writ of Habeas Corpus (Post - Conviction)</i>
07/02/2012	 Response Filed by: Plaintiff State of Nevada <i>State's Response and Motion to Dismiss Supplemental Petition for Writ of Habeas Corpus (Post-Conviction)</i>
08/16/2012	 Reply <i>Reply To State's Opposition To Defendant's Supplemental Petition For Writ Of Habeas Corpus (Post - Conviction)</i>
08/17/2012	 Hearing (9:30 AM) (Judicial Officer: Villani, Michael) <i>Hearing: Defendant's Petition for Writ of Habeas Corpus (Post-Conviction)</i>
09/06/2012	 Request (8:15 AM) (Judicial Officer: Villani, Michael) <i>State's Request: Status Check</i>
10/05/2012	 Evidentiary Hearing (9:30 AM) (Judicial Officer: Villani, Michael) 10/05/2012, 11/09/2012 <i>Evidentiary Hearing: Petition for Writ of Habeas Corpus</i>
11/27/2012	 Status Check (8:15 AM) (Judicial Officer: Villani, Michael) <i>Status Check: Confirmation of Appointed Counsel (Martin Hart)</i>
07/19/2013	 Order Granting <i>Order Granting Petition for Writ of Habeas Corpus</i>
07/22/2013	 Notice of Entry of Order Filed By: Plaintiff State of Nevada <i>Notice of Entry of Order</i>
07/22/2013	 Notice of Appeal (criminal) Party: Defendant Martinez-Hernandez, Lazaro <i>Notice of Appeal</i>
07/22/2013	 Case Appeal Statement Filed By: Defendant Martinez-Hernandez, Lazaro <i>Case Appeal Statement</i>
10/03/2013	 Request Filed by: Defendant Martinez-Hernandez, Lazaro <i>Request for Transcript</i>
10/07/2013	 Recorders Transcript of Hearing

DEPARTMENT 17
CASE SUMMARY
CASE NO. 07C230237

Transcript of Proceedings Re: Calendar Call June 5, 2007








10/07/2013	 Recorders Transcript of Hearing <i>Transcript of Proceedings Re: Status Check: Negotiations/Trial Setting June 26, 2007</i>
10/07/2013	 Recorders Transcript of Hearing <i>Transcript of Proceedings Re: Status Check: Negotiations/Trial Setting July 19, 2007</i>
10/07/2013	 Recorders Transcript of Hearing <i>Transcript of Proceedings Re: Status Check: Negotiations/Trial Setting July 19, 2007</i>
10/07/2013	 Recorders Transcript of Hearing <i>Transcript of Proceedings Re: Status Check: Negotiations/Trial Setting July 26, 2007</i>
10/07/2013	 Recorders Transcript of Hearing <i>Transcript of Proceedings Re: Calendar Call January 29, 2008</i>
10/07/2013	 Recorders Transcript of Hearing <i>Transcript of Proceedings Re: Status Check: Negotiations/Trial Setting July 3, 2007</i>
08/26/2014	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed</i>
10/09/2014	 Motion Filed By: Defendant Martinez-Hernandez, Lazaro <i>Motion to Place on Calander</i>
10/21/2014	 Motion (8:15 AM) (Judicial Officer: Villani, Michael) <i>Deft.'s Motion to Appoint Counsel for Post Conviction Relief</i>
11/04/2014	 Status Check (8:15 AM) (Judicial Officer: Villani, Michael) <i>Status Check: Confirmation of Counsel</i>
12/02/2014	 Status Check (8:15 AM) (Judicial Officer: Villani, Michael) <i>Status Check: File/Set Briefing Schedule</i>
02/24/2015	 Writ Filed by: Defendant Martinez-Hernandez, Lazaro <i>Supplemental Points and Authorities In Support Of Petition For Writ of Habeas Corpus For Post Conviction</i>
06/02/2015	 Status Check (8:30 AM) (Judicial Officer: Villani, Michael) <i>Status Check: PCR Hearing Readiness</i>
07/22/2015	 Opposition Filed By: Plaintiff State of Nevada <i>State's Motion To Dismiss Defendant's Supplemental Points And Authorities In Support Of Petition For Writ Of Habeas Corpus For Post Conviction Relief</i>
07/24/2015	 Reply Filed by: Defendant Martinez-Hernandez, Lazaro <i>Reply to State's Motion to Dismiss Defendant's Supplemental Points and Authorities in Support of Petition for Writ of Habeas Corpus for Post Conviction Relief</i>

DEPARTMENT 17
CASE SUMMARY
CASE NO. 07C230237

09/04/2015	 Hearing (9:30 AM) (Judicial Officer: Villani, Michael) <i>Hearing: Deft's Petition for Writ of Habeas Corpus (Post-Conviction)</i>
09/11/2015	 Supplemental Filed by: Defendant Martinez-Hernandez, Lazaro <i>Supplemental Points and Authorities on Whether Court has Jurisdiction to Consider Petitioner's Post Conviction Writ</i>
10/06/2015	 Response Filed by: Plaintiff State of Nevada <i>State's Response to Defendant's Supplemental Points and Authorities on Whether Court has Jurisdiction to Consider Petitioner's Post Conviction Writ</i>
10/09/2015	 Decision (9:30 AM) (Judicial Officer: Villani, Michael) <i>Decision: Petition for Writ of Habeas Corpus (Post-Conviction)</i>
11/05/2015	 Status Check (8:30 AM) (Judicial Officer: Villani, Michael) <i>Status Check: Order (10/09/15)</i>
11/05/2015	 Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff State of Nevada
11/09/2015	 Notice of Appeal (criminal) Party: Defendant Martinez-Hernandez, Lazaro <i>Notice of Appeal</i>
11/09/2015	 Case Appeal Statement Filed By: Defendant Martinez-Hernandez, Lazaro <i>Case Appeal Statement</i>
11/13/2015	 Notice of Entry Filed By: Plaintiff State of Nevada <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
11/20/2015	 Request Filed by: Defendant Martinez-Hernandez, Lazaro <i>Request for Rough Draft Transcript</i>
12/02/2015	 Recorders Transcript of Hearing Party: Plaintiff State of Nevada <i>Transcript of Proceedings Re: Defendant's Petition for Writ of Habeas Corpus (Post Conviction) September 4, 2015</i>
12/02/2015	 Recorders Transcript of Hearing Party: Plaintiff State of Nevada <i>Transcript of Proceedings Re: Decision Defendant's Petition for Writ of Habeas Corpus (Post Conviction) October 9, 2015</i>
09/13/2016	 NV Supreme Court Clerks Certificate/Judgment -Remanded <i>Nevada Supreme Court Clerk's Certificate Judgment - Reversed and Remand</i>
09/27/2016	 Status Check (8:30 AM) (Judicial Officer: Villani, Michael) 09/27/2016, 10/11/2016

DEPARTMENT 17
CASE SUMMARY
CASE NO. 07C230237

Status Check: Supreme Court Remand

11/07/2016	 Response Filed by: Plaintiff State of Nevada <i>State's Response to Defendant's Supplemental Points and Authorities in Support of Petition for Writ of Habeas Corpus for Post-Conviction Relief</i>
11/09/2016	 Argument (9:30 AM) (Judicial Officer: Villani, Michael) <i>Argument: Petition for Writ of Habeas Corpus (Post Conviction)</i>
11/10/2016	 Decision (3:00 AM) (Judicial Officer: Villani, Michael) <i>Writ of Habeas Corpus</i>
12/15/2016	 Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff State of Nevada
12/21/2016	 Notice of Entry Filed By: Plaintiff State of Nevada <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
12/23/2016	 Notice of Appeal (criminal) Party: Defendant Martinez-Hernandez, Lazaro <i>Notice of Appeal</i>
12/23/2016	 Case Appeal Statement Filed By: Defendant Martinez-Hernandez, Lazaro <i>Case Appeal Statement</i>
12/23/2016	 Request Filed by: Defendant Martinez-Hernandez, Lazaro <i>Request for Rough Draft Transcript</i>
12/28/2016	 Recorders Transcript of Hearing <i>Rough Draft Transcript of Proceedings Argument: Petition for Writ of Habeas Corpus (Post Conviction)</i>

DATE

FINANCIAL INFORMATION

Defendant Martinez-Hernandez, Lazaro
Total Charges
Total Payments and Credits
Balance Due as of 12/29/2016

183.00
8.00
175.00


CLERK OF THE COURT

FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
RYAN J. MACDONALD
Deputy District Attorney
Nevada Bar #012615
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

CASE NO: 07C230237

LAZRO MARTINEZ-HERNANDEZ, aka,
Lazaro Martinezhernandez, #1493472

DEPT NO: XVII

Defendant.

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

DATE OF HEARING: November 9, 2016
TIME OF HEARING: 9:30 AM

THIS CAUSE having come on for hearing before the Honorable MICHAEL VILLANI, District Judge, on the 9th day of Month, 2016, the Petitioner being present, REPRESENTED BY TERRENCE MICHAEL JACKSON, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through ROBERT B. TURNER, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT, CONCLUSIONS OF LAW

On February 16, 2007, the State charged Lazaro Martinez-Hernandez ("Defendant") by way of Information with one count of Assault With a Deadly Weapon (Felony – NRS 200.471). On February 5, 2008, a jury found Defendant guilty. On April 10, 2008, Defendant

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DEPT 17 ON
DEC 12 2016

1 was sentenced to the Nevada Department of Corrections for 12 to 36 months. The sentence
2 was suspended, and Defendant was placed on probation for an indeterminate period not to
3 exceed three years, subject to certain conditions of release. The Judgment of Conviction was
4 filed on April 25, 2008. Defendant did not file a direct appeal.

5 On January 1, 2010, Defendant's stipulated to having violated the conditions of his
6 probation and his probation was revoked. The original 12 to 36 month sentence was imposed,
7 and Defendant received 96 days credit for time served. An Amended Judgment of Conviction
8 was filed on February 1, 2010.

9 On February 1, 2011, Defendant filed a Petition for Writ of Habeas Corpus through
10 counsel, wherein he raised an appeal-deprivation claim. On May 18, 2012, Defendant filed a
11 Supplement to his Petition. The State filed its Response and Motion to Dismiss on July 2,
12 2012. On October 5, 2012, this Court held an evidentiary hearing on Defendant's appeal-
13 deprivation claim, and found that Defendant had been deprived of his right to a direct appeal
14 and was therefore entitled to file an untimely appeal pursuant to NRAP 4(c).

15 On July 22, 2013, Defendant filed a Notice of Appeal. The Nevada Supreme Court
16 affirmed Defendant's conviction on July 22, 2014, and Remittitur issued on August 26, 2014.

17 On February 24, 2015, Defendant filed the instant Supplemental Points and Authorities
18 in Support of Petition for Writ of Habeas Corpus for Post-Conviction Relief ("Supplemental
19 Petition") as a supplement to the Petition for Writ of Habeas Corpus that he had filed on
20 February 1, 2011. The State filed its response on July 22, 2015. On September 4, 2015, a
21 hearing was held where the district court deferred its decision and ordered supplemental
22 briefing. On September 11, 2015, Defendant filed a Supplemental Points and Authorities on
23 Whether Court Has Jurisdiction to Consider Petitioner's Post-Conviction Writ. The State filed
24 its Response on October 6, 2015.

25 On November 5, 2015, the Court entered its Findings of Fact, Conclusions of Law and
26 Order denying Defendant's Supplemental Petition as moot because Defendant had already
27 been released from custody at the time he filed it. On November 9, 2015, Defendant filed a
28 Notice of Appeal from the District Court's Order denying his Supplemental Petition. On

1 August 12, 2016, the Nevada Supreme Court ruled that, because the original Petition had been
2 filed while Defendant was in custody in 2011, the Supplemental Petition was not moot even
3 though Defendant was not currently in custody. As such, the Nevada Supreme Court remanded
4 the case to the District Court for Defendant's Supplemental Petition to be considered on the
5 merits. The State responded on November 7, 2016.

6 This Court held a hearing on November 9, 2016, and now orders that Defendant's
7 Petition be DENIED.

8 Defendant sets forth five points for the Court to make the determination that he received
9 ineffective assistance of counsel. To prevail on a claim of ineffective assistance of trial
10 counsel, a defendant must prove he was denied "reasonably effective assistance" of counsel
11 by satisfying the two-prong test of Strickland, 466 U.S. at 686-87, 104 S. Ct. at 2063-64. See
12 also Love, 109 Nev. at 1138, 865 P.2d at 323. Under the Strickland test, a defendant must
13 show first that his counsel's representation fell below an objective standard of reasonableness,
14 and second, that but for counsel's errors, there is a reasonable probability that the result of the
15 proceedings would have been different. 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068;
16 Warden, Nevada State Prison v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting
17 the Strickland two-part test).

18 First, Defendant claims that prior counsel should have sought the assistance of an expert
19 to make a determination as to whether the video of the Defendant committing the crime had
20 been altered. The Court finds that Defendant fails to set forth any evidence that the video had
21 been altered and without more he is not entitled to relief. Hargrove v State, 100 Nev. 498, 502,
22 686 P.2d 222, 225 (1984).

23 Defendant next claims that counsel was ineffective during jury selection. However, the
24 Court finds that Defendant fails to establish either deficient performance or prejudice, as not
25 one of the complained of jurors were on the jury. Defendant fails to establish with specificity
26 any claim that would warrant a challenge for cause regarding the jurors in question.

27 Third, Defendant claims that counsel was ineffective in his opening statement since he
28 gave a weak opening statement and that the opening should have addressed the issue of self-

1 defense. It appears that the focus of the defense was the inconsistencies of the video. Defense
2 counsel made the tactical decision not to fully pursue a self-defense theory, and Defendant has
3 failed to establish the extraordinary circumstances necessary to challenge that decision.
4 Doleman v. State, 112 Nev. 843, 848, 921 P.2d 278, 280-81 (1996). The Court further finds
5 that Defendant has failed to establish how a theory of self-defense in light of the evidence of
6 the case would have been a superior theory for defense. Accordingly, he has not shown that
7 the result of the trial would have been different had counsel pursued a theory of self-defense.
8 McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999).

9 Fourth, Defendant claims that counsel was ineffective for not requesting bench
10 conferences to be properly placed on the record, thereby not preserving (1) a motion to dismiss
11 during the trial and (2) response to an objection to the testimony of witness Maceo. The Court
12 finds that Defendant failed to show that the record's missing portions were so significant that
13 their absence precluded the Court from conducting a meaningful review of the alleged errors
14 and the prejudicial effect of any such error. Daniel v. State, 119 Nev. 498, 508, 78 P.3d 890,
15 897 (2003). The Court denied the motion to dismiss; as such, a record was made as to the
16 Court's decision. Further, after due deliberation of the jury, the jury found the Defendant guilty
17 beyond a reasonable doubt, which established that the State had presented sufficient evidence
18 of Defendant's guilt. Although the bench conference was not recorded and no record of a
19 hearsay objection was made, the record establishes that the State's objection was overruled
20 and the Court allowed the witness to testify.

21 Fifth, Defendant claimed cumulative error. Defendant has failed to establish any
22 meritorious claims of error. Errors, if any, in the record do not violate Defendant's
23 constitutional rights.

24 Under Strickland, Defendant must show that counsel's representation fell below an
25 objective standard of reasonableness and but for the errors the result of the proceedings would
26 have been different. Based upon the above, the Court finds that Defendant has not met either
27 prong of the Strickland test.

28 ///

ORDER

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

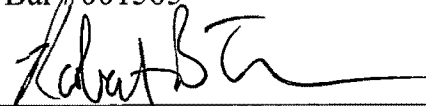
DATED this 13 day of December, 2016.



DISTRICT JUDGE **B**

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

BY




RYAN J. MACDONALD
Deputy District Attorney
Nevada Bar #012615

CERTIFICATE OF ELECTRONIC FILING

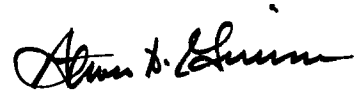
I hereby certify that service of FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER, was made this 13th day of December, 2016, by Electronic Filing to:

TERRENCE M. JACKSON, ESQ.
Terry.Jackson.Esq@gmail.com



C. Jimenez
Secretary for the District Attorney's Office

RJM/cmj/L3



CLERK OF THE COURT

NEO

**DISTRICT COURT
CLARK COUNTY, NEVADA**

LAZARO MARTINEZ-HERNANDEZ,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent,

Case No: 07C230237

Dept No: XVII

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

PLEASE TAKE NOTICE that on December 15, 2016, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on December 21, 2016.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk

CERTIFICATE OF MAILING

I hereby certify that on this 21 day of December 2016, 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:
Lazaro Martinez-Hernandez Terrence M. Jackson, Esq.
1716 Weeping Willow Ln. 624 S. Ninth St.
Las Vegas, NV 89104 Las Vegas, NV 89101
(Last Known Address)

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk


CLERK OF THE COURT

FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
RYAN J. MACDONALD
Deputy District Attorney
Nevada Bar #012615
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CASE NO: 07C230237

LAZRO MARTINEZ-HERNANDEZ, aka,
Lazaro Martinezhernandez, #1493472

DEPT NO: XVII

Defendant.

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

DATE OF HEARING: November 9, 2016
TIME OF HEARING: 9:30 AM

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27 prong of the Strickland test.

28 ///

ORDER

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

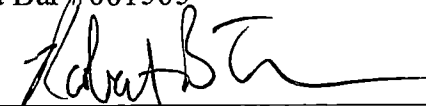
DATED this 13 day of December, 2016.



DISTRICT JUDGE **B**

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

BY



RYAN J. MACDONALD
Deputy District Attorney
Nevada Bar #012615

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that service of FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER, was made this 13th day of December, 2016, by Electronic Filing to:

TERRENCE M. JACKSON, ESQ.
Terry.Jackson.Esq@gmail.com



C. Jimenez
Secretary for the District Attorney's Office

RJM/cmj/L3

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

February 21, 2007**10:30 AM****Initial Arraignment**

**INITIAL
ARRAIGNMENT
Court Clerk: Lore
Vanderbusse Relief
Clerk: Kari
Portilla/kp
Reporter/Recorder:
Kiara Schmidt Heard
By: Kevin Williams**

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

PRESENT:	Crane, Nathan A.	Attorney
	Lucherini, Robert G.	Attorney
	Martinez-Hernandez, Lazaro	Defendant

JOURNAL ENTRIES

- Mr. Lucherini requested to withdraw as counsel and advised Deft. wishes to retain Mr. Pallares as new counsel. Court GRANTED Mr. Lucherini's oral request to withdraw as counsel. COURT ORDERED, matter CONTINUED.

BOND**02-28-07 10:30 AM ARRAIGNMENT CONTINUED...CONFIRMATION OF COUNSEL**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 28, 2007**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

February 28, 2007**10:30 AM****All Pending Motions****ALL PENDING****MOTIONS (2-28-07)****Court Clerk: Kari****Portilla Relief Clerk:****Lore Vanderbusse/lv****Reporter/Recorder:****Kiara Schmidt Heard****By: Kevin Williams****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Martinez-Hernandez, Lazaro

Defendant

JOURNAL ENTRIES**- ARRAIGNMENT CONTINUED...CONFIRMATION OF COUNSEL**

Ms. Alicia Albritton present on behalf of the State. The Court Officer advised that Mr. Lucherini is unavailable due to Henderson matters. COURT ORDERED, matter CONTINUED.

BOND**03/05/07 1:30 PM ARRAIGNMENT CONTINUED****03/05/07 1:30 PM CONFIRMATION OF COUNSEL**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 05, 2007**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

March 05, 2007**1:30 PM****All Pending Motions**

**ALL PENDING
MOTIONS 3-5-07
Court Clerk: Tina
Hurd
Reporter/Recorder:
Kiara Schmidt Court
Interpreter: LAURA
VILLAR Heard By:
James Brennan**

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

PRESENT:	Gardner, Robert M.	Attorney
	Lucherini, Robert G.	Attorney
	Martinez-Hernandez, Lazaro	Defendant
	Nyikos, Noreen	Attorney
	Public Defender	Attorney
	Rivera-Rogers, Mariteresa	Attorney

JOURNAL ENTRIES

- Mr. Lucherini advised Deft. does not have the means to proceed with private counsel and moved to withdraw. COURT ORDERED, GRANTED. Mr. Gardner advised they need a financial information sheet. Matter TRAILED.

LATER: Matter recalled. Leland Page, Court Interpreter, present. Ms. Rivera-Rogers present with Deft. DEFT. MARTINEZ-HERNANDEZ ARRAIGNED, PLED NOT GUILTY and WAIVED THE 60-DAY RULE. COURT ORDERED, matter set for trial. Ms. Rivera-Rogers requested 21 days from the filing of the Preliminary Hearing transcript to file a Writ. COURT ORDERED, GRANTED.

07C230237

BOND

6-7-07 8:30 AM CALENDAR CALL (DEPT. 18)

6-11-07 1:30 PM JURY TRIAL (DEPT. 18)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 13, 2007**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

March 13, 2007**8:30 AM****Motion to Withdraw as
Counsel**

**PD'S MTN TO
WITHDRAW AS
COUNSEL/8 Relief
Clerk: Sharon Chun
Reporter/Recorder:
Michelle Ramsey
Heard By: James
Brennan**

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

Davis, Craig B.
Keenan, Nell
Public Defender

Attorney
Attorney
Attorney

JOURNAL ENTRIES

- Mr. Davis stated he has been unable to speak with Deft; the phone number he had been given was no longer in service. However, a letter was sent to Deft and not returned. He requested the Court to allow withdrawal and appointment of new counsel.

COURT ORDERED, Motion to Withdraw, GRANTED, and , a NO BAIL BENCH WARRANT is to issue.

BOND

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 08, 2007**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

May 08, 2007**8:30 AM****Bench Warrant Return**

**BENCH WARRANT
RETURN /12 Court
Clerk: Kristen Brown
Relief Clerk:
Roshonda
Mayfield/rm
Reporter/Recorder:
Michelle Ramsey
Court Interpreter:
RENEE OCOUGNE
DE GASCON Heard
By: Michael Villani**

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

Davis, Craig B.	Attorney
Keenan, Nell	Attorney
Martinez-Hernandez, Lazaro	Defendant
Public Defender	Attorney

JOURNAL ENTRIES

- Mr. Davis advised this was Mr. Lucherini's case but he withdrew as counsel and there also is conflict with the Public Defender's office representing the Deft. COURT ORDERED, matter CONTINUED. Further, Public Defenders office allowed to withdraw as counsel and Mr. Goldstein has been appointed.

CUSTODY

5/17/07 8:00 AM CONFIRMATION OF COUNSEL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 15, 2007**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

May 15, 2007**8:30 AM**

**Motion for Own
Recognizance
Release/Setting Reasonable
Bail**

**DEFT'S O.R.
RELEASE/BAIL
REDUCTION /15
Court Clerk: Kristen
Brown Relief Clerk:
Roshonda
Mayfield/rm
Reporter/Recorder:
Michelle Ramsey
Court Interpreter:
Consuelo Cisneros
Heard By: Michael
Villani**

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

Keenan, Nell

Attorney

Kolias, Marina E.

Attorney

Martinez-Hernandez, Lazaro

Defendant

JOURNAL ENTRIES

- Ms. Kolias requested an Own Recognizance Release and also confirmed as counsel for the Deft. Ms. Keenan stated the Deft. does have ties else where and that he is an illegal alien. COURT ORDERED, Own Recognizance Release GRANTED with INTENSIVE SUPERVISION.
O.R./I.S

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 05, 2007**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

June 05, 2007**8:00 AM****Calendar Call**

CALENDAR CALL
Court Clerk: Kristen Brown
Reporter/Recorder: Michelle Ramsey
Heard By: Michael Villani

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

Kochevar, Brian J.
Kolias, Marina E.

Attorney
Attorney

JOURNAL ENTRIES

- Mr. Kochevar stated this matter was originally set for June 7, 2007; there has been a discussion between parties and requested this matter be set for status check regarding negotiations. Mr. Kolias stated that he has just received the video tape and once it is reviewed, parties may be in a better position to negotiate the matter. COURT ORDERED, Trial VACATED and matter set for status check regarding negotiations.

O.R.

6/26/07 8:00 AM STATUS CHECK: NEGOTIATIONS/TRIAL SETTING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 26, 2007**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

June 26, 2007**8:00 AM****Status Check**

**STATUS CHECK:
NEGOTIATIONS/TR
IAL SETTING Court
Clerk: Kristen Brown
Relief Clerk:
Roshonda
Mayfield/rm
Reporter/Recorder:
Michelle Ramsey
Court Interpreter:
HECTOR
VAZQUEZ-MENA
Heard By: Villani,
Michael**

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

PRESENT: Pandelis, Christopher P. Attorney

JOURNAL ENTRIES

- Court advised Deft. has complied with intensive supervision. COURT ORDERED, matter CONTINUED for Ms. Kolias' presence.

CLERK'S NOTE: Clerk contacted Kolias Law Office and provided Melinda with the next court date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 03, 2007**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

July 03, 2007**8:30 AM****Status Check**

**STATUS CHECK:
NEGOTIATIONS/TR
IAL SETTING Court
Clerk: Kristen Brown
Reporter/Recorder:
Michelle Ramsey
Court Interpreter:
Consuelo Cisneros
Heard By: Villani,
Michael**

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

PRESENT:	Keenan, Nell	Attorney
	Kolias, Marina E.	Attorney
	Martinez-Hernandez, Lazaro	Defendant

JOURNAL ENTRIES

- Ms. Kolias advised the Court that she has been unable to speak with the Deft. and the District Attorney regarding this case and requested matter be CONTINUED, COURT SO ORDERED.
O.R.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 19, 2007**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

July 19, 2007**8:30 AM****Status Check**

STATUS CHECK:
NEGOTIATIONS/TR
IAL SETTING Court
Clerk: Roshonda
Mayfield/rm
Reporter/Recorder:
Debbie Winn Court
Interpreter: PHILLIP
CUARTAS Heard
By: THOMPSON, J.
CHARLES

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

PRESENT:	Martinez-Hernandez, Lazaro	Defendant
	Pandelis, Christopher P.	Attorney

JOURNAL ENTRIES

- COURT ORDERED, matter CONTINUED Deft. to notify counsel of next court date.
O.R.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 26, 2007**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

July 26, 2007**8:00 AM****Status Check**

**STATUS CHECK:
NEGOTIATIONS/TR
IAL SETTING Court
Clerk: Kristen Brown
Reporter/Recorder:
Michelle Ramsey
Court Interpreter:
Carlos Calvos Heard
By: J. CHARLES
THOMPSON**

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

PRESENT:	Kolias, Marina E.	Attorney
	Martinez-Hernandez, Lazaro	Defendant
	Pandelis, Christopher P.	Attorney

JOURNAL ENTRIES

- Ms. Kolias stated this matter is not negotiated and a trial date will need to be set. COURT ORDERED, matter set for trial.

O.R.

1/29/08 8:30 AM CALENDAR CALL

2/04/08 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 29, 2008**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

January 29, 2008**8:30 AM****Calendar Call**

CALENDAR CALL
Court Clerk: Kristen
Brown
Reporter/Recorder:
Michelle Ramsey
Heard By: Villani,
Michael

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

Kolias, Marina E.

Attorney

Ponticello, Frank M.

Attorney

JOURNAL ENTRIES

- Ms. Kolias requested the trial be vacated and this matter CONTINUED to Thursday, COURT SO ORDERED. Court stated the deft. must be present or a bench warrant would issue.
O.R.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 31, 2008**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

January 31, 2008**7:45 AM****Calendar Call**

CALENDAR CALL
Court Clerk: Kristen Brown
Reporter/Recorder: Michelle Ramsey
Court Interpreter: Guillermo Palomo
Heard By: Michael Villani

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

PRESENT:	Kolias, Marina E.	Attorney
	Martinez-Hernandez, Lazaro	Defendant
	Westmeyer, Daniel	Attorney

JOURNAL ENTRIES

- Counsel stated they are ready to proceed to trial. Court stated that due to having another trial already going to trial, ORDERED, matter REFERRED to Overflow.

O.R.

2/01/08 9:00 AM OVERFLOW (18) D. WESTMEYER / M. KOLIAS 1-2 DAYS 6 WITNESSES

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 01, 2008**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

February 01, 2008**9:00 AM****Overflow**

**OVERFLOW (17) D.
WESTMEYER/M.
KOLIAS 1-2 DAYS/
6 WITNESSES/0
OUT-OF-STATE
Relief Clerk: Carol
Donahoo
Reporter/Recorder:
Renee Vincent
Heard By: Stewart
Bell**

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

Kolias, Marina E.
Westmeyer, Daniel

Attorney
Attorney

JOURNAL ENTRIES

- Deft. Martinez-Hernandez not present. COURT ORDERED, matter set for trial in Department V on February 4, 2008, at 10:00 a.m.

O.R.

02/04/08 10:00 AM JURY TRIAL.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 04, 2008**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

February 04, 2008**10:00 AM****Jury Trial**

TRIAL BY JURY
Court Clerk: Sandra
Jeter
Reporter/Recorder:
Rachelle Hamilton
Court Interpreter:
Cristina Sanchez
Heard By: Glass,
Jackie

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

Di Edoardo, Christina A.	Attorney
Kolias, Marina E.	Attorney
Martinez-Hernandez, Lazaro	Defendant
Thomas, Michelle L.	Attorney
Westmeyer, Daniel	Attorney

JOURNAL ENTRIES

- APPEARANCES CONTINUED: Alex Andrade, Spanish Interpreter, also present.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Mr. Westmeyer stated Friday afternoon he learned the defense intends to call Manuel Tortosa and Alex Maceo and the State opposes same as neither witness was listed. Arguments by counsel. COURT ORDERED, Mr. Maceo will be permitted to testify, however, the other witness may not. FURTHER, either Mr. Westmeyer or Ms. Thomas is to step outside to interview the witness. Ms. Kolias stated she did not receive notice regarding the State's witnesses until last Friday and requested same be excluded. Arguments by colloquy. Court NOTED the State noticed their witnesses in the Information filed 2/16/07 and

ORDERED, Ms. Kolias' oral motion DENIED.

INSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Voir Dire Oath given. Jury and alternate SELECTED and SWORN. Jury List FILED IN OPEN COURT. Clerk read the Information to the Jury. Opening remarks by the Court.

OUTSIDE THE PRESENCE OF THE JURY: Court advised deft. of his right not to testify.

INSIDE THE PRESENCE OF THE JURY: Opening statements by Mr. Westmeyer and Ms. Kolias. Ms. DiEdoardo INVOKED THE EXCLUSIONARY RULE and the COURT SO ORDERED. Testimony and exhibits. (See attached worksheets.) Following the testimony of witness Richter, the State rested. Ms. Kolias moved to dismiss inside the presence of the Jury. Conference at the bench. Defense commenced with its case. Testimony and exhibits continue. Court excused the Jury and ORDERED them to return the following morning at the time given.

OUTSIDE THE PRESENCE OF THE JURY: Jury Instructions settled.

O.R.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 05, 2008**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

February 05, 2008**10:30 AM****Jury Trial**

TRIAL BY JURY
Court Clerk: Sandra
Jeter
Reporter/Recorder:
Rachelle Hamilton
Court Interpreter:
Cristina Sanchez
Heard By: Jackie
Glass

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

PRESENT:	Kolias, Marina E.	Attorney
	Martinez-Hernandez, Lazaro	Defendant
	Thomas, Michelle L.	Attorney
	Westmeyer, Daniel	Attorney

JOURNAL ENTRIES

- APPEARANCES CONTINUED: Mario Maldonado, Spanish Interpreter, also present.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Mr. Westmeyer requested permission to go into deft.'s prior arrests. Arguments by counsel. Court NOTED Ms. Kolias opened the door by inquiring of the deft. whether he had any criminal issues; however, FINDS the issues would be more prejudicial than probative and ORDERED, the State may not go into those areas.

INSIDE THE PRESENCE OF THE JURY: Testimony and exhibits. (See attached worksheets.)

Following the testimony of witness Hernandez, the defense rested. Court instructed the Jury on the law. Closing arguments by Ms. Thomas, Ms. Kolias and Mr. Westmeyer. Alternate Juror selected. Amended Jury List FILED IN OPEN COURT. Bailiff and matrons SWORN to take charge of the Jury

and Alternate. At the hour of 12:37 p.m., the Jury retired to deliberate.
Deliberations.

At the hour of 3:57 p.m. this date, the Jury returned with the following Verdict:
COUNT 1 - Guilty of ASSAULT WITH A DEADLY WEAPON.

Jury polled at the request of Ms. Kolias. Court thanked and excused the Jury and Alternate.

OUTSIDE THE PRESENCE OF THE JURY: COURT ORDERED, matter REFERRED to P&P and SET for SENTENCING. Mr. Westmeyer requested deft. remanded to custody, no bail. DENIED. Court ADMONISHED deft. that IF ANYTHING HAPPENS IN BETWEEN NOW AND THE TIME OF SENTENCING, IT WILL GREATLY IMPACT THE SENTENCE. FURTHER, if DEFT. FAILS TO APPEAR, A NO-BAIL BENCH WARRANT WILL BE ISSUED AND WHEN RETURNED ON THE WARRANT, DEFT. WILL NOT BE RELEASED.

O.R.

4/10/08 8:30 AM SENTENCING (DEPT. V)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 10, 2008**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

April 10, 2008**8:30 AM****Sentencing****SENTENCING****Court Clerk: Sandra
Jeter****Reporter/Recorder:****Rachelle Hamilton****Court Interpreter:****RENEE OCOUGNE****DE GASCON Heard****By: Jackie Glass****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Crock, William J.

Attorney

Fattig, John T

Attorney

Martinez-Hernandez, Lazaro

Defendant

JOURNAL ENTRIES

- William Crock, Esq., present for Ms. Kolas. DEFT. MARTINEZ-HERNANDEZ ADJUDGED GUILTY of ASSAULT WITH A DEADLY WEAPON (F). Arguments by counsel. COURT ORDERED, in addition to the \$25 Administrative Assessment Fee and \$150 DNA Analysis Fee to include submission to testing for genetic markers and/or secretor status, deft. SENTENCED to a MINIMUM term of TWELVE (12) MONTHS and a MAXIMUM term of THIRTY-SIX (36) MONTHS in the NEVADA DEPARTMENT OF CORRECTIONS; sentence SUSPENDED, PROBATION for an indeterminate period not to exceed THREE (3) YEARS. CONDITIONS:

1. Deft. shall submit his/her person, property, place of residence, vehicle or areas under his/her control to search at any time, with or without a search warrant or warrant of arrest, for evidence of a crime or violation of probation by the Division of Parole and Probation or its agent. 2. Comply with

any curfew imposed by P&P. 3. Complete impulse control and anger management counseling as deemed necessary by an evaluation. 4. Have no contact whatsoever with the victim or the victim's family. 5. Obtain and maintain full-time employment. 6. Do not possess any weapons. BOND, if any, EXONERATED. COURT FURTHER ORDERED, deft. to REPORT to P&P IMMEDIATELY. Court NOTED it did not impose compliance with I.C.E./I.N.S. directives as deft. is a valid United States citizen.
NIC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****December 01, 2009**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

December 01, 2009**8:15 AM****Revocation of Probation****REVOCATION OF
PROBATION Court
Clerk: Kristen Brown
Reporter/Recorder:
Michelle Ramsey
Heard By: Villani,
Michael****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**Martinez-Hernandez, Lazaro
Scow, Richard H.Defendant
Attorney**JOURNAL ENTRIES**

- COURT ORDERED, matter CONTINUED for Ms. Kolias' presence.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****December 03, 2009**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

December 03, 2009**8:15 AM****Revocation of Probation**

**REVOCATION OF
PROBATION Relief
Clerk: REBECCA
FOSTER
Reporter/Recorder:
Michelle Ramsey
Court Interpreter:
JEFFREY HANKS
Heard By: Villani,
Michael**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Nyikos, Noreen

Attorney

JOURNAL ENTRIES

- P&P Officer Eloy Abeyta also present. Court noted a letter was received from Mr. Kolias stating he does not represent debt in Revocation Hearing. COURT ORDERED, Public Defender is APPOINTED to represent debt and matter CONTINUED.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****December 15, 2009**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

December 15, 2009**8:15 AM****Revocation of Probation**

**REVOCATION OF
PROBATION Relief
Clerk: Nicole
McDevitt
Reporter/Recorder:
Michelle Ramsey
Heard By: Villani,
Michael**

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

Martinez-Hernandez, Lazaro
Thomas, Michelle L.

Defendant
Attorney

JOURNAL ENTRIES

- Officer Abetta of Parole and Probation (P&P) present. As Mr. Kolias is not present, COURT ORDERED, matter CONTINUED.

RECALLED: Mr. Thomas noted this is the Public Defender's case, on December 3rd Mr. Kolias sent letter and withdrew and the Public Defender was appointed at that time. Ms. Thomas further stated the parole and probation officer is no longer present. COURT ORDERED, Public Defender APPOINTED; State to give discovery to the Public Defender and continuance date stands. CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 07, 2010

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

January 07, 2010

8:15 AM

Revocation of Probation

**REVOCATION OF
PROBATION Relief
Clerk: Tia Everett/te
Reporter/Recorder:
Michelle Ramsey
Court Interpreter:
FRANCISCO J
MADRIGAL Heard
By: Villani, Michael**

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Ferreira, Amy L.	Attorney
Martinez-Hernandez, Lazaro	Defendant
Paredes, Lester M.	Attorney
Public Defender	Attorney

JOURNAL ENTRIES

- Officer Abeyta of Parole and Probation (P&P) present. Mr. Paredes informed the Court in 2007 the Public Defender withdrew from this case due to conflict and the is still unable to represent the Defendant due to the same conflict. COURT ORDERED, Dayvid Figler Esq. shall be APPOINTED as conflict counsel and matter Set for Confirmation of Counsel. FURTHER ORDERED, Revocation CONTINUED.

CUSTODY

1/21/2010 8:15 AM CONFIRMATION OF COUNSEL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 21, 2010**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

January 21, 2010**8:15 AM****All Pending Motions****ALL PENDING****MOTIONS 1-21-10****Court Clerk: Kristen
Brown****Reporter/Recorder:****Michelle Ramsey****Court Interpreter:****Ricardo Pico Heard****By: Michael Villani****HEARD BY:****COURTROOM:****COURT CLERK:** Kristen Brown**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

Arnold, Carl E.

Attorney

Hendricks, Craig L.

Attorney

Martinez-Hernandez, Lazaro

Defendant

JOURNAL ENTRIES**- CONFIRMATION OF COUNSEL (ARNOLD)...REVOCATION OF PROBATION**

Officer Abeyta of Parole and Probation (P&P) present. Mr. Arnold CONFIRMED AS COUNSEL and stated that the deft. will stipulate to the violations. Court FINDS Deft. in violation of probation. COURT ORDERED, PROBATION REVOKED; underlying SENTENCE of a MINIMUM of TWELVE (12) MONTHS and a MAXIMUM of THIRTY-SIX (36) MONTHS in the Nevada Department of Corrections (NDC) IMPOSED with 96 DAYS credit for time served.
NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 17, 2010**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

August 17, 2010**8:15 AM****Motion to Withdraw as
Counsel****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carole D'Aloia**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**Arnold, Carl E.
Nyikos, Noreen
State of NevadaAttorney
Attorney
Plaintiff**JOURNAL ENTRIES**

- Court noted the absence of the Defendant as he is currently in the Nevada Department of Corrections (NDC) and, ORDERED, Defendant's presence WAIVED this date. Statements by Court regarding the history of this matter. Upon Court's inquiry, Mr. Arnold advised Defendant did not ask him to file an appeal. COURT ORDERED, motion GRANTED since there is appeal pending before the Nevada Supreme Court. Court directed Mr. Arnold to forward his file to the Defendant. CASE CLOSED.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 31, 2010**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

August 31, 2010**8:15 AM****Motion****Defendant's Pro Per
Motion For
Transcripts At State's
Expense****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Noreen Nyikos, Dep DA, present on behalf of the State; Deft. Martinez-Hernandez incarcerated in the Nevada Department of Corrections (NDC) and not present.

Court noted Deft. filed a Motion for Transcripts at State's Expense, pro se. COURT ORDERED, matter CONTINUED; Court Clerk to contact Drew Christensen for appointment of counsel.

NDC

CONTINUED TO: 09/07/10 8:15 AM

CLERK'S NOTE: Court Clerk telephonically contacted the office of Drew Christensen regarding the above. Mr. Christensen called to say that Marty Hart, Esq., would be present to confirm as counsel next date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 07, 2010**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

September 07, 2010 8:15 AM Motion**HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Sandra Harrell**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES**

PRESENT:	Hart, Martin W	Attorney
	Hendricks, Craig L.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant not present, incarcerated at NDC. Upon Court's inquiry, Mr. Hart advised he has just been appointed as counsel for Deft. Court noted Mr. Hart to review motion, and ORDERED, matter SET for STATUS CHECK on Motion.

NDC

10/5/10 8:15 AM STATUS CHECK: DEFT'S PRO PER MOTION FOR TRANSCRIPTS

CLERK'S NOTE: The above minute order has been mailed to: Lazaro Marinez #1046853 @ SDCC, PO BOX 208, Indian Springs, NV 89070./sjh

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

October 05, 2010**8:15 AM****Status Check****Defendant's Pro Per
Motion for
Transcripts at State's
Expense****HEARD BY:** Barker, David**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Michael Radovic, Dep DA, present on behalf of the State and Marty Hart, Esq., present on behalf of Deft. Martinez-Hernandez, who is not present. Deft. is incarcerated in the Nevada Department of Corrections (NDC).

Mr. Hart advised that he spoke with Deft. last week. Court noted that Deft. is seeking transcripts in support of his post-conviction efforts; colloquy. COURT ORDERED, Motion DENIED; since Mr. Hart is now counsel of record, the document is a fugitive filing. Mr. Hart may re-file said Motion if he feels it has merit.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

March 29, 2011**8:15 AM****Petition for Writ of Habeas
Corpus****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Denise Trujillo**RECORDER:** Patti Slattery**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- PETITION FOR WRIT OF HABEAS CORPUS

Ms. Levy, present for Mr. Hart advised Deft. is in Federal custody and not been able to contact Deft. Further, Mr. Hart has been in contact with the State and they have agreed on a briefing schedule. State concurred. COURT ORDERED, matter SET for hearing, briefing schedule as follows: Deft's supplemental brief to be filed by 9/18/11; State will have until 11/18/11 to respond; Deft. will have until 12/19/11 to file reply with matter set for hearing thereafter.

NDC

1/23/12 1:00 PM HEARING: WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 24, 2012**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

January 24, 2012**8:15 AM****Hearing****Deft.'s Petition for
Writ of Habeas
Corpus****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Dena Rinetti, Dep DA, present on behalf of the State and Marty Hart, Esq., present on behalf of Deft. Martinez-Hernandez, who is also present.

Mr. Hart advised that he should be able to file his brief within the next three (3) weeks, which is February 14, 2012. Court advised State will have until April 10, 2012, to file any response. COURT ORDERED, matter set for hearing.

NDC

05/11/12 9:30 AM HEARING: PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 11, 2012**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

May 11, 2012**9:30 AM****Hearing****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Louisa Garcia**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**Scow, Richard H.
State of NevadaAttorney
Plaintiff**JOURNAL ENTRIES**

- COURT ORDERED, matter CONTINUED.

NDC

CONTINUED TO: 8/17/12 9:30 A.M.

CLERK'S NOTE: Return date of 8/17/12 given in error. Minutes have been corrected to show 8/16/12 @ 8:15 AM as the correct date. A copy of this minute order was placed in the attorney folders of the Clark County District Attorney's Office and Martin Hart, Esq. /lg 5/11/12

CLERK'S NOTE: Pursuant to Stipulation and Order, matter reset to 8/17/12 at 9:30 a.m. (special setting). A copy of this minute order was placed in the attorney folder of Martin Hart, Esq. /lg 5/18/12

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 17, 2012**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

August 17, 2012**9:30 AM****Hearing**

**Deft.'s Petition for
Writ of Habeas
Corpus (Post-
Conviction)**

HEARD BY: Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Richard Scow, Chf Dep DA, present on behalf of the State and Marty Hart, Esq., present on behalf of Deft. Martinez-Hernandez. Mario Torres, Court Interpreter, present to assist Deft.

This is the time set for hearing on the Petition for Writ of Habeas Corpus. Court noted there are two (2) issues. Whether or not the Deft.'s Petition is time barred and whether or not Deft. asked his attorney to file an appeal.

Court noted that the State of Law at this particular time is that when a Deft. claims he asked for an appeal and his attorney at the time refused or neglected to file same, that warrants an Evidentiary Hearing. Colloquy regarding scheduling issues; COURT ORDERED, matter set for Evidentiary Hearing.

Court advised that Deft.'s prior attorneys and Deft. will need to be present. Upon Court's inquiry, Mr. Hart represented that William Crock, Esq., and Marina Kolas, Esq., appear to be Deft.'s prior counsel.

NIC

07C230237

09/28/12 9:30 AM EVIDENTIARY HEARING: PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 06, 2012**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

September 06, 2012 8:15 AM**Request****State's Request:
Status Check****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Colleen Brown, Dep DA, present on behalf of the State and Marty Hart, Esq., present on behalf of Deft. Martinez-Hernandez, who is not present. Deft. is incarcerated in the Nevada Department of Corrections (NDC).

This is the time set for the Status Check, which the State requested. There is an Evidentiary Hearing set for September 28, 2012, on Deft.'s Petition for Writ of Habeas Corpus. Mr. Hart advised the Deputy is not available on September 28. COURT ORDERED, the Hearing on the Petition set for September 28 shall be VACATED and RESET.

NDC

10/05/12 9:30 AM EVIDENTIARY HEARING: PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 05, 2012**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

October 05, 2012**9:30 AM****Evidentiary Hearing****Petition for Writ of
Habeas Corpus****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Daniel Westmeyer, Dep DA, present on behalf of the State and Marty Hart, Esq., present on behalf of Deft. Martinez-Hernandez, who is also present. Deft.'s sentence in the Nevada Department of Corrections (NDC) has expired. Mario Torres, Court Interpreter, present to assist Deft.

Conference at the Bench. Pursuant to the conference at the bench, COURT ORDERED, matter CONTINUED.

NIC

CONTINUED TO: 11/09/12 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****November 09, 2012**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

November 09, 2012 9:30 AM**Evidentiary Hearing****Evidentiary Hearing:
Petition for Writ of
Habeas Corpus****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Sharon Chun**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

Hart, Martin W

Attorney

Monje, Ofelia L., ESQ

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Spanish Interpreter, Mario Torres, present for Deft Martinez-Hernandez.

Both counsel confirmed this has resolved. Mr. Hart stated that Deft had asked for an appeal, but, his prior attorney did not file it because there was confusion about getting paid.

COURT ORDERED, Lozada Appeal GRANTED, counsel may go forward to Supreme Court. Mr. Hart stated he will accept appointment for the Appeal. Court stated it will confer with Drew Christensen's office for confirmation that Mr. Hart may be appointed.

COURT ORDERED, STATUS CHECK set re confirmation of counsel.

NIC

11/27/12 8:15 AM STATUS CHECK: CONFIRMATION OF COUNSEL (M. HART)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****November 27, 2012**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

November 27, 2012 8:15 AM**Status Check****Confirmation of
Appointed Counsel
(Hart)****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Michael Radovic, Dep DA, present on behalf of the State and Marty Hart, Esq., present on behalf of Martinez-Hernandez, who is also present. Lorena Pike, Court Interpreter, present to assist Deft.

Mr. Hart CONFIRMED as appellate counsel in this matter. Conference at the Bench. Mr. Hart to submit an Order.

NIC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 21, 2014**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

October 21, 2014**8:15 AM****Motion****Deft.'s Motion to
Appoint Counsel for
Post-Conviction
Relief****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Hamner, Dep DA, present on behalf of the State and Marty Hart, Esq., present on behalf of Deft. Martinez-Hernandez who is not present.

This is the time set for Deft.'s Motion to Appoint Counsel for Post-Conviction Relief. Mr. Hart advised that he prepared the Lozada Appeal in this matter; it was denied. Additionally, after reviewing this matter, Mr. Hart believes the Deft. deserves a chance to have a Petition heard on the merits with regard to the trial.

Court noted, that although this would be the Deft.'s second Petition, this would be the first dealing with the merits. Therefore, COURT ORDERED, Motion to Appoint Counsel for Post-Conviction Relief is GRANTED; matter set for status check. This Court's staff shall contact the Office of Appointed Counsel. Court directed Mr. Hart to have his file ready to turn over to new counsel.

NIC

11/04/14 8:15 AM STATUS CHECK: CONFIRMATION OF COUNSEL

CLERK'S NOTE: Court Clerk telephonically contacted Drew Christensen regarding the above.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****November 04, 2014**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

November 04, 2014 8:15 AM**Status Check****Confirmation of
Counsel****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Nicole Cannizzaro, Dep PD, present on behalf of the State and Terrence Jackson, Esq., present on behalf of Deft. Martinez-Hernandez, who is also present. Alexandra Andrade, Court Interpreter, present to assist Deft.

This is the time set for the Status Check on Confirmation of Counsel. Mr. Jackson CONFIRMED as counsel of record.

Court advised that the Deft. had a Lozada Appeal, it was DENIED, so the Court considered, his Petition for Writ of Habeas Corpus as a first Petition and requested that the Deft. be given Court-Appointed counsel. COURT ORDERED, matter set for status check in thirty (30) days. In the meantime, Mr. Jackson can obtain the file from Mary Hart, Esq. A briefing schedule for supplemental briefing will be set next date.

NIC

12/02/14 8:15 AM STATUS CHECK: FILE/SET BRIEFING SCHEDULE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****December 02, 2014**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

December 02, 2014**8:15 AM****Status Check****File/Set Briefing
Schedule****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Christopher Hamner, Dep DA, present on behalf of the State and Terrence Jackson, Esq., present on behalf of Deft. Martinez-Hernandez, who is also present. Alexandra Andrade, Court Interpreter, present to assist Deft.

This is the time set for the Status Check on Mr. Jackson's review of the file; a briefing schedule needs to be set. Court advised that this is the Deft.'s first Petition for Writ of Habeas Corpus; his Lozado Appeal was DENIED. Mr. Jackson advised that he CONFIRMED last date and he has received most of the file and has had an opportunity to evaluate the case. The case is more complicated than expected; although the trial was short, there was an appeal afterwards and communication with the Deft. is going to be difficult because he speaks Spanish. Therefore, Mr. Jackson is requesting one hundred twenty (120) days to file his opening brief. Court set the following briefing schedule:

04/07/15 - Supplemental Brief

06/08/15 - State's Response

COURT ORDERED, matter set for hearing on July 10, 2014, at 9:30 a.m.

Deft. is upset because, due to his Felony conviction, he has not been able to work for the past eight (8) years; he needs the Felony removed from his record so he can get the proper work papers. Deft. is requesting a faster resolution of this case. Court informed the Deft. of the process; it cannot be done

any quicker.

MATTER RECALLED: All present as before. Mr. Jackson advised that the Deft. is very unhappy with the briefing schedule and hearing date. Therefore, he has two (2) options, he can either withdraw or he can move up the briefing schedule. Mr. Jackson is willing to try get the Deft.'s Supplemental Brief done in ninety (90) days.

Colloquy as to how to proceed; upon Court's inquiry, Mr. Jackson represented that he believes he can get the brief done in ninety (90) days. Court AMENDED the above briefing schedule as follows:

03/03/15 - Supplemental Brief

05/04/15 - State's Response

COURT ORDERED, the above-referenced hearing date is RESET.

The Court again addressed the Deft. Deft. stated that he realizes that this takes time he just wants the Court to give him some sort of paperwork so he can get a Sheriff's Card; colloquy.

NIC

06/05/15 9:30 AM HEARING: PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 02, 2015**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

June 02, 2015**8:30 AM****Status Check****PCR Hearing
Readiness****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Jacob Villani, Dep DA, present on behalf of the State and Terrence Jackson, Esq., present on behalf of Deft. Martinez-Hernandez, who is also present.

This is the time set for the Status Check with regard to the Post-Conviction Relief (PCR) hearing currently set for June 5, 2015. Mr. Jackson advised that he was contacted by Court staff to be here today regarding the PCR said hearing. The Court advised the State did not file a Supplemental Response so it was not sure if the parties would be ready to go forward on Friday.

Mr. Villani advised that the Motion was served through an old address so the State did not receive it. The Court directed the State to file a Supplemental Response by August 4, 2015. COURT ORDERED, the June 5 hearing is VACATED and RESET.

NIC

09/04/15 9:30 AM DEFT.'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 04, 2015**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

September 04, 2015 9:30 AM**Hearing****Deft.'s Petition for
Writ of Habeas
Corpus (Post-
Conviction)****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Erika Wiborg, Dep DA, present on behalf of the State and Terrence Jackson, Esq., present on behalf of Deft. Martinez-Hernandez, who is also present. Yul Haasmann, Court Interpreter, present to assist Deft.

This is the time set for hearing on Deft.'s Petition for Writ of Habeas Corpus (Post-Conviction) and Mr. Jackson's Supplement thereto. The State filed a Motion to Dismiss Deft.'s Supplemental Points and Authorities in Support of Petition for Writ of Habeas Corpus for Post-Conviction Relief

Mr. Jackson advised that the State is moving to dismiss Deft.'s Petition because they claim this case does not qualify for a Habeas Corpus Petition as the Deft. is out of custody. Mr. Jackson disagrees; he discussed the Jackson v. State case and advised that in this case, the Deft. acted diligently and filed his appeal immediately. He received a short sentence of twelve (12) to thirty (30) months and got out after he had served twelve (12) months but, Mr. Jackson represented, that does not mean a Deft. cannot follow through on a Writ of Habeas Corpus to challenge an unconstitutional conviction; argument. Mr. Jackson advised he would like to argue this matter on the merits as he believes the Deft. has meritorious claims.

Ms. Wiborg advised that the remedy that the Deft. is seeking with the Petition is release from unlawful custody. Since the Deft. is not in physical custody or on parole, the remedy is no longer needed. The remedy to overturn the jury verdict is a pardon. Deft.'s equal protection claims are unfounded.

Court advised that it did some independent research on this issue. Colloquy regarding State of Nevada v. Baliotis; specifically, the interpretation of the term "under sentence." Court noted that, in this case, the Deft. timely filed but by the passage of time he is out of custody and not on parole. The argument by the State is that the Deft. is not under restraint and, therefore, a Writ is not available under NRS 34.724. But the language in Baliotis states that a Deft. must, at the time he files the Writ, be subject to the restraint. Therefore, COURT ORDERED, decision DEFERRED. Court directed counsel to prepare supplemental briefs on their interpretation of the aforementioned language. COURT FURTHER ORDERED, supplemental briefs shall be submitted by September 18, 2015.

NIC

10/09/15 9:30 AM DECISION: PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 09, 2015**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

October 09, 2015**9:30 AM****Decision****Deft.'s Petition for
Writ of Habeas
Corpus (Post-
Conviction)****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Jacob Villani, Dep DA, present on behalf of the State and Terrence Jackson, Esq., present on behalf of Deft. Martinez-Hernandez, who is also present. Consuelo Cisneros, Court Interpreter, present to assist Deft.

This is the time set for hearing on Deft.'s Petition for Writ of Habeas Corpus (Post-Conviction). Mr. Jackson advised the Deft. proceeded in a timely manner, pursuant to the Statute, to raise the issue of ineffective assistance of counsel. However, before counsel could get this matter before the Court, the Deft. had served his relatively short prison sentence of twelve (12) months. Ineffective assistance cannot be challenged on direct appeal and, therefore, Deft. is basically left with no remedy to challenge the ineffective assistance of counsel claim; this also raises the issue of actual innocence for the reasons stated on the record. Additionally, Mr. Jackson advised that Deft. is prejudiced because of the things that go with a criminal conviction; post-conviction is important because if an Evidentiary Hearing were to be held, counsel would have an opportunity to develop the facts on whether or not counsel was ineffective. Deft. is facing a loss of liberty because of this conviction.

Argument by Mr. Villani; Deft. filed a direct appeal and the Supreme Court has reviewed this matter; an Order of Affirmance was filed with the court on July 22, 2014. A Writ is an extraordinary remedy

and the Nevada Constitution does not allow the Deft. to file the Writ. Mr. Villani submitted the matter on the State's briefing.

Court adopts the procedural history set forth by the State. The COURT FINDS that the Deft. filed his Petition for Writ of Habeas Corpus while he was under restraint or in custody in this matter and that it was filed timely. Under NRS 34.724 only a person who is under restraint may file a Writ. Further, under the Nevada Constitution, the Court only has the power to issue Writs on behalf of persons in actual custody and the Deft. is not in custody at this time. The Court notes that pursuant to Department of Prisons vs. Arndt, the Nevada Supreme Court states, "Nonetheless, we have consistently held that use of the extraordinary writ is warranted only to challenge present custody or restraint and the legality of that confinement." Since the Deft. has completed his confinement there is nothing left to challenge as far as the legality of the confinement; he is not under restraint or on parole at this time. Therefore, COURT ORDERED, Deft.'s Petition for Writ of Habeas Corpus is DENIED.

State to prepare the Order; COURT FURTHER ORDERED, matter set for status check. If the Order is filed prior to the status check date, it will be VACATED. Deft.'s appearance next date is WAIVED.

NIC

11/05/15 8:30 AM STATUS CHECK: ORDER (10/09/15)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 05, 2015

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

November 05, 2015 8:30 AM Status Check

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Keri Cromer

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:	Jackson, Terrence Michael	Attorney
	State of Nevada	Plaintiff
	Sudano, Michelle L.	Attorney

JOURNAL ENTRIES

- State advised the order had been filed this morning.

NIC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 27, 2016

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

September 27, 2016 8:30 AM Status Check

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:	Martinez-Hernandez, Lazaro	Defendant
	State of Nevada	Plaintiff
	Thoman, Charles W.	Attorney

JOURNAL ENTRIES

- Spanish Interpreter Alex Andrade also present.

Mr. Jackson not present. COURT ORDERED, matter CONTINUED.

MATTER RECALLED. All parties present as before. Defendant advised he would be out of custody in six days. Court advised Defendant to contact Mr. Jackson's office.

NIC (COC)

CONTINUED TO: 10/11/16 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 11, 2016**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

October 11, 2016 8:30 AM Status Check**HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Shelley Boyle**RECORDER:** Michelle Ramsey**REPORTER:****PARTIES**

PRESENT:	Holthus, Mary Kay	Attorney
	Jackson, Terrence Michael	Attorney
	Martinez-Hernandez, Lazaro	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Jackson questioned if the State really wanted to proceed in matter. Ms. Holthus noted the State did. COURT ADVISED a supplemental briefing may be submitted, and ORDERED, a date SET for Argument.

NIC (COC)

11/09/16 9:30 A.M. ARGUMENT: PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****November 09, 2016**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

November 09, 2016 9:30 AM Argument**HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Louisa Garcia**RECORDER:** Cynthia Georgilas**REPORTER:****PARTIES**

PRESENT:	Jackson, Terrence Michael	Attorney
	Martinez-Hernandez, Lazaro	Defendant
	State of Nevada	Plaintiff
	Turner, Robert B.	Attorney

JOURNAL ENTRIES

- Also Present, Irma Sanchez, Spanish Interpreter.

Mr. Jackson argued in support of Petition for Writ of Habeas Corpus stating former counsel did not present an adequate case pursuant to Strickland. The only evidence was the videotape and counsel did not do anything to authenticate/examine it. Further, none of the bench conferences were recorded; therefore, there was no adequate record of appeal and grounds to show ineffective assistance of counsel. Upon Court's inquiry regarding doctored tape, Mr. Jackson stated he had no evidence only his client's assistance to examine videotape evidence. Mr. Turner opposed Petition stating the allegations of a doctored tape was belied by the record and as to bench conferences, the court could look at the evidence and make a decision. COURT ORDERED, matter CONTINUED TO CHAMBERS for decision.

NIC (COC)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****November 10, 2016**

07C230237

The State of Nevada vs Lazaro Martinez-Hernandez

November 10, 2016 3:00 AM**Decision****HEARD BY:** Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Denise Husted**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Petition for Writ of Habeas Corpus came before this Court on November 9, 2016. Upon the completion of the evidentiary hearing and argument by counsel, the COURT DEFERRED its decision on this matter and now rules as follows:

Petitioner sets forth five points for the Court to make the determination that he received ineffective assistance of counsel.

1. Prior counsel should have sought the assistance of an expert to make a determination as to whether the video of the Petitioner committing the crime had been altered. Petitioner fails to set forth any evidence that the video had been altered and without more he is not entitled to relief. *Hargrove v State*, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984).

2. Counsel was ineffective during jury selection. Not one of the complained of jurors were on the jury. Petitioner fails to establish with specificity any claim that would warrant a challenge for cause re the jurors in question.

3. Counsel was ineffective in his opening statement. It is claimed that counsel as ineffective since he gave a weak opening statement and that the opening should have addressed the issue of self-defense. It appears that the focus of the defense was the inconsistencies of the video. Defense counsel made the tactical decision not to fully pursue a self-defense theory. Petitioner has failed to establish how a theory of self-defense in light of the evidence of the case would have been a superior theory for defense.

4. Counsel was ineffective for not requesting bench conferences to be properly placed on the record, thereby not preserving: A motion to dismiss during the trial and response to an objection to the

testimony of witness Maceo. The Court denied the motion to dismiss so a record was made as to the Court's decision. Further, after due deliberation of the jury, the jury found the Defendant guilty beyond a reasonable doubt which established that the State had presented sufficient evidence of Defendant's guilt. Although, the Bench conference was not recorded and no record of a hearsay objection was made. The record establishes that the State's objection was overruled and the Court allowed the witness to testify.

5. Cumulative errors. Petitioner has failed to establish any meritorious claims of error. Errors if any in the record do not violate defendant's constitutional rights.

Under Strickland the Petitioner must show that counsel's representation fell below an objective standard of reasonableness and but for the errors the result of the proceedings would have been different. Based upon the above, the Court finds that Petitioner has not met either of the Strickland two-prong test. Therefore, COURT ORDERED Petition for Writ of Habeas Corpus DENIED. This Court adopts the procedural history provided by the State. The State is directed to submit a formal Findings of Fact, Conclusions of Law and Order within ten (10) days after counsel is notified of the ruling and distribute a filed copy to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing.

CLERK'S NOTE: A copy of this minute order placed in the attorney folders of:

Terrence Jackson
District Attorney - Criminal

EXHIBITS

CASE NO. C230237

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Defendant's EXHIBITS

CASE NO. C230237

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EXHIBITS

FEB 04 2008

CASE NO. C230237

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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; REQUEST FOR
ROUGH DRAFT TRANSCRIPT; 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.

LAZARO MARTINEZ-HERNANDEZ aka
LAZARO MARTINEZHERNANDEZ,

Defendant(s).

Case No: 07C230237

Dept No: XVII

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 29 day of December 2016.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

