



**EIGHTH JUDICIAL DISTRICT COURT  
CLERK OF THE COURT**

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LAS VEGAS, NEVADA 89155-1160  
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Elizabeth A. Brown  
Clerk of Supreme Court

Steven D. Grierson  
Clerk of the Court

Brandi J. Wendel  
Court Division Administrator

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July 10, 2017

Elizabeth A. Brown  
Clerk of the Court  
201 South Carson Street, Suite 201  
Carson City, Nevada 89701-4702

RE: STATE OF NEVADA vs. DAIMON MONROE  
**S.C. CASE: 72944**  
D.C. CASE: 06C228752-1

Dear Ms. Brown:

In response to the e-mail dated July 10, 2017, enclosed is a certified copy of the Findings of Fact, Conclusions of Law and Order filed May 5, 2017 in the above referenced case. If you have any questions regarding this matter, please do not hesitate to contact me at (702) 671-0512.

Sincerely,  
STEVEN D. GRIERSON, CLERK OF THE COURT

A handwritten signature in black ink, appearing to read "Heather Ungermann", with a long horizontal flourish extending to the right.

---

Heather Ungermann, Deputy Clerk

1 **FCL**

2 STEVEN B. WOLFSON  
3 Clark County District Attorney  
4 Nevada Bar #001565  
5 STEVEN S. OWENS  
6 Chief Deputy District Attorney  
7 Nevada Bar #004352  
8 200 Lewis Avenue  
9 Las Vegas, Nevada 89155-2212  
10 (702) 671-2500  
11 Attorney for Plaintiff

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CLERK OF THE COURT

8 DISTRICT COURT  
9 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

CASE NO: 06C228752-1

12 DAIMON MONROE,  
13 aka Daimon Devi Hoyt, #0715429

DEPT NO: XX

14 Defendant.

15 FINDINGS OF FACT, CONCLUSIONS OF  
16 LAW AND ORDER

17 DATE OF HEARING: MARCH 28, 2017  
18 TIME OF HEARING: 8:30 A.M.

19 THIS CAUSE having come on for hearing before the Honorable ERIC JOHNSON,  
20 District Judge, on the 28th day of March, 2017, the Petitioner not being present,  
21 PROCEEDING IN PROPER PERSON, the Respondent being represented by STEVEN B.  
22 WOLFSON, Clark County District Attorney, by and through ALICIA A. ALBRITTON, Chief  
23 Deputy District Attorney, and the Court having considered the matter, including briefs,  
24 transcripts, arguments of counsel, and documents on file herein, now therefore, the Court  
25 makes the following findings of fact and conclusions of law:

26 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

27 On December 13, 2006, a Clark County Grand Jury returned an Indictment charging  
28 DAIMON MONROE, aka Daimon Devi Hoyt (hereinafter "Defendant") with COUNT 1 –  
Conspiracy to Possess Stolen Property and/or to Commit Burglary (Gross Misdemeanor –

1 NRS 205.275, 199.480) and COUNTS 2-27 – Possession of Stolen Property (Felony – NRS  
2 205.275).<sup>1</sup>

3 On January 16, 2008, Defendant was charged in Case Number 08F01002X with three  
4 counts of Solicitation to Commit Murder. The State alleged that Defendant's intended victims  
5 were Judge Michelle Leavitt, a detective with the Las Vegas Metropolitan Police Department,  
6 and Deputy District Attorney Sandra DiGiacomo, who was the prosecutor assigned to the  
7 instant case. On May 3, 2008, Defendant filed a motion with this Court to disqualify Ms.  
8 DiGiacomo and the entire Clark County District Attorney's Office from this case. The State  
9 responded in opposition on May 8, 2008. This Court denied that motion at a hearing on May  
10 12, 2008.

11 That same day, a seven-day jury trial commenced. On May 20, 2008, the jury returned  
12 a verdict convicting Defendant on all 27 counts as charged. On October 1, 2008, Defendant  
13 was sentenced as follows: COUNT 1 – 12 months in the Clark County Detention Center  
14 ("CCDC") and COUNTS 2-27 – Life without the Possibility of Parole in the Nevada  
15 Department of Corrections ("NDC"). COUNTS 15-27 were ordered to run concurrent with  
16 each other but consecutive to COUNTS 1-14. The entire sentence was ordered to run  
17 consecutive to Defendant's sentence in Case Number C227874. Defendant received zero days  
18 credit for time served. The Judgment of Conviction was entered on November 4, 2008.

19 Defendant filed a Notice of Appeal on November 19, 2008. On July 30, 2010, the  
20 Nevada Supreme Court affirmed the Judgment of Conviction in part and reversed in part,  
21 finding that there was not sufficient evidence to convict Defendant on COUNT 11. The case  
22 was remanded for this Court to amend the Judgment of Conviction accordingly. Remittitur  
23 issued on August 24, 2010.

24 This Court filed an Amended Judgment of Conviction on September 17, 2010, and  
25 vacated the conviction on COUNT 11. The remainder of the original Judgment of Conviction  
26 was affirmed.

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27 <sup>1</sup> An Amended Indictment was filed on December 15, 2006, but the charging information remained the same as it pertained to the counts  
28 contained in the original Indictment. Another Amended Indictment was filed on May 1, 2008, removing the name of a co-defendant  
who previously entered into a Guilty Plea Agreement with the State.

1 On July 7, 2011, Defendant filed a Petition for Writ of Habeas Corpus. Before this  
2 Court could rule on the Petition, Defendant filed a Notice of Appeal. Therefore, having no  
3 jurisdiction to hear the Petition, this Court dismissed it without prejudice on February 7, 2012.  
4 On February 28, 2012, the Nevada Supreme Court dismissed Defendant's appeal.

5 On March 29, 2013, the State filed a motion with this Court requesting Defendant's  
6 Petition be decided on the merits. On May 20, 2014, this Court denied Defendant's Petition  
7 for Writ of Habeas Corpus in its entirety. Defendant filed a Notice of Appeal from that denial  
8 on June 4, 2014. The Nevada Supreme Court affirmed this Court's ruling on November 14,  
9 2015.

10 Defendant filed a pro per motion for transport on October 18, 2016. The State  
11 responded on November 2, 2016. This Court denied the motion on November 8, 2016.

12 Defendant filed the instant Petition for Writ of Habeas Corpus on December 16, 2016.  
13 On December 28, 2016, he filed a Motion of Motion, wherein he provided more argument on  
14 his Petition. The State responded on March 13, 2017.

15 Defendant's Petition is barred by NRS 34.726(1) and as successive. Additionally, his  
16 claims regarding the search and seizure were addressed by the Nevada Supreme Court and are  
17 governed by law of the case, his claims that the State obstructed justice are bare and naked,  
18 and his claims of ineffective assistance are belied by the record. All other claims should have  
19 been raised on direct appeal. Thus, this Court orders that this Petition be DENIED.

20 Pursuant to NRS 34.726(1):

21 Unless there is good cause shown for delay, a petition that  
22 challenges the validity of a judgment or sentence must be filed  
23 within 1 year of the entry of the judgment of conviction or, if an  
24 appeal has been taken from the judgment, within 1 year after the  
25 Supreme Court issues its remittitur. For the purposes of this  
26 subsection, good cause for delay exists if the petitioner  
27 demonstrates to the satisfaction of the court:

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

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1 As per the language of the statute, the one-year time bar proscribed by NRS 34.726 begins to  
2 run from the date the judgment of conviction is filed or a remittitur from a timely direct appeal  
3 is filed. Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133-34 (1998).

4 Remittitur from Defendant's direct appeal was issued on August 24, 2010. The instant  
5 Petition was not filed until December 16, 2016. This is over six years after the Judgment of  
6 Conviction was filed and in excess of the one-year time frame.

7 Defendant has not even alleged good cause to overcome the procedural bar, and  
8 therefore has fallen short of demonstrating that any exists. Therefore, this Petition is denied.

9 Additionally, the Petition is successive. NRS 34.810(2) reads:

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

14 (emphasis added). Second or successive petitions will only be decided on the merits if the  
15 petitioner can show good cause and prejudice. NRS 34.810(3); Lozada v. State, 110 Nev. 349,  
16 358, 871 P.2d 944, 950 (1994).

17 As Defendant has already filed a petition in this case (July 7, 2011), this second Petition,  
18 and the claims therein, amount to an abuse of the writ as being successive. Accordingly, the  
19 Petition is denied.

20 Even if this Petition was not time-barred and successive, this Court would not grant  
21 relief as none of Defendant's claim could succeed on the merits.

22 Defendant argues that there was no valid warrant authorizing search and seizure in this  
23 case. However, this claim is precluded by the law of the case.

24 "The law of a first appeal is law of the case on all subsequent appeals in which the facts  
25 are substantially the same." Hall v. State, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975) (quoting  
26 Walker v. State, 85 Nev. 337, 343, 455 P.2d 34, 38 (1969)). Under the law of the case doctrine,  
27 issues previously decided on direct appeal may not be reargued in a habeas petition. Pellegrini  
28

1 v. State, 117 Nev. 860, 879, 34 P.3d 519, 532 (2001) (citing McNelton v. State, 115 Nev. 396,  
2 414-15, 990 P.2d 1263, 1275 (1999)).

3 On his direct appeal, Defendant raised the same issue on the same grounds. The Nevada  
4 Supreme Court found that this Court “did not err in refusing to suppress the evidence gathered  
5 as a result of the searches of [Defendant]’s property.” Monroe v. State, Docket No. 52916  
6 (Order of Affirmance, July 30, 2010) at 4-5. Accordingly, this issue has been decided and  
7 cannot be re-litigated or reversed here. The claim is denied.

8 Moreover, Defendant’s allegations that the State obstructed justice by refusing to  
9 provide him with discovery, and that the State engaged in a conspiracy to cover-up a lack of  
10 warrant, are waived, as well as bare and naked.

11 NRS 34.810(1) reads:

12 The court shall dismiss a petition if the court determines that:

13 (a) The petitioner’s conviction was upon a plea of  
14 guilty or guilty but mentally ill and the petition is not based upon  
15 an allegation that the plea was involuntarily or unknowingly or  
16 that the plea was entered without effective assistance of counsel.

17 (b) The petitioner’s conviction was the result of a trial  
18 and the grounds for the petition could have been:

19 ... (2) Raised in a direct appeal or a prior petition  
20 for a writ of habeas corpus or post-conviction relief.

21 Because both of these issues were appropriate for direct appeal – they do not involve  
22 ineffective assistance or challenge the validity of a guilty plea – they should have been raised  
23 there first. As they were not, they are waived in all subsequent proceedings, including on this  
24 habeas petition. Thus, they are denied.

25 Additionally, “bare” and “naked” allegations are not sufficient to warrant post-  
26 conviction relief, nor are those belied and repelled by the record. Hargrove v. State, 100 Nev.  
27 498, 502, 686 P.2d 222, 225 (1984).

28 Defendant has not cited to any facts in the record, nor has he provided this court with  
any other evidence that suggests his claims are true. Therefore, these claims are bare and  
naked and insufficient to warrant relief and are denied.

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1 Finally, Defendant alleges that he received ineffective assistance of counsel.  
2 Specifically, he argues that counsel was ineffective for failing to investigate and challenge the  
3 matter of the search warrant. But this claim is belied by the record.

4 The Sixth Amendment to the United States Constitution provides that, “[i]n all criminal  
5 prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his  
6 defense.” The United States Supreme Court has long recognized that “the right to counsel is  
7 the right to the effective assistance of counsel.” Strickland v. Washington, 466 U.S. 668, 686,  
8 104 S. Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323  
9 (1993). To prevail on a claim of ineffective assistance of trial counsel, a defendant must prove  
10 he was denied “reasonably effective assistance” of counsel by satisfying the two-prong test of  
11 Strickland, 466 U.S. at 686-87, 104 S. Ct. at 2063-64. See also Love, 109 Nev. at 1138, 865  
12 P.2d at 323. Under the Strickland test, a defendant must show first that his counsel’s  
13 representation fell below an objective standard of reasonableness, and second, that but for  
14 counsel’s errors, there is a reasonable probability that the result of the proceedings would have  
15 been different. 466 U.S. at 687-88, 694, 104 S. Ct. at 2065.

16 Defendant has failed to demonstrate either deficient performance or prejudice. First,  
17 his claim regarding counsel’s performance is belied by the record. Counsel did challenge the  
18 matter in this Court, as evidenced by the Nevada Supreme Court’s use of the abuse of  
19 discretion standard of review rather than reviewing it for plain error. See Monroe, Docket No.  
20 52916 (Order of Affirmance, July 30, 2010) at 4-5. Therefore, this claim is belied by the  
21 record and, thus, insufficient to demonstrate deficient performance.

22 Further, Defendant has not alleged that if counsel had performed differently the  
23 outcome of this case would have been different. Therefore, has failed to demonstrate  
24 prejudice. As he has not demonstrated both deficient performance and prejudice, he has failed  
25 to show that counsel was ineffective. Accordingly, this claim is denied.


26 Because this Court finds that the Petition is time-barred and successive, as well as  
27 completely devoid of merit, the Petition is denied.

28 //

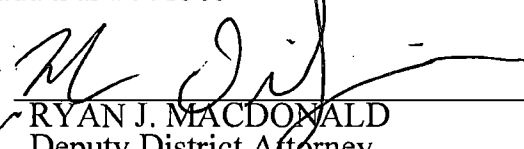
1 ORDER

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

4 DATED this 1 day of <sup>MAY</sup>~~April~~, 2017.

5   
6 DISTRICT JUDGE *its*


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

10 BY   
11 RYAN J. MACDONALD  
12 Deputy District Attorney  
13 Nevada Bar #012615

14 CERTIFICATE OF SERVICE

15 I certify that on the 17th day of April, 2017, I mailed a copy of the foregoing proposed  
16 Findings of Fact, Conclusions of Law, and Order to:

17 DAIMON MONROE,  
18 aka Daimon Devi Hoyt #38299  
19 HIGH DESERT STATE PRISON  
20 P.O. BOX 650  
21 INDIAN SPRINGS, NV 89018

22 BY   
23 R. JOHNSON  
24 Secretary for the District Attorney's Office

25  
26  
27  
28 AWR/RJM/rj/M-1





*Clerk of the Courts*  
*Steven D. Grierson*

200 Lewis Avenue  
Las Vegas, NV 89155-1160  
(702) 671-4554

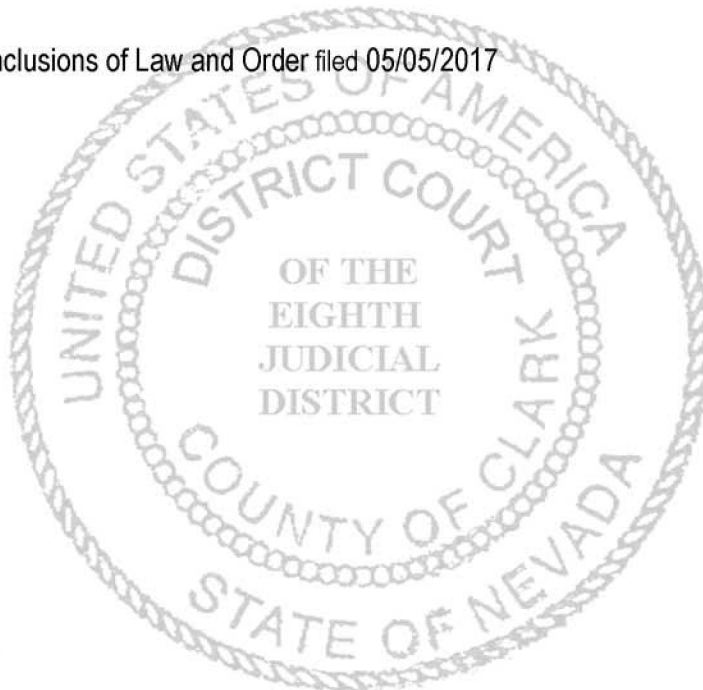
July 10, 2017

Case No.: 06C228752-1

### **CERTIFICATION OF COPY**

**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):

Findings of Fact, Conclusions of Law and Order filed 05/05/2017



now on file and of

**In witness whereof**, I have hereunto set my hand and affixed the seal of the Eighth Judicial District Court at my office, Las Vegas, Nevada, at 11:18 AM on July 10, 2017.

A handwritten signature of Steven D. Grierson in black ink.  
\_\_\_\_\_  
STEVEN D. GRIERSON, CLERK OF THE COURT