

1 **NOASC**
2 **RENE L. VALLADARES**
3 **Federal Public Defender**
4 **Nevada Bar No. 11479**
5 **DAVID ANTHONY**
6 **Assistant Federal Public Defender**
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9 **TIFFANY L. NOCON**
10 **Assistant Federal Public Defender**
11 **Nevada Bar No. 14318C**
12 **Tiffany_Nocon@fd.org**
13 **411 E. Bonneville, Ste. 250**
14 **Las Vegas, Nevada 89101**
15 **(702) 388-6577**
16 **(702) 388-5819 (Fax)**

17 **Attorneys for Petitioner**

18 **DISTRICT COURT**

19 **CLARK COUNTY, NEVADA**

20 **WILLIAM WITTER,**
21 **Petitioner,**

22 **v.**

23 **TIMOTHY FILSON, Warden, and ADAM**
PAUL LAXALT, Nevada Attorney
General,

Respondents.

Case No. 94C117513
Dept. No. XXIII

NOTICE OF APPEAL

(Death Penalty Habeas Corpus Case)

NOTICE IS GIVEN that Petitioner William Witter appeals to the Nevada Supreme Court from the Findings of Fact, Conclusions of Law and Order entered on
///

1 May 31, 2017 and mailed on June 5, 2017.

2 DATED this 10th day of July, 2017.

3 Respectfully submitted,
4 RENE L. VALLADARES
Federal Public Defender

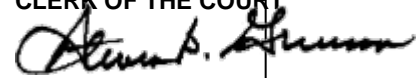
5 /s/ David Anthony
6 DAVID ANTHONY
Assistant Federal Public Defender

7 /s/ Tiffany L. Nocon
8 TIFFANY L. NOCON
Assistant Federal Public Defender

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Steven S. Owens
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/s/ Stephanie Young
An Employee of the
Federal Public Defender
District of Nevada



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(702) 388-5819 (Fax)

Attorneys for Petitioner

DISTRICT COURT
CLARK COUNTY, NEVADA

WILLIAM WITTER,
Petitioner,
v.

TIMOTHY FILSON, Warden, and ADAM
PAUL LAXALT, Nevada Attorney General
Respondents.

Case No. 94C117513
Dept. No. XXIII

CASE APPEAL STATEMENT
(Death Penalty Habeas Corpus Case)

1. Name of petitioner filing this case appeal statement:

William Witter

2. Identify the judge issuing the order appealed from:

Hon. Stefany Miley

3. Identify each appellant and the name and address of counsel for each appellant:

Rene L. Valladares
Federal Public Defender
David Anthony
Assistant Federal Public Defender
Tiffany L. Nocon
Assistant Federal Public Defender
411 E. Bonneville Ave., Suite 250
Las Vegas, Nevada 89101
Telephone: (702) 388-6577
Facsimile: (702) 388-5819

Counsel for Appellant William Witter

4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):

Respondent Timothy Filson
Warden, Ely State Prison
Respondent Adam Paul Laxalt
Nevada Attorney General

Steven Wolfson
Clark County District Attorney
Steven S. Owens
Chief Deputy District Attorney
200 Lewis Avenue
Las Vegas, Nevada 89155
(702) 671-2500
Counsel for Respondents

5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):

All attorneys are licensed in Nevada.

1 **6. Indicate whether appellant was represented by appointed or retained**
2 **counsel in the district court:**

3 The United State District Court for the District of Nevada appointed Witter's
4 counsel on September 17, 2001. See Witter vs. Baker, 2:01-cv-01034-RCJ-CWH at
5 ECF No. 3 (D. Nev. Sept. 5, 2001). Pursuant to appointment in federal court,
6 undersigned counsel remained Witter's appointed counsel for these state proceedings.

7 **7. Indicate whether appellant is represented by appointed or retained counsel**
8 **on appeal:**

9 Witter is represented by appointed counsel, the Federal Public Defender for
10 the District of Nevada.

11 **8. Indicate whether appellant was granted leave to proceed in forma pauperis,**
12 **and the date of entry of the district court order granting such leave:**

13 After the United States District Court denied Witter's request to waive filing
14 fees but waived subsequent fees and costs on September 17, 2001, Witter filed a
15 supplemental application to proceed in forma pauperis on October 3, 2001. The
16 United States District Court has neither ruled on the application nor collected any
17 fees from Witter.

18 **9. Indicate the date the proceedings commenced in the district court (e.g., date**
19 **complaint, indictment, information, or petition was filed):**

20 The Petition for Writ of Habeas Corpus (Post-Conviction) was filed on January
21 11, 2017.

22 **10. Provide a brief description of the nature of the action and result in the**
23 **district court, including the type of judgment or order being appealed and**
 the relief granted by the district court:

1 Witter filed the instant petition and raised two claims: (1) the Nevada Supreme
2 Court improperly reweighed Witter's eligibility for the death penalty by substituting
3 the decision of the appellate court for the decision of the jury, and by failing to find
4 the condition of eligibility beyond a reasonable doubt; and (2) Witter's death sentence
5 is unconstitutional because the jury in his capital trial was not instructed that in
6 order to find him eligible for the death penalty, it must have first found that the
7 mitigation did not outweigh the statutory aggravating circumstances beyond a
8 reasonable doubt.

9 On January 31, 2017, the State filed a response and motion to dismiss Witter's
10 petition.

11 On May 31, 2017, the District Court, after finding that the prior Amended
12 Judgment of Conviction entered against Witter was "not a final judgment" under
13 Whitehead v. State and Slaatte v. State, granted the state's motion and denied the
14 petition.

15 On or about June 30, 2017, Respondents submitted for the District Court's
16 signature a Third (sic) Amended Judgment of Conviction.

17 On or about July 10, 2017, the District Court signed the Third (sic) Amended
18 Judgment of Conviction.

19 **11. Indicate whether the case has previously been the subject of an appeal to**
20 **or original writ proceeding in the Supreme Court and, if so, the caption and**
21 **Supreme Court docket number of the prior proceeding:**

22 Witter v. State, 112 Nev. 908 (1996) (direct appeal)

23 Witter v. State, No. 36927 (2000) (post-conviction)

Witter v. State, No. 50447 (2007) (post-conviction)

Witter v. State, No. 52964 (2008) (post-conviction)

12. Indicate whether is appeal involves child custody or visitation:

This case does not involve child custody or visitation.

13.If this is a civil case, indicate whether this appeal involves the possibility of settlement:

This case is not a civil case.

DATED this 10th day of July, 2017.

Respectfully submitted,
RENE L. VALLADARES
Federal Public Defender

/s/ David Anthony
DAVID ANTHONY
Assistant Federal Public Defender

/s/ Tiffany L. Nocon
TIFFANY L. NOCON
Assistant Federal Public Defender
Attorneys for Petitioner

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Steven S. Owens
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DEPARTMENT 23
CASE SUMMARY
CASE No. 94C117513

State of Nevada
vs
William Witter

§ Location: **Department 23**
§ Judicial Officer: **Miley, Stefany**
§ Filed on: **01/14/1994**
§ Case Number History:
§ Cross-Reference Case **C117513**
§ Number:
§ Defendant's Scope ID #: **1204227**
§ Lower Court Case # Root: **93F08940**
§ Lower Court Case Number: **93F08940X**

CASE INFORMATION

Offense	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. MURDER WITH A DEADLY WEAPON	F	01/01/1900		
1. DEGREES OF MURDER	F	01/01/1900	Case Flags:	Bail Set
2. ATTEMPTED MURDER WITH A DEADLY WEAPON	F	01/01/1900		<i>Bail Set at \$250000</i>
2. DEGREES OF MURDER	F	01/01/1900		Appealed to Supreme Court
3. ATTEMPTED SEXUAL ASSAULT WITH A DEADLY WEAPON	F	01/01/1900		Custody Status - Nevada
4. BURGLARY.	F	01/01/1900		Department of Corrections
				Death Penalty Case

Statistical Closures

10/24/2000	USJR Reporting Statistical Closure
08/03/1995	USJR Reporting Statistical Closure
02/18/2011	USJR Reporting Statistical Closure
09/11/2007	USJR Reporting Statistical Closure
08/17/2001	USJR Reporting Statistical Closure

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	94C117513
Court	Department 23
Date Assigned	02/01/2017
Judicial Officer	Miley, Stefany

PARTY INFORMATION

Defendant **Witter, William L**

Lead Attorneys
Pescetta, Michael L.
Retained
7023886577(W)

Plaintiff **State of Nevada**

Wolfson, Steven B
702-671-2700(W)

DATE

EVENTS & ORDERS OF THE COURT

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01/01/1900	Plea (Judicial Officer: User, Conversion) 1. DEGREES OF MURDER Not Guilty PCN: Sequence:
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DEPARTMENT 23
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CASE No. 94C117513

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CASE SUMMARY
CASE No. 94C117513

02/25/1994	Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PRELIMINARY HEARING</i>	94C1175130013.tif pages
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DEPARTMENT 23
CASE SUMMARY
CASE No. 94C117513

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DEPARTMENT 23
CASE SUMMARY
CASE No. 94C117513

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DEPARTMENT 23
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CASE No. 94C117513

	<i>Huffaker</i>	
06/15/1995	Motion to Dismiss (10:00 AM) <i>DEFT'S MOTION TO DISMISS FOR FAILURE TO COLLECT/PERSERVE EVIDENCE</i> <i>Heard By: Stephen Huffaker</i>	
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DEPARTMENT 23
CASE SUMMARY
CASE No. 94C117513

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DEPARTMENT 23
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CASE No. 94C117513

07/06/1995	Expert Witness List <i>AMENDED WITNESS LIST</i>	94C1175130070.tif pages
07/06/1995	Request <i>STATES MOTION TO PERMIT TESTIMONY REGARDING DEFENDANTS GANG AFFILIATION DURING PENALTY PHASE DURING PENALTY PHASE</i>	94C1175130071.tif pages
07/10/1995	Penalty Hearing (10:30 AM) <i>PENALTY HEARING Court Clerk: BERNIECE STUCKI Reporter/Recorder: TOM MERCER Heard By: HUFFAKER, STEPHEN</i>	
07/10/1995	Opposition Filed By: Defendant Witter, William L <i>DEFENDANTS OPPOSITION TO THE STATES MOTION TO PERMIT TESTIMONY REGARDING DEFENDANTS GANG AFFILIATION DURING PENALTY PHASE DEFENDANTS GANG AFFILIATION DURING PENALTY PHASE</i>	94C1175130073.tif pages
07/10/1995	Request Filed by: Defendant Witter, William L <i>DEFENDANTS MOTION TO EXCLUDE EVIDENCE REGARDING ALLEGATIONS THAT THE DEFENDANT POSSESSED A WEAPON WHILE IN JAIL DEFENDANT POSSESSED A WEAPON WHILE IN JAIL</i>	94C1175130074.tif pages
07/10/1995	Request Filed by: Defendant Witter, William L <i>DEFENDANTS MOTION TO CONTINUE THE PENALTY PHASE</i>	94C1175130075.tif pages
07/11/1995	Penalty Hearing (10:30 AM) <i>PENALTY HEARING Court Clerk: BERNIECE STUCKI Reporter/Recorder: TOM MERCER Heard By: HUFFAKER, STEPHEN</i>	
07/11/1995	Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS VOLUME IX</i>	94C1175130062.tif pages
07/12/1995	Penalty Hearing (11:00 AM) <i>PENALTY HEARING Court Clerk: BERNIECE STUCKI Reporter/Recorder: TOM MERCER Heard By: HUFFAKER, STEPHEN</i>	
07/12/1995	Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS PENALTY HEARING VOLUME X</i>	94C1175130063.tif pages
07/12/1995	Notice <i>AMENDED NOTICE OF INTENT TO SEEK DEATH PENALTY</i>	94C1175130072.tif pages
07/12/1995	Request Filed by: Defendant Witter, William L <i>MOTION TO ALLOW THE DEFENSE TO ARGUE LAST IN PENALTY PHASE</i>	94C1175130076.tif pages
07/13/1995	Penalty Hearing (11:00 AM) <i>PENALTY HEARING Court Clerk: BERNIECE STUCKI Reporter/Recorder: TOM MERCER Heard By: Stephen Huffaker</i>	
07/13/1995	Hearing <i>PENALTY HEARING</i>	94C1175130064.tif pages
07/13/1995	Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS VOLUME XI</i>	94C1175130065.tif pages
07/13/1995	Verdict <i>SPECIAL VERDICT</i>	94C1175130077.tif pages

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07/13/1995	Verdict <i>VERDICT</i>	94C1175130078.tif pages
07/13/1995	Instructions to the Jury <i>INSTRUCTIONS TO THE JURY</i>	94C1175130082.tif pages
07/14/1995	Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS VOLUME XII</i>	94C1175130066.tif pages
07/19/1995	Conversion Case Event Type <i>SENTENCING COUNTS I-IV</i>	94C1175130067.tif pages
07/19/1995	Notice <i>NOTICE OF TRANSCRIPTS IN THE FILE</i>	94C1175130069.tif pages
08/03/1995	Sentencing (10:00 AM) Events: 07/19/1995 Conversion Case Event Type <i>SENTENCING COUNTS I-IV Court Clerk: BERNIECE STUCKI Reporter/Recorder: TOM MERCER Heard By: Stephen Huffaker</i>	
08/03/1995	Disposition (Judicial Officer: User, Conversion) 1. MURDER WITH A DEADLY WEAPON Guilty PCN: Sequence:	
08/03/1995	Disposition (Judicial Officer: User, Conversion)	
08/03/1995	Disposition (Judicial Officer: User, Conversion) 1. DEGREES OF MURDER Guilty PCN: Sequence:	
08/03/1995	Disposition (Judicial Officer: User, Conversion) 2. ATTEMPTED MURDER WITH A DEADLY WEAPON Guilty PCN: Sequence:	
08/03/1995	Disposition (Judicial Officer: User, Conversion)	
08/03/1995	Disposition (Judicial Officer: User, Conversion) 2. DEGREES OF MURDER Guilty PCN: Sequence:	
08/03/1995	Disposition (Judicial Officer: User, Conversion) 3. ATTEMPTED SEXUAL ASSAULT WITH A DEADLY WEAPON Guilty PCN: Sequence:	
08/03/1995	Disposition (Judicial Officer: User, Conversion)	
08/03/1995	Disposition (Judicial Officer: User, Conversion) 4. BURGLARY. Guilty PCN: Sequence:	

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CASE No. 94C117513

08/03/1995 **Disposition** (Judicial Officer: User, Conversion)

08/03/1995 **Sentence** (Judicial Officer: User, Conversion)

1. MURDER WITH A DEADLY WEAPON

Adult Adjudication

Converted Disposition:

Sentence# 0001: DEATH PENALTY

Converted Disposition:

Sentence# 0002: CREDIT FOR TIME SERVED

Minimum 627 Days to Maximum 627 Days

08/03/1995 **Sentence** (Judicial Officer: User, Conversion)

2. ATTEMPTED MURDER WITH A DEADLY WEAPON

Adult Adjudication

Converted Disposition:

Sentence# 0001:

Minimum 20 Years to Maximum 20 Years

Placement: NSP

Converted Disposition:

Sentence# 0002:

Minimum 20 Years to Maximum 20 Years

Placement: NSP

Cons/Conc: Consecutive

w/Charge Item: 0003

and Sentence#: 0001

08/03/1995 **Sentence** (Judicial Officer: User, Conversion)

3. ATTEMPTED SEXUAL ASSAULT WITH A DEADLY WEAPON

Adult Adjudication

Converted Disposition:

Sentence# 0001:

Minimum 20 Years to Maximum 20 Years

Placement: NSP

Cons/Conc: Consecutive

w/Charge Item: 0003

and Sentence#: 0001

Converted Disposition:

Sentence# 0002:

Minimum 20 Years to Maximum 20 Years

Placement: NSP

Cons/Conc: Consecutive

w/Charge Item: 0005

and Sentence#: 0001

08/03/1995 **Sentence** (Judicial Officer: User, Conversion)

4. BURGLARY.

Adult Adjudication

Converted Disposition:

Sentence# 0001:

Minimum 10 Years to Maximum 10 Years

Placement: NSP

Cons/Conc: Consecutive

w/Charge Item: 0003

and Sentence#: 0001

Converted Disposition:

Sentence# 0002: RESTITUTION

Amount: \$2790.00

08/04/1995  Judgment

JUDGMENT OF CONVICTION

94C1175130086.tif pages

94C1175130087.tif pages

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08/04/1995	 Warrant <i>WARRANT OF EXECUTION</i>	
08/04/1995	 Order <i>ORDER OF EXECUTION</i>	94C1175130088.tif pages
08/04/1995	 Warrant <i>From microfilm</i>	
08/11/1995	 Judgment <i>AMENDED JUDGMENT OF CONVICTION</i>	94C1175130090.tif pages
08/11/1995	Judgment <i>AMENDED JUDGMENT</i>	94C1175130091.tif pages
08/11/1995	Judgment <i>JUDGMENT OF RESTITUTION</i>	94C1175130092.tif pages
08/31/1995	 Notice Filed By: Defendant Witter, William L <i>NOTICE OF APPEAL</i>	94C1175130093.tif pages
08/31/1995	Notice of Appeal Filed By: Defendant Witter, William L <i>DESIGNATION OF CONTENTS OF RECORD ON APPEAL</i>	94C1175130094.tif pages
09/22/1995	Order Filed By: Defendant Witter, William L <i>ORDER FOR STAY OF EXECUTION</i>	94C1175130095.tif pages
09/26/1995	 Judgment <i>SECOND AMENDED JUDGMENT OF CONVICTION</i>	94C1175130097.tif pages
09/26/1995	Judgment <i>AMENDED ADMINISTRATIVE FEE</i>	94C1175130098.tif pages
09/29/1995	Reporters Transcript <i>REPORTER'S TRANSCRIPT OF APRIL 25, 1995</i>	94C1175130100.tif pages
09/29/1995	Reporters Transcript <i>REPORTER'S TRANSCRIPT OF JULY 6, 1995</i>	94C1175130101.tif pages
09/29/1995	Reporters Transcript <i>REPORTER'S TRANSCRIPT OF AUGUST 3, 1995</i>	94C1175130102.tif pages
08/05/1996	Order Filed By: Defendant Witter, William L <i>ORDER RELEASING EVIDENCE</i>	94C1175130103.tif pages
08/05/1996	Petition Filed by: Defendant Witter, William L <i>PETITION FOR RELEASE OF EVIDENCE</i>	94C1175130104.tif pages
01/08/1997	Judgment <i>NEVADA SUPREME COURT CLERKS CERTIFICATE/ JUDGMENT - AFFIRMED</i>	94C1175130105.tif pages
09/05/1997	Motion	94C1175130107.tif pages

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	<i>DEFT'S MOTION FOR APPOINTMENT OF COUNSEL</i>	
09/18/1997	Motion for Appointment (8:30 AM) Events: 09/05/1997 Motion <i>DEFT'S MOTION FOR APPOINTMENT OF COUNSEL Relief Clerk: LINDA SKINNER Reporter/Recorder: ROBERT MINTUN Heard By: Joseph Bonaventure</i>	
09/26/1997	Reporters Transcript <i>REPORTER'S TRANSCRIPT OF MOTION FOR APPOINTMENT OF COUNSEL</i>	94C1175130108.tif pages
10/13/1997	Order Filed By: Defendant Witter, William L <i>ORDER OF APPOINTMENT</i>	94C1175130109.tif pages
10/27/1997	Petition <i>DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)</i>	94C1175130110.tif pages
10/27/1997	Certificate Filed By: Defendant Witter, William L <i>CERTIFICATE OF SERVICE BY MAIL</i>	94C1175130111.tif pages
11/12/1997	Petition for Writ of Habeas Corpus (8:30 AM) Events: 10/27/1997 Petition <i>DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) Court Clerk: LINDA VIGIL Relief Clerk: BILLIE JO CRAIG Reporter/Recorder: ROBERT MINTUN Heard By: Bonaventure, Joseph T.</i>	
02/23/1998	Motion <i>DEFT'S MTN FOR EXTENSION OF TIME TO FILE SUPPLEMENTAL POINTS/MTN CONTINUE ARGUMEN</i>	94C1175130112.tif pages
02/24/1998	Receipt of Copy Filed by: Defendant Witter, William L <i>RECEIPT OF COPY</i>	94C1175130113.tif pages
03/09/1998	Motion (8:30 AM) Events: 02/23/1998 Motion <i>DEFT'S MTN FOR EXTENSION OF TIME TO FILESUPPLEMENTAL POINTS/MTN CONTINUE ARGUMEN Court Clerk: LINDA VIGIL Relief Clerk: JO ANN HANEMAN/JAH Reporter/Recorder: ROBERT MINTUN Heard By: Joseph Bonaventure</i>	
03/09/1998	Conversion Case Event Type <i>ARGUMENT</i>	94C1175130114.tif pages
03/19/1998	Petition for Writ of Habeas Corpus (8:30 AM) <i>DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)</i>	
07/15/1998	Petition for Writ of Habeas Corpus (8:30 AM) <i>DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)</i>	
07/15/1998	Hearing (8:30 AM) Events: 03/09/1998 Conversion Case Event Type <i>ARGUMENT Heard By: Joseph Bonaventure</i>	
07/15/1998	All Pending Motions (8:30 AM) <i>ALL PENDING MOTIONS 07/15/98 Court Clerk: LINDA VIGIL Reporter/Recorder: ROBERT MINTUN Heard By: Joseph Bonaventure</i>	
07/17/1998	Motion <i>ALL PENDING MOTIONS 07/15/98</i>	94C1175130115.tif pages

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08/11/1998	Points and Authorities Filed by: Defendant Witter, William L <i>SUPPLEMENTAL POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION CORPUS POST CONVICTION</i>	94C1175130116.tif pages
08/12/1998	Petition for Writ of Habeas Corpus (8:30 AM) <i>DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) Court Clerk: LINDA VIGIL Relief Clerk: BILLIE JO CRAIG Reporter/Recorder: ROBERT MINTUN</i>	
08/12/1998	Hearing (8:30 AM) <i>ARGUMENT Court Clerk: CYNTHIA NAVARRETTE-LORY Reporter/Recorder: ROBERT MINTUN Heard By: Joseph Bonaventure</i>	
08/12/1998	Hearing <i>ARGUMENT: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)</i>	94C1175130117.tif pages
09/16/1998	Revocation of Probation (8:30 AM) Events: 08/12/1998 Hearing <i>ARGUMENT: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) Court Clerk: NORA PENA Reporter/Recorder: ROBERT MINTUN Heard By: Bonaventure, Joseph T.</i>	
09/22/1998	Opposition <i>STATES OPPOSITION TO DEFENDANTS PETITION FOR WRIT OF HABEAS CORPUS POST-CONVICTION POST-CONVICTION</i>	94C1175130118.tif pages
10/12/1998	Revocation of Probation (8:30 AM) <i>ARGUMENT: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) Court Clerk: NORA PENA Reporter/Recorder: ROBERT MINTUN Heard By: Joseph Bonaventure</i>	
10/14/1998	Revocation of Probation (8:30 AM) <i>ARGUMENT: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) Court Clerk: NORA PENA Reporter/Recorder: ROBERT MINTUN Heard By: Joseph Bonaventure</i>	
10/14/1998	Hearing <i>EVIDENTIARY HEARING: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)</i>	94C1175130119.tif pages
11/16/1998	Evidentiary Hearing (8:30 AM) Events: 10/14/1998 Hearing <i>EVIDENTIARY HEARING: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) Court Clerk: NORA PENA Reporter/Recorder: ROBERT MINTUN Heard By: Bonaventure, Joseph T.</i>	
12/04/1998	Waiver Filed by: Defendant Witter, William L <i>WAIVER OF APPEARANCE</i>	94C1175130120.tif pages
12/14/1998	Evidentiary Hearing (8:30 AM) <i>EVIDENTIARY HEARING: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) Court Clerk: NORA PENA Reporter/Recorder: JAMES HELLESO Heard By: Pavlikowski, Joseph S.</i>	
12/23/1998	Minute Order (8:30 AM) <i>MINUTE ORDER RE: REASSIGNMENT Court Clerk: NORA PENA Heard By: Joseph Bonaventure</i>	
12/23/1998	Hearing	94C1175130121.tif pages

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	<i>MINUTE ORDER RE: REASSIGNMENT</i>	
01/13/1999	Evidentiary Hearing (1:30 PM) <i>EVIDENTIARY HEARING: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) Relief Clerk: REBECCA FOSTER Reporter/Recorder: JOY HINCK Heard By: Loehrer, Sally</i>	
02/19/1999	Evidentiary Hearing (3:00 PM) <i>EVIDENTIARY HEARING: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) Court Clerk: CINDY HORTON Heard By: Loehrer, Sally</i>	
02/26/1999	Evidentiary Hearing (3:00 PM) <i>EVIDENTIARY HEARING: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) Court Clerk: CINDY HORTON Reporter/Recorder: LISA MAKOWSKI Heard By: Sally Loehrer</i>	
03/12/1999	Request Filed by: Defendant Witter, William L <i>EX PARTE MOTION FOR ORDER TO PREPARE TRANSCRIPTS</i>	94C1175130123.tif pages
03/22/1999	Ex Parte Order <i>EX PARTE ORDER TO PREPARE TRANSCRIPTS</i>	94C1175130124.tif pages
03/23/1999	Receipt of Copy Filed by: Defendant Witter, William L <i>RECEIPT OF COPY OF EX PARTE ORDER TO PREPARE TRANSCRIPTS</i>	94C1175130125.tif pages
04/19/1999	Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS</i>	94C1175130126.tif pages
01/26/2000	Request Filed by: Defendant Witter, William L <i>EX PARTE MOTION FOR INTERIM PAYMENT OF EXCESS ATTORNEYS FEES AND EXPENSES IN POST CONVICTION PROCEEDINGS POST CONVICTION PROCEEDINGS</i>	94C1175130127.tif pages
02/14/2000	Order Filed By: Defendant Witter, William L <i>ORDER GRANTING INTERIM PAYMENT OF EXCESS ATTORNEYS FEES AND EXPENSES</i>	94C1175130128.tif pages
09/11/2000	Opposition <i>STATES SUPPLEMENTAL OPPOSITION TO DEFENDANTS PETITION FOR WRIT OF HABEAS CORPUS POST-CONVICTION CORPUS POST-CONVICTION</i>	94C1175130129.tif pages
09/12/2000	Writ Filed by: Defendant Witter, William L <i>DEFENDANTS POST HEARING BRIEF IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS</i>	94C1175130130.tif pages
09/25/2000	Judgment <i>FINDINGS OF FACTS, CONCLUSIONS OF LAW AND ORDER</i>	94C1175130131.tif pages
09/27/2000	Notice <i>NOTICE OF ENTRY OF ORDER</i>	94C1175130132.tif pages
10/09/2000	Motion <i>DEFT'S MOTION FOR APPOINTMENT OF APPELLATE COUNSEL</i>	94C1175130133.tif pages
10/10/2000	Receipt of Copy Filed by: Defendant Witter, William L <i>RECEIPT OF COPY OF MOTION FOR APPOINTMENT OF APPELLATE COUNSEL</i>	94C1175130134.tif pages

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10/23/2000	Notice of Appeal Filed By: Defendant Witter, William L <i>NOTICE OF APPEAL</i>	94C1175130135.tif pages
10/23/2000	Statement Filed by: Defendant Witter, William L <i>CASE APPEAL STATEMENT</i>	94C1175130137.tif pages
10/31/2000	Motion (8:30 AM) Events: 10/09/2000 Motion <i>DEFT'S MOTION FOR APPOINTMENT OF APPELLATE COUNSEL Court Clerk: THERESA LEE Relief Clerk: GEORGETTE BYRD/GB Reporter/Recorder: LISA MAKOWSKI Heard By: Sally Loehrer</i>	
10/31/2000	Order Filed By: Defendant Witter, William L <i>ORDER APPOINTING COUNSEL</i>	94C1175130138.tif pages
11/29/2000	Order <i>ORDER GRANTING DEFENDANTS MOTION GRANTING APPOINTMENT OF COUNSEL</i>	94C1175130139.tif pages
11/29/2000	Notice <i>NOTICE OF ENTRY OF ORDER</i>	94C1175130140.tif pages
11/30/2000	Order Filed By: Defendant Witter, William L <i>STIPULATION AND ORDER FOR PAYMENT OF EXCESS ATTORNEYS FEES AND EXPENSES</i>	94C1175130142.tif pages
09/19/2001	 Order Filed By: Defendant Witter, William L <i>STIPULATION AND ORDER FOR PAYMENT OF EXCESS ATTORNEYS FEES AND EXPENSES</i>	94C1175130145.tif pages
09/20/2001	Judgment <i>CLERK'S CERTIFICATE JUDGMENT AFFIRMED</i>	94C1175130144.tif pages
09/20/2001	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>NEVADA SUPREME COURT CLERKS CERTIFICATE/ JUDGMENT - AFFIRMED</i>	94C1175130146.tif pages
02/14/2007	 Petition <i>PTN FOR WRIT OF HABEAS CORPUS</i>	94C1175130148.tif pages
02/14/2007	 Motion <i>DEFT'S MTN FOR APPOINTMENT OF ATTY /37</i>	94C1175130149.tif pages
02/14/2007	 Request Filed by: Defendant Witter, William L <i>REQUEST FOR LEAVE TO PROCEED IN FORMA PAUPERIS</i>	94C1175130150.tif pages
02/14/2007	 Exhibits <i>EXHIBIT TO PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION VOLUME ONE OF SEVEN SEVEN</i>	94C1175130152.tif pages
02/14/2007	 Exhibits	94C1175130153.tif pages

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*EXHIBIT TO PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION
VOLUME TWO OF SEVEN SEVEN*

02/14/2007	 Exhibits <i>EXHIBIT TO PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION VOLUME THREE OF SEVEN SEVEN</i>	94C1175130154.tif pages
02/14/2007	 Exhibits <i>EXHIBIT TO PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION VOLUME FOUR OF SEVEN SEVEN</i>	94C1175130155.tif pages
02/14/2007	 Exhibits <i>EXHIBIT TO PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION VOLUME FIVE OF SEVEN SEVEN</i>	94C1175130156.tif pages
02/14/2007	 Exhibits <i>EXHIBIT TO PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION VOLUME SIX OF SEVEN SEVEN</i>	94C1175130157.tif pages
02/14/2007	 Exhibits <i>EXHIBIT TO PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION VOLUME SEVEN OF SEVEN SEVEN</i>	94C1175130158.tif pages
02/15/2007	 Substitution of Attorney Filed by: Defendant Witter, William L <i>SUBSTITUTION OF ATTORNEY</i>	94C1175130151.tif pages
02/27/2007	Motion for Appointment of Attorney (9:00 AM) Events: 02/14/2007 Motion <i>DEFT'S MTN FOR APPOINTMENT OF ATTY /37 Court Clerk: Billie Jo Craig Reporter/Recorder: Lisa Lizotte Heard By: Valorie Vega</i>	
02/27/2007	Motion <i>ARGUMENT/DECISION ON STATE'S MOTION TO DISMISS PETITION</i>	94C1175130159.tif pages
02/27/2007	 Affidavit in Support Filed By: Defendant Witter, William L <i>AFFIDAVIT IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS</i>	94C1175130160.tif pages
03/29/2007	 Claim Filed By: Defendant Witter, William L <i>SUPPLEMENTAL CLAIM TO PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION</i>	94C1175130161.tif pages
03/29/2007	 Exhibits Filed By: Defendant Witter, William L <i>SUPPLEMENTAL EXHIBITS TO PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION</i>	94C1175130162.tif pages
04/10/2007	Petition for Writ of Habeas Corpus (9:00 AM) Events: 02/14/2007 Petition <i>PTN FOR WRIT OF HABEAS CORPUS Heard By: Valorie Vega</i>	
05/01/2007	 Opposition <i>STATES OPPOSITION TO DEFENDANTS PETITION FOR WRIT OF HABEAS CORPUS POST CONVICTION AND MOTION TO DISMISS CONVICTION AND</i>	94C1175130163.tif pages












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	<i>MOTION TO DISMISS</i>	
06/14/2007	 Stipulation Filed by: Defendant Witter, William L <i>STIPULATION</i>	94C1175130164.tif pages
06/15/2007	 Order <i>ORDER</i>	94C1175130165.tif pages
06/28/2007	 Exhibits <i>PETITIONERS EXHIBITS IN SUPPORT OF OPPOSITION TO MOTION TO DISMISS</i>	94C1175130166.tif pages
06/28/2007	 Opposition <i>OPPOSITION TO MOTION TO DISMISS</i>	94C1175130167.tif pages
07/05/2007	 Reply <i>STATES REPLY TO DEFENDANTS OPPOSITION TO MOTION TO DISMISS</i>	94C1175130168.tif pages
07/12/2007	Petition for Writ of Habeas Corpus (10:30 AM) <i>PTN FOR WRIT OF HABEAS CORPUS Heard By: Valorie Vega</i>	
07/12/2007	Motion to Dismiss (10:30 AM) Events: 02/27/2007 Motion <i>ARGUMENT/DECISION ON STATE'S MOTION TO DISMISS PETITION Heard By: Valorie Vega</i>	
07/12/2007	All Pending Motions (10:30 AM) <i>ALL PENDING MOTIONS FOR 7/12/07 Court Clerk: Billie Jo Craig Reporter/Recorder: Lisa Lizotte Heard By: Valorie Vega</i>	
07/12/2007	Motion <i>ALL PENDING MOTIONS FOR 7/12/07</i>	94C1175130169.tif pages
07/12/2007	 Order <i>ORDER FOR TRANSCRIPT</i>	94C1175130170.tif pages
07/20/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT DEFTS MOTION FOR APPOINTMENT OF COUNSEL</i>	94C1175130171.tif pages
07/30/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS DEFENDANTS PETITION FOR WRIT OF HABEAS CORPUS/ARGUMENT/DECISION ON STATES MOTION TO DISMISS PETITION HABEAS CORPUS/ARGUMENT/DECISION ON STATES MOTION TO DISMISS PETITION</i>	94C1175130172.tif pages
08/02/2007	Petition for Writ of Habeas Corpus (10:30 AM) <i>PTN FOR WRIT OF HABEAS CORPUS Court Clerk: Billie Jo Craig Reporter/Recorder: Lisa Lizotte Heard By: Valorie Vega</i>	
08/02/2007	Motion to Dismiss (10:30 AM) <i>ARGUMENT/DECISION ON STATE'S MOTION TO DISMISS PETITION Heard By: Valorie Vega</i>	
08/02/2007	All Pending Motions (10:30 AM) <i>ALL PENDING MOTIONS FOR 8/2/07 Court Clerk: Billie Jo Craig Reporter/Recorder: Lisa Lizotte Heard By: Valorie Vega</i>	














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08/02/2007	Motion <i>ALL PENDING MOTIONS FOR 8/2/07</i>	94C1175130173.tif pages
08/07/2007	 Order <i>ORDER FOR TRANSCRIPT</i>	94C1175130174.tif pages
08/27/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT DEFTS PETITION FOR WRIT OF HABEAS CORPUS ARGUMENT/DECISION ON STATES MOTION TO DISMISS PETITION ON STATES MOTION TO DISMISS PETITION</i>	94C1175130175.tif pages
08/28/2007	 Opposition Filed By: Defendant Witter, William L <i>SUPPLEMENTAL OPPOSITION TO MOTION TO DISMISS</i>	94C1175130176.tif pages
08/30/2007	Petition for Writ of Habeas Corpus (10:30 AM) <i>PTN FOR WRIT OF HABEAS CORPUS Court Clerk: Billie Jo Craig Reporter/Recorder: Lisa Lizotte Heard By: Valorie Vega</i>	
08/30/2007	 Order <i>ORDER FOR TRANSCRIPT</i>	94C1175130178.tif pages
08/31/2007	 Reporters Transcript <i>REPORTER'S TRANSCRIPT DEFTS PETITION FOR WRIT OF HABEAS CORPUS</i>	94C1175130177.tif pages
09/17/2007	 Objection Filed By: Defendant Witter, William L <i>OBJECTIONS TO THE PROPOSED ORDER DENYING POST CONVICTION RELIEF</i>	94C1175130180.tif pages
09/26/2007	 Judgment <i>FINDINGS OF FACTS, CONCLUSIONS OF LAW AND ORDER</i>	94C1175130181.tif pages
09/26/2007	 Notice <i>NOTICE RE OBJECTIONS TO THE PROPOSED ORDER DENYING POST CONVICTION RELIEF FINDINGS AND ORDER FINDINGS AND ORDER</i>	94C1175130182.tif pages
09/29/2007	 Notice of Entry of Decision and Order <i>NOTICE OF ENTRY OF DECISION AND ORDER</i>	94C1175130183.tif pages
10/29/2007	 Statement Filed by: Defendant Witter, William L <i>CASE APPEAL STATEMENT</i>	94C1175130184.tif pages
10/29/2007	 Notice of Appeal Filed By: Defendant Witter, William L <i>NOTICE OF APPEAL (SC 50447)</i>	94C1175130185.tif pages
04/28/2008	 Petition <i>PTN FOR WRIT OF HABEAS CORPUS</i>	94C1175130187.tif pages
06/17/2008	Petition for Writ of Habeas Corpus (9:00 AM) Events: 04/28/2008 Petition <i>PTN FOR WRIT OF HABEAS CORPUS Court Clerk: Billie Jo Craig Relief Clerk: Monica Schmidt/ms Reporter/Recorder: Lisa Lizotte Heard By: Vega, Valorie J.</i>	

DEPARTMENT 23
CASE SUMMARY
CASE No. 94C117513


07/15/2008	 Request <i>RESPONSE AND MOTION TO DISMISS 3RD POST CONVICTION PETITION</i>	94C1175130189.tif pages
07/30/2008	 Order Filed By: Defendant Witter, William L <i>STIPULATION AND ORDER EXTENDING TIME TO FILE REPLY TO RESPONSE AND OPPOSITION AND CONTINUING HEARING DATE TO MOTION TO DISMISS THIRD POST CONVICTION PETITION FOR WRIT OF HABEAS CORPUS AND CONTINUING HEARING DATE TO MOTION TO DISMISS THIRD POST CONVICTION PETITION FOR WRIT OF HABEAS CORPUS</i>	94C1175130190.tif pages
08/07/2008	Petition for Writ of Habeas Corpus (10:00 AM) <i>PTN FOR WRIT OF HABEAS CORPUS Court Clerk: Billie Jo Craig Reporter/Recorder: Lisa Lizotte Heard By: Valorie Vega</i>	
09/29/2008	 Reply Filed by: Defendant Witter, William L <i>REPLY TO RESPONSE TO PETITION FOR WRIT OF WRIT OF HABEAS CORPUS POST-CONVICTION AND OPPOSITION TO MOTION TO DISMISS POST-CONVICTION AND OPPOSITION TO MOTION TO DISMISS</i>	94C1175130191.tif pages
10/28/2008	Petition for Writ of Habeas Corpus (10:30 AM) <i>PTN FOR WRIT OF HABEAS CORPUS Court Clerk: Billie Jo Craig Reporter/Recorder: Lisa Lizotte Heard By: Valorie Vega</i>	
10/28/2008	 Order <i>ORDER FOR TRANSCRIPT</i>	94C1175130194.tif pages
11/04/2008	 Reporters Transcript <i>RECORDER'S TRANSCRIPT RE DEFTS PETITION FOR WRIT OF HABEAS CORPUS</i>	94C1175130193.tif pages
11/24/2008	 Findings of Fact, Conclusions of Law and Order <i>FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER</i>	94C1175130196.tif pages
11/26/2008	 Notice of Entry of Decision and Order <i>NOTICE OF ENTRY OF DECISION AND ORDER</i>	94C1175130195.tif pages
12/19/2008	 Notice of Appeal Filed By: Defendant Witter, William L <i>NOTICE OF APPEAL (SC 52964)</i>	94C1175130197.tif pages
12/19/2008	 Statement Filed by: Defendant Witter, William L <i>CASE APPEAL STATEMENT</i>	94C1175130198.tif pages
01/20/2010	Judgment <i>CLERK'S CERTIFICATE JUDGMENT AFFIRMED</i>	94C1175130200.tif pages
01/20/2010	 Judgment <i>CLERK'S CERTIFICATE REHEARING DENIED</i>	94C1175130201.tif pages
02/18/2011	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Judgment Affirmed. Rehearing Denied.</i>	
01/05/2015	Case Reassigned to Department 4 <i>District Court Case Reassignment 2015</i>	


DEPARTMENT 23
CASE SUMMARY
CASE No. 94C117513


01/11/2017	 Petition for Writ of Habeas Corpus Filed by: Defendant Witter, William L <i>Petition for Writ of Habeas Corpus (Post Conviction)</i>
01/31/2017	 Response Filed by: Plaintiff State of Nevada <i>Response and Motion to Dismiss Fourth Habeas Petition.</i>
02/01/2017	 Notice <i>Notice of Department of Reassignment</i>
02/06/2017	 Stipulation and Order Filed by: Defendant Witter, William L <i>Stipulation Re: Briefing Schedule and Order</i>
03/08/2017	 Opposition to Motion to Dismiss Filed By: Defendant Witter, William L <i>Opposition to State's Response and Motion to Dismiss</i>
03/22/2017	 Reply to Opposition Filed by: Plaintiff State of Nevada <i>Reply to Opposition.</i>
04/19/2017	Petition for Writ of Habeas Corpus (11:00 AM) (Judicial Officer: Miley, Stefany) <i>Defendant's Petition for Writ of Habeas Corpus (Post Conviction)</i>
04/19/2017	Opposition and Countermotion (11:00 AM) (Judicial Officer: Miley, Stefany) <i>Defendant's Opposition to State's Response and Motion to Dismiss</i>
04/19/2017	 All Pending Motions (11:00 AM) (Judicial Officer: Miley, Stefany) <i>Defendant's Petition for Writ of Habeas Corpus (Post Conviction); Defendant's Opposition to State's Response and Motion to Dismiss</i>
04/24/2017	 Substitution of Attorney Filed by: Defendant Witter, William L <i>Substitution of Attorneys</i>
04/28/2017	 Substitution of Attorney Filed by: Defendant Witter, William L <i>Consent to Substitution of Attorneys</i>
04/28/2017	 Recorders Transcript of Hearing <i>Transcript of Proceedings: Defendant's Petition for Writ of Habeas Corpus Post-Conviction...Defendant's Opposition to State's Response and Motion to Dismiss April 19, 2017</i>
05/31/2017	 Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff State of Nevada
06/05/2017	 Notice of Entry <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
06/07/2017	 Notice of Motion


DEPARTMENT 23
CASE SUMMARY
CASE No. 94C117513


Filed By: Defendant Witter, William L
Notice of Motion and Motion for Order


06/19/2017  **Motion for Order** (9:30 AM) (Judicial Officer: Miley, Stefany)
06/19/2017, 06/28/2017
Defendant's Motion for Order


06/23/2017  Opposition to Motion
Filed By: Plaintiff State of Nevada
Opposition to Motion.


06/27/2017  Reply to Opposition
Filed by: Defendant Witter, William L
Reply to Opposition to Motion for Order


06/30/2017  Notice of Appeal (criminal)
Party: Plaintiff State of Nevada
Notice of Appeal.


06/30/2017  Case Appeal Statement
Filed By: Plaintiff State of Nevada
Case Appeal Statement.

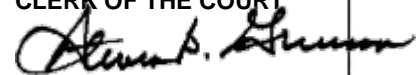
07/07/2017  Recorders Transcript of Hearing
Transcript of Proceedings: Defendant s Motion for Order June 28, 2017

07/10/2017  Notice of Appeal (criminal)
Party: Defendant Witter, William L
Notice of Appeal

07/10/2017  Case Appeal Statement
Filed By: Defendant Witter, William L
Case Appeal Statement

07/10/2017  Notice of Appeal (criminal)
Party: Defendant Witter, William L
Notice of Appeal

07/10/2017  Case Appeal Statement
Filed By: Defendant Witter, William L
Case Appeal Statement



FFCL
STEVEN WOLFSON
Clark County District Attorney
Nevada Bar #001565
STEVEN S. OWENS
Chief Deputy District Attorney
Nevada Bar #004352
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500

DISTRICT COURT
CLARK COUNTY, NEVADA

WILLIAM WITTER,

Petitioner,

-vs-

THE STATE OF NEVADA,

Respondent.

CASE NO: 94C117513

DEPT NO: XXIII

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

DATE OF HEARING: 4/19/17
TIME OF HEARING: 11:00 AM

This Cause having come on for hearing before the Honorable STEFANY A. MILEY, District Judge, on the 19th day of April, 2017, the Petitioner not being present, represented by DAVID ANTHONY and TIFFANY L. NOCON, Assistant Federal Public Defenders, the Respondent being represented by STEVEN B. WOLFSON, District Attorney, by and through STEVEN S. OWENS, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now makes the following findings of fact and conclusions of law:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In 1995, William Witter was convicted of Murder With Deadly Weapon, Attempt Sexual Assault With Deadly Weapon, and Burglary for assaulting and attempting to rape Kathryn Cox, and then stabbing to death her husband, James Cox, when he tried to come to his wife's aid. Witter received the death penalty. His convictions and sentence were

1 affirmed on direct appeal. Witter v. State, 112 Nev. 908, 921 P.2d 886 (1996). Remittitur
2 issued on December 23, 1996.

3 Witter filed a timely first post-conviction petition which was denied by the district
4 court after an evidentiary hearing and then affirmed on appeal by the Nevada Supreme Court
5 in an unpublished order (SC# 36927). Remittitur issued on September 14, 2001. After
6 litigating a federal habeas petition for several years, Witter returned to state court by filing a
7 second state habeas petition on February 14, 2007. That petition was also denied and again
8 affirmed on appeal by the Nevada Supreme Court in an unpublished order (SC# 50447).
9 Witter also filed a third state habeas petition on April 28, 2008, which was also denied and
10 affirmed on appeal (SC# 52964). Remittitur from this third habeas appeal issued on
11 February 14, 2011. On January 11, 2017, Petitioner filed a fourth state habeas petition which
12 raises a single issue based on Hurst v. Florida, 577 U.S. ___, 136 S.Ct. 616 (2016). The State
13 has filed a response and motion to dismiss the petition based on procedural default.

14 This Court finds that the instant petition, which is a fourth petition for a writ of habeas
15 corpus by this Petitioner, is timely filed because the last Judgment of Conviction, although it
16 does set a restitution amount, it also says an additional amount to be determined at a later
17 date. Accordingly, it is not a final judgment and the time and procedural bars in NRS 34
18 never started to run. See Whitehead v. State, 128 Nev. ___, 285 P.3d 1053 (2012); Slaatte v.
19 State, 129 Nev. ___, 298 P.3d 1170, 1171 (2013) (“Because the judgment of conviction
20 contemplates restitution in an uncertain amount, it is not final and therefore is not
21 appealable”). Therefore, the petition is not procedurally barred.

22 Turning to the merits of the issue, this Court finds that the capital proceedings in this
23 case are consistent with Apprendi, Ring, and Hurst. See Hurst v. Florida, 577 U.S. ___, 136
24 S.Ct. 616 (2016). First of all, both the eligibility and suitability were decided by a jury, not
25 by the judge. And likewise, the Court doesn’t find anything in Hurst that mandates that the
26 weighing of aggravating and mitigating circumstances be done beyond a reasonable doubt.
27 Accordingly, neither appellate reweighing nor the weighing process implicate Hurst.
28 Because Petitioner has not demonstrated prejudice the petition is denied.

ORDER

Based on the foregoing, the fourth petition is timely filed due to the lack of a final Judgment of Conviction, but Hurst is simply an application of Ring and nothing in Hurst requires the weighing process be subject to the beyond a reasonable doubt standard. The motion to dismiss the petition is granted and the petition is denied.

DATED this 23rd day of May, 2017.


STEFANY A. MILEY
DISTRICT JUDGE

STEVEN B. WOLFSON
DISTRICT ATTORNEY
Nevada Bar #001565

BY


STEVEN S. OWENS
Chief Deputy District Attorney
Nevada Bar #004352

1 **CERTIFICATE OF ELECTRONIC FILING**

2 I hereby certify that service of Findings of Fact, Conclusions of Law and Order, was
3 made this 10th day of May, 2017, by Electronic Filing to:

4 DAVID ANTHONY
5 Email: David_Anthony@fd.org

6 TIFFANY L. NOCON
7 Email: Tiffany_Nocon@fd.org

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10 By: Ed Davis
11 Employee, District Attorney's Office
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Eileen Davis

From: Eileen Davis
Sent: Wednesday, May 10, 2017 10:24 AM
To: david_anthony@fd.org; tiffany_nocon@fd.org
Cc: Steven Owens; Eileen Davis
Subject: William Witter, 94C117513.
Attachments: Witter, William, 94C117513, FFCL&O..pdf

Findings of Fact, Conclusions of Law and Order.

The attached Findings will be submitted to the Judge on May 17, 2017.



NEO

**DISTRICT COURT
CLARK COUNTY, NEVADA**

WILLIAM WITTER,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent,

Case No: 94C117513

Dept No: XXIII

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

PLEASE TAKE NOTICE that on May 31, 2017, 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 June 5, 2017.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

CERTIFICATE OF E-SERVICE / MAILING

I hereby certify that on this 5 day of June 2017, I served a copy of this Notice of Entry on the following:

☒ By e-mail:

Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

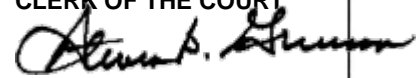
☒ The United States mail addressed as follows:

William Witter # 47405
P.O. Box 1989
Ely, NV 89301

Rene L. Valladares, Federal Public Defender
411 E. Bonneville Ave., Ste 250
Las Vegas, NV 89101

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk



FFCL
STEVEN WOLFSON
Clark County District Attorney
Nevada Bar #001565
STEVEN S. OWENS
Chief Deputy District Attorney
Nevada Bar #004352
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500

DISTRICT COURT
CLARK COUNTY, NEVADA

WILLIAM WITTER,)	
)	
Petitioner,)	CASE NO: 94C117513
)	
-vs-)	DEPT NO: XXIII
)	
THE STATE OF NEVADA,)	
)	
Respondent.)	

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

DATE OF HEARING: 4/19/17
TIME OF HEARING: 11:00 AM

This Cause having come on for hearing before the Honorable STEFANY A. MILEY, District Judge, on the 19th day of April, 2017, the Petitioner not being present, represented by DAVID ANTHONY and TIFFANY L. NOCON, Assistant Federal Public Defenders, the Respondent being represented by STEVEN B. WOLFSON, District Attorney, by and through STEVEN S. OWENS, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now makes the following findings of fact and conclusions of law:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In 1995, William Witter was convicted of Murder With Deadly Weapon, Attempt Sexual Assault With Deadly Weapon, and Burglary for assaulting and attempting to rape Kathryn Cox, and then stabbing to death her husband, James Cox, when he tried to come to his wife's aid. Witter received the death penalty. His convictions and sentence were

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26 weighing of aggravating and mitigating circumstances be done beyond a reasonable doubt.
27 Accordingly, neither appellate reweighing nor the weighing process implicate Hurst.
28 Because Petitioner has not demonstrated prejudice the petition is denied.

ORDER

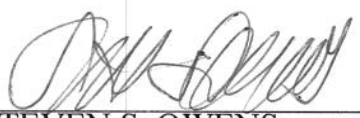
Based on the foregoing, the fourth petition is timely filed due to the lack of a final Judgment of Conviction, but Hurst is simply an application of Ring and nothing in Hurst requires the weighing process be subject to the beyond a reasonable doubt standard. The motion to dismiss the petition is granted and the petition is denied.

DATED this 23rd day of May, 2017.


STEFANY A. MILEY
DISTRICT JUDGE

STEVEN B. WOLFSON
DISTRICT ATTORNEY
Nevada Bar #001565

BY


STEVEN S. OWENS
Chief Deputy District Attorney
Nevada Bar #004352

1 **CERTIFICATE OF ELECTRONIC FILING**

2 I hereby certify that service of Findings of Fact, Conclusions of Law and Order, was
3 made this 10th day of May, 2017, by Electronic Filing to:

4 DAVID ANTHONY
5 Email: David_Anthony@fd.org

6 TIFFANY L. NOCON
7 Email: Tiffany_Nocon@fd.org

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10 By: Ed Davis
11 Employee, District Attorney's Office
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Eileen Davis

From: Eileen Davis
Sent: Wednesday, May 10, 2017 10:24 AM
To: david_anthony@fd.org; tiffany_nocon@fd.org
Cc: Steven Owens; Eileen Davis
Subject: William Witter, 94C117513.
Attachments: Witter, William, 94C117513, FFCL&O..pdf

Findings of Fact, Conclusions of Law and Order.

The attached Findings will be submitted to the Judge on May 17, 2017.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 25, 1994**

94C117513

State of Nevada

vs

William Witter

January 25, 1994**10:00 AM****Initial Arraignment**

**INITIAL
ARRAIGNMENT
Court Clerk:
BERNIECE STUCKI
Relief Clerk: LARRY
SNYDER/LS
Reporter/Recorder:
TOM MERCER
Heard By: Stephen
Huffaker**

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

Harmon, Melvyn T.

Attorney

Public Defender

Attorney

Witter, William L

Defendant

JOURNAL ENTRIES

- Mr. Philip J. Kohn of the Public Defenders office present representing the Deft. Deft. Witter arraigned and pled NOT GUILTY. Deft. waived 60-day rule. Mr. Harmom lodged a copy of Rule #250 with the Clerk, and gave copies to the Deft. and his Counsel. COURT ORDERED, MATTER SET FOR TRIAL.

CUSTODY

8/29/94 @ 10:30 AM / JURY TRIAL /// 8/25/94 @ 10:00 AM / CALENDAR CALL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

94C117513 State of Nevada
 vs
 William Witter

February 01, 1994	10:00 AM	Request	ORAL REQUEST OF DISTRICT ATTORNEY RESET TRIAL DATE Court Clerk: BERNIECE STUCKI Reporter/Recorder: TOM MERCER Heard By: Stephen Huffaker
--------------------------	-----------------	----------------	---

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

PRESENT:	Bell, Jr., Rex A.	Attorney
	Harmon, Melvyn T.	Attorney
	Public Defender	Attorney
	Witter, William L	Defendant

JOURNAL ENTRIES

- PHILIP J. KOHN, DEPUTY PUBLIC DEFENDER, PRESENT ON BEHALF OF DEFENDANT. THE RECORD WILL SHOW MR. HARMON HAS A PROBLEM WITH A TRIAL DATE IN AUGUST AND HAS ASKED FOR A NEW DATE. THE COURT ORDERED, THE TRIAL DATE IS VACATED AND RESET.

CUSTODY

11-14-94 @ 10:30 AM / JURY TRIAL

94C117513

11-10-94 @ 10:00 AM / CALENDAR CALL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 13, 1994**

94C117513 State of Nevada
 vs
 William Witter

October 13, 1994	10:00 AM	Motion to Continue	MOTION TO CONTINUE TRIAL DATE Relief Clerk: PENNY WISNER Heard By: HUFFAKER, STEPHEN
-------------------------	-----------------	---------------------------	---

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

PRESENT:	Moreo, Thomas J.	Attorney
	Witter, William L	Defendant

JOURNAL ENTRIES

- Phillip Kohn, DPD, present. Due to Court's absence, matter CONTINUED.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 20, 1994**

94C117513 State of Nevada
 vs
 William Witter

October 20, 1994**10:00 AM****Motion to Continue**

**MOTION TO
CONTINUE TRIAL
DATE Court Clerk:
BERNIECE STUCKI
Reporter/Recorder:
TOM MERCER
Heard By: Stephen
Huffaker**

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

PRESENT:	Bell, Jr., Rex A.	Attorney
	Guymon, Gary L.	Attorney
	PUBDEF	Attorney
	Public Defender	Attorney
	Witter, William L	Defendant

JOURNAL ENTRIES

- Mr. Kohn represented to Court they have learned of records that are critical to their defense. Because of the privacy act in California it will take some time to obtain these records. State argued in opposition to a contin- uance. COURT ORDERED, this trial date is vacated and RESET.

CUSTODY

4-27-95 10:00 AM CALENDAR CALL

5-1-95 10:30 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 25, 1995**

94C117513 State of Nevada
 vs
 William Witter

April 25, 1995**10:00 AM****Request of Court**

**AT THE REQUEST
OF THE COURT
Court Clerk:
BERNIECE STUCKI
Reporter/Recorder:
TOM MERCER
Heard By: Stephen
Huffaker**

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

PRESENT:	Bell, Stewart L.	Attorney
	Guymon, Gary L.	Attorney
	Harmon, Melvyn T.	Attorney
	PUBDEF	Attorney
	Public Defender	Attorney
	Witter, William L	Defendant

JOURNAL ENTRIES

- COURT MET WITH COUNSEL IN CHAMBERS. These representations were put on the record. Mr. Kohn made a motion to continue the trial date and argued in support of the motion. Mr. Guyman argued in opposition to the motion to continue this trial date. He stated the victim in this case vigorously opposes a continuance of this trial date. The Court addressed Defendant Witter and told him that the Court had told his attorney there will be no more continuances, no more coming up with a new theory a few weeks prior to trial. The Court ORDERED, trial date is set. Mr. Kohn asked

that his motions set for 4-27-95 be continued to the date of the calendar call, and BY THE COURT SO ORDERED.

CUSTODY

6-15-95 10:00 AM CALENDAR CALL

6-19-95 10:30 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 16, 1995**

94C117513

State of Nevada

vs

William Witter

May 16, 1995**10:00 AM****Motion to Dismiss**

**DEFT'S PRO PER
MOTION TO
DISMISS
COUNSELAND
APPOINTMENT OF
NEW COUNSEL
Court Clerk:
BERNIECE STUCKI
Reporter/Recorder:
TOM MERCER
Heard By: Stephen
Huffaker**

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

Bell, Stewart L.

Attorney

Guymon, Gary L.

Attorney

PUBDEF

Attorney

Public Defender

Attorney

Witter, William L

Defendant

JOURNAL ENTRIES

- Mr. Kohn represented to Court that since this motion was filed he has met twice with defendant Witter and State has answered the motion. It is not a personality problem. Defendant Witter in not happy that certain defenses are not being pursued. Mr. Kohn asked that this hearing be in camera

94C117513

since he does not want to set forth all of their defenses at this time. THE COURT ORDERED, that request is granted and Court will meet with Counsel on 5-25- 95.

CUSTODY

6-15-95 10:00 AM CALENDAR CALL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 25, 1995**

94C117513

State of Nevada

vs

William Witter

May 25, 1995**10:00 AM****Motion to Dismiss**

**DEFT'S PRO PER
MOTION TO
DISMISS
COUNSEL AND
APPOINTMENT OF
NEW COUNSEL
Relief Clerk: CAROL
GREEN
Reporter/Recorder:
DAVID ROBINSON
Heard By: Stephen
Huffaker**

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

Guymon, Gary L.

Attorney

Harmon, Melvyn T.

Attorney

PUBDEF

Attorney

Public Defender

Attorney

Witter, William L

Defendant

JOURNAL ENTRIES

- Statement by Mr. Kohn regarding previous hearing which was held in chambers and was recorded, with request that transcript be sealed. COURT ORDERED, transcript will be sealed. Further, COURT ORDERED, Motion to Dismiss Counsel and Appointment of New Counsel is DENIED; dates

94C117513

previously set will stand.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 15, 1995**

94C117513 State of Nevada
 vs
 William Witter

June 15, 1995**10:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS Court
Clerk: BERNIECE
STUCKI
Reporter/Recorder:
TOM MERCER
Heard By: Stephen
Huffaker**

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

PRESENT:	Bell, Stewart L.	Attorney
	Guymon, Gary L.	Attorney
	Owens, Steven S.	Attorney
	PUBDEF	Attorney
	Public Defender	Attorney
	Witter, William L	Defendant

JOURNAL ENTRIES

- DEFENDANT'S MOTION IN LIMINE TO PROHIBIT ANY REFERENCES TO THE FIRST PHASE AS THE "GUILT PHASE"... DEFENDANT'S MOTION IN LIMINE LIMITING REMOVAL OF JURORS BY THE PROSECUTOR...DEFENDANT'S MOTION TO ALLOW JURY QUESTIONNAIRE. ...DEFENDANT'S MOTION TO PARTIALLY STRIKE NOTICE OF AGGRAVATING CIRCUMSTANCES...DEFENDANT'S MOTION FOR INDIVIDUAL SEQUESTERED VOIR DIRE...DEFT'S MOTION TO DISMISS FOR FAILURE TO COLLECT AND/OR PRESERVE EVIDENCE...STATE'S

MOTION TO ENDORSE NAMES ON INFORMATION...CALENDAR CALL

COURT ORDERED, Defendant's Motion to Allow Jury Questionnaire will be granted with these questions omitted: 7, 10, 11, 13, 14, 15, 20, 22, 25, 26, 29 (A) (B) (C), 30, 32, 34, 35, 36, 37, 38, 41, 42, 43, 44, 45, 48, 49, 50, 51 and the words close friends, 52, 53, and words close friends, 54, 59, 60, 61, 63, 64, 74, 75,,79, 86 and preamble, 92, 96, 97, 98, 99, 100, 101, 102, and 103. COURT ORDERED, no ruling will be made on Defendant's Motion in limine to Prohibit any Reference to the First Phase as the "Guilt Phase". Court finds State has as much right as Defendant does for removal of Jurors, and Court indicated ruling will be made on that as we go along.

COURT RESERVED ruling on Defendant's Motion to partially Strike Notice of Aggravating Circumstances. COURT ORDERED, Defendant's Motion for Individual sequestered Voir Dire is DENIED. Defendant's Motion to Dismiss for Failure to Collect and/or Preserve Evidence was WITHDRAWN. State's Motion to Endorse Names is GRANTED. Mr. Kohn asked that this matter be passed for one day so they can tell the Court for sure they are ready for trial, and by the COURT SO ORDERED. Mr. Kohn represented to Court he would like to WITHDRAW the motion for JURY QUESTIONNAIRE since the questions omitted are the questions he wanted and he does not want to upset the Jurors by having them answer the questions he is not as interested in. COURT ORDERED, that Motion will be WITHDRAWN.

CUSTODY

6-16-95 10:00 AM CALENDAR CALL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 16, 1995**

94C117513 State of Nevada
 vs
 William Witter

June 16, 1995**10:00 AM****Calendar Call**

CALENDAR CALL
Court Clerk:
BERNIECE STUCKI
Reporter/Recorder:
TOM MERCER
Heard By: Stephen
Huffaker

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

PRESENT:	Bell, Stewart L.	Attorney
	Guymon, Gary L.	Attorney
	Owens, Steven S.	Attorney
	PUBDEF	Attorney
	Public Defender	Attorney
	Witter, William L	Defendant

JOURNAL ENTRIES

- Mr. Kohn announced ready for trial on 6-19-95 @ 10:30 A.M. There was some discussion as to when the Penalty Hearing could be held. Estimated time for this trial is two weeks and one week, or three days for the Penalty Hearing. The Court indicated the week of July 10, 1995 is the time set for the penalty hearing, if that becomes necessary. It was decided prospective jurors would be brought into the Courtroom in groups of fourteen (14) to be cleared for death penalty. Mr. Guymon submitted an Order to Endorse Names for Court's signature and the same was filed in Open Court. COURT ORDERED, matter continued for JURY TRIAL.

94C117513

CUSTODY

6-19-95 10:30 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 19, 1995**

94C117513 State of Nevada
 vs
 William Witter

June 19, 1995**10:30 AM****Jury Trial**

TRIAL BY JURY
Court Clerk:
BERNIECE STUCKI
Reporter/Recorder:
TOM MERCER
Heard By:
HUFFAKER,
STEPHEN

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

PRESENT:	Bell, Stewart L.	Attorney
	Guymon, Gary L.	Attorney
	Owens, Steven S.	Attorney
	PUBDEF	Attorney
	Public Defender	Attorney
	Witter, William L	Defendant

JOURNAL ENTRIES

- (PRE-TRIAL MOTIONS OUTSIDE PRESENCE OF JURY)

On behalf of State Mr. Guyman stated there were no motions pending that have not been ruled on by the Court. Mr. Kohn stated he had no pretrial motions that had not been ruled on and counsel stipulated that all motions have been heard and ruled on. Court and counsel agreed all of the requirements of the Supreme Court rule 250 had been satisfied.

One further matter. The Court stated there was a motion previously filed by Defendant to remove

Mr. Kohn as his counsel. After reading the minutes Court determined that this motion had been heard and denied.

(JURY PRESENT) The clerk called the roll of prospective jurors with all answering present. Mr. Owens made a short nature of action statement who introduced him- self and Mr. Guymon. He also read the list of witnesses State may call. Mr. Philip Kohn, Counsel for Defense, introduced himself and Mr. Bassett and estimated time of trial will be two weeks. The Court called groups of fourteen prospective jurors and they examin- ed in groups of fourteen, with remaining prospective jurors out of the courtroom. Voir Dire examination continued. COURT ORDERED, voir dire examintion will continue June 20, 1995 at the hour of 1:30 P.M. The prospective jurors were dismissed until that time. (OUTSIDE PRESENCE OF JURY) Mr. Guymon made objection to Mr. Kohn's reference to circumstances in Defendant's childhood. Response by Mr. Kohn who agreed to brief the issue. The Court suggested that counsel not use the word "mitigation". Both agreed they would not use that word.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 20, 1995**

94C117513 State of Nevada
 vs
 William Witter

June 20, 1995**10:30 AM****Jury Trial**

TRIAL BY JURY
Court Clerk:
BERNIECE STUCKI
Reporter/Recorder:
TOM MERCER
Heard By:
HUFFAKER,
STEPHEN

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

PRESENT:	Bell, Stewart L.	Attorney
	Owens, Steven S.	Attorney
	Primeaux, A. L.	Attorney
	PUBDEF	Attorney
	Public Defender	Attorney
	Witter, William L	Defendant

JOURNAL ENTRIES

- (OUTSIDE PRESENCE OF JURYY) Mr. Kohn put on the record his motion to introduce fetal alcohol. Mr. Kohn put on the record his conversation regarding defendant's motion for replacing his counsel. It was because Mr. Kohn had stated he had no defense for the trial phase but in talking with experts in Seattle, Washington he feels there is a great deal that could be done in the penalty phase. Mr. Kohn stated the Court denied his motion to continue the trial and he had never made a record on that motion. He did so. State opposed the motion and the basis for that opposition was that the case was

pre- viously set for trial in 1994, 10-14-94, and Mr. Kohn has had almost a year to get the discovery for his defense. State's recollection of that motion which was heard in chambers was very much as the State in- dicated. The Court had granted a couple of continuances in the past to give defense time to procure a witness, since the Court thought it was important, in fairness to Defendant's case. But now the Court feels it is not right to give him three weeks to do what he could not do in past year. Court denied the motion for continuance on the eve of trial. Mr. Kohn asked permission to inquire into the area of aggravating cir- cumstances. Response by State. Court stated it's findings. Court DENIED the request.

(JURY PRESENT) Jury selection continued. Prospective jurors were released at 4:00 p.m. COURT ORDERED, jury selection is continued to 6-21-95 at the hour of 10:30 A.M.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 21, 1995**

94C117513 State of Nevada
 vs
 William Witter

June 21, 1995**11:15 AM****Jury Trial**

TRIAL BY JURY
Court Clerk:
BERNIECE STUCKI
Reporter/Recorder:
TOM MERCER
Heard By:
HUFFAKER,
STEPHEN

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

PRESENT:	Bell, Stewart L.	Attorney
	Guymon, Gary L.	Attorney
	Owens, Steven S.	Attorney
	PUBDEF	Attorney
	Public Defender	Attorney
	Witter, William L	Defendant

JOURNAL ENTRIES

- (OUTSIDE PRESENCE OF JURY) Mr. Kohn made a record about his objections to Defendant not receiving a proper razor for shaving before he came to Court. The Court inquired of Court Services Officers if Defendant had been treated in an unusual manner. They indicated he had been given the same razor that they have been giving prisoners for years. Court determined that the Defendant looked fine. Mr. Kohn brought to Court's attention that in today's Review Journal, editorial page, there is a letter from the deputy Attorney General and it talks about criminals not taking the blame

for criminal actions. It basically belittles the idea of mitigation. He expressed concern about the Court's rulings on voir dire in asking the jury about abuse. Further argument by Mr. Kohn. Response by State. The Court ORDERED, mark the article in red and it will be marked as Court's Exhibit but the Court will not respond to anything in the press during this trial. (PROSPECTIVE JURORS PRESENT) Jury selection continued. COURT ORDERED, this matter is continued to the date of June 22, 1995 at the hour of 11:15 AM.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 22, 1995**

94C117513

State of Nevada

vs

William Witter

June 22, 1995**9:00 AM****Jury Trial****TRIAL BY JURY****Court Clerk:****BERNIECE STUCKI****Reporter/Recorder:****TOM MERCER****Heard By:****HUFFAKER,****STEPHEN****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Bell, Stewart L.

Attorney

Guymon, Gary L.

Attorney

Owens, Steven S.

Attorney

PUBDEF

Attorney

Public Defender

Attorney

Witter, William L

Defendant

JOURNAL ENTRIES

- (JURY PRESENT) Jury selection continued. Lunch Break. (JURY PRESENT) Jury selection continued. At the hour of 5-30 P.M. twelve jurors and two alternates were seated and sworn. The Court admonished and excused the jury and ORDERED, this matter is continued to the date of 6-23-95 at the hour of 9:00 AM.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 23, 1995**

94C117513

State of Nevada

vs

William Witter

June 23, 1995**10:30 AM****Jury Trial****TRIAL BY JURY****Court Clerk:****BERNIECE STUCKI****Heard By:****HUFFAKER,
STEPHEN****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- (JURY PRESENT) Opening statement by Mr. Guymon. Opening statement by Mr. Bassett. The Clerk read Information to Jury and stated Defendant's plea thereto. Mr. Kohn invoked the exclusionary rule. Kathryn Terry Cox sworn and testified. Thomas D. McKinnon sworn and testified. Thomas Pummill sworn and testified. Lunch break. (OUTSIDE PRESENCE OF JURY) Mr. Kohn put on the record he had asked to make a motion to exclude witnesses outside presence of Jury and the Court determined it should be made in the presence of the jury. Also, Mr. Kohn stated he did not want those who will testify in the Penalty Hearing allowed to be present during the trial, in the interest of a fair trial for the defendant. Response by Mr. Guymon. The Court ruled the exclusionary rule applies only to the Evidentiary portion of the trial. LUNCH BREAK (OUTSIDE PRESENCE OF JURY) Mr. Kohn asked to put on the record one other thought concerning the motion to exclude witnesses. The Court finds this motion is prematurely made, since the motion that affects the trial is the motion to exclude witnesses at the trial. Should we come to the penalty hearing, then the question will be should witnesses be allowed to testify at the penalty phase who have sat through the guilty phase of the trial. Court

further finds, it is not an issue in this phase of the trial. Mr. Kohn stated that in going through the police reports there was some mention of gang affiliation. He advised the Court the State will not mention that and both witnesses have been strongly admonished not to say anything about gang affiliation. That will be in the form of a stipulation. Mr. Kohn objected to the State showing two (2) pictures of Mr. Cox, showing him under his cab, dead and very bloody. Mr. Kohn also objected to photographs of Mr. Cox taken at the autopsy. The Court did remove one picture of Mr. Cox under his cab but allowed the other four. (JURY PRESENT) Timothy Allen Schroeder sworn and testified. Afternoon break. (OUTSIDE PRESENCE OF JURY) Mr. Kohn objected to some pictures State had marked, #18 and #22. Court viewed the photos and ORDERED, they will be admitted. (JURY PRESENT) Bryan Candiano sworn and testified. Donald Redlin, Security officer, bicycle detail, sworn and testified. Jury was admonished and excused. COURT ORDERED, this matter is continued to the date of Monday, June 26, 1995 at the hour of 10:30 AM. (OUTSIDE PRESENCE OF JURY) Mr. Guyman advised Court that if Mr. Kohn is going to call an expert they would like to have the name of the expert and any report he might have. Mr. Kohn indicated that depending on what the State's witness says, he may or may not call an expert. IF he does, he has already told the State who it will be. There was some discussion about instructions.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 26, 1995**

94C117513 State of Nevada
 vs
 William Witter

June 26, 1995**1:30 PM****Jury Trial**

TRIAL BY JURY
Court Clerk:
BERNIECE STUCKI
Reporter/Recorder:
MARCIA LEONARD
Heard By:
HUFFAKER,
STEPHEN

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

PRESENT:	Bell, Stewart L.	Attorney
	Guymon, Gary L.	Attorney
	Owens, Steven S.	Attorney
	PUBDEF	Attorney
	Public Defender	Attorney
	Witter, William L	Defendant

JOURNAL ENTRIES

- (OUTSIDE PRESENCE OF JURY) Mr. Guymon has show counsel for defense all of the photos the State in- tends to admit. Mr. Kohn had objections to five of the pictures. (JURY PRESENT. Daniel Peterson sworn and testified. Exhibits marked, offered and admitted as per attached worksheet. (OUTSIDE PRESENCE OF JURY) Mr. Kohn put on the record his objections to State's Exhibit #41. The Court deemed that although it was the same photo, it might be called duplicitous but it jusdt a smaller photo of the larger one they already have in. So the Court can see no harm in the State using

the smaller photo also. Lunch break. (JURY PRESENT) Thomas Dwayne Thowsen sworn and testified. (Detective Thomas) Alan Galaspy sworn and testified. Counsel stipulated to admit State's Exhibits No. 70 and No. 71. Sonya Snodie sworn and testified. Mr. Guymon put on the record another stipulation of Counsel: Terry Cook, who is a criminalist with the Las Vegas Metropolitan Police Department, and has previously testified as an expert for the Las Vegas Metropolitan Police Department as a criminalist, tested many of the items that have no been admitted into evidence. Specifically, he tested the blood that was found on the four and a half inch blade of the buck knife and concluded that it could be the blood of James Cox, but not the blood of Kathryn Cox or William Witter. Terry Cook also tested the substances that were found on the bloody t- shirt of the defendant, the black and white sweater, the boxer shorts and the blue and white socks; concluded that that too was a blood substance; that it could be the blood of -- specifically on the t-shirt, sweater and socks --o the blood of James Cox, and not the blood of Kathryn Cox or the Defendant William Witter; That the substance on the blue jeans worn by the defendant was, in fact blood, and that it could be the blood of James Cox and not Kathryn's or the defendant's; that the substance on the tennis shoes worn by the defendant was, in fact blood, and that it could be the blood of James Cox and not the blood of Kathryn Cox or William Witter; That the substance found on the hands, left and right, of the Defendant was, in fact, blood, and that it matched the blood of James Cox and not the blood of Kathryn Cox or the defendant, William Witter; That the blood, that the substance found on the brown jacket located over the body of James Cox could be the blood of James Cox, but not the blood of Kathryn Cox or defendant Witter. That the Substance found on the gray sweatshirt that said Caesars Palace, which Kathryn had been wearing, and the blood on the green and black sweater as well as the bra, could be --that was blood and that it could be the blood of Kathryn Cox or the defendant's, as they haave similar blood types, but could not be the blood of James Cox. Further, Counsel will stipulate that Terry Cook tested or analyzed the swabs from the sexual assault kits, that being taken by Marilyn Allred, the nurse at Univer- sity Medical Center, from Kathryn Cox, and compared it to the sexual assault kit and evidence taken from the defendant and that nothing of serological value was found on the vaginal, anal, or oral swabs taken from Kathryn Cox. Dr. Robert Jordan was sworn and testified. The COURT ORDERED, these proceedings are continued to the date of June 27th, 1995 at the hour of 1:30 PM. (OUTSIDE PRESENCE OF JURY) The Defedant was advised of his rights.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 27, 1995**

94C117513 State of Nevada
 vs
 William Witter

June 27, 1995**10:30 AM****Jury Trial**

TRIAL BY JURY
Court Clerk:
BERNIECE STUCKI
Reporter/Recorder:
TOM MERCER
Heard By:
HUFFAKER,
STEPHEN

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

PRESENT:	Bell, Stewart L.	Attorney
	Guymon, Gary L.	Attorney
	Owens, Steven S.	Attorney
	PUBDEF	Attorney
	Public Defender	Attorney
	Witter, William L	Defendant

JOURNAL ENTRIES

- (OUTSIDE THE PRESENCE OF JURY) Mr. Kohn represented to the Court that he was prepared to call Dr. Levy as his first and possibly only witness. Dr. Levy is a medical doctor. He works at Montevista Hospital. He is head of addictions there. This doctor was contacted by the State and now he feels the Defendant is a bad guy and should die and that he doesn't think he can do any good for the defense. So, at this point Mr. Kohn stated he was without an expert and the State is partly to blame. Mr. Kohn asked for a continuance. Mr. Guymon argued in opposition to that motion. The

Court finds the request for a continuance is not well taken. The COURT ORDERED, the motion for a continuance is DENIED. (JURY PRESENT) State rests. Defense rests. The Court ORDERED, this matter is continued to June 28, 1995 at the hour of 10:30 AM.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 28, 1995

94C117513 State of Nevada
 vs
 William Witter

June 28, 1995

10:30 AM

Jury Trial

TRIAL BY JURY
Court Clerk:
BERNIECE STUCKI
Heard By: Stephen
Huffaker

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

PARTIES
PRESENT:

JOURNAL ENTRIES

- (OUTSIDE PRESENCE OF JURY) On behalf of State Mr. Guymon had no objection to the instructions the Court indicated it would give and had two instructions to offer that the Court indicated it would not give. Arguments of counsel. On behalf of Defense Mr. Kohn made an objection to the fact that all discussion regarding settling instructions was not put on the record. Discussion between Court and Mr. Kohn regarding the felony murder rule. Mr. Kohn had two instructions marked as Defendant's proffered A and Aa, and argued. Mr. Kohn had no instructions to offer that the Court indicated it would not give. Counsel stipulated that instructions were settled in Open Court. Mr. Kohn put on the record he thought the State had the right to rebut what the defense says in their argument, but not save a lot of charts whistles and bells for their closing argument. The Court reminded Mr. Kohn Mr. Guymon had just read into the record NRS 175.141, entitled Order of Trial, sub (5), which states the State must open and must conclude the argument. Further argument and response. The Court ORDERED, State will get a second argument. (JURY PRESENT) The Court instructed the jury as to the law of the case. Instruction #29-A was added to the instructions and read to the jury. Opening argument by Mr. Owens. Answering argument by Mr.

Bassett. Closing argument by Mr. Guymon. The officers were sworn to take charge of the jury. The alternate jurors were thanked and excused. The jury retired to deliberate at the hour of 1:35 PM. (OUTSIDE PRESENCE OF JURY) The Court made a record with regard to Instruction #29-A. The jury returned with a verdict at the hour of 5:10 PM. The clerk called the roll of the jury. The jury found defendant guilty of Count I, MURDER OF THE FIRST DEGREE WITH USE OF A DEADLY WEAPON, Count II, ATTEMPT MURDER WITH USE OF A DEADLY WEAPON, Count III, ATTEMPT SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON and Count IV, BURGLARY. The jury was polled at request of Mr. Kohn. The Court explained to the Jury they would now have to decide the penalty and the Penalty Hearing would begin on July 10, 1995 at the hour of 10:30 AM. The jurors were thanked and excused until that date and were asked to leave their names and telephone numbers with the bailiff. (OUTSIDE PRESENCE OF JURY) The COURT ORDERED, Defendant is remanded on this case. Court and Counsel discussed in chambers the matter of getting together to exchange witness lists and make reciprocal discovery of everything that is going to be had in the penalty phase. July 6 is the cut of date for the penalty phase. All witnesses have to be disclosed at that time.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

94C117513 State of Nevada
 vs
 William Witter

July 06, 1995	10:30 AM	Status Check	STATUS CHECK:DISCOVER Y FOR PENALTY HRG. Court Clerk: BERNIECE STUCKI Reporter/Recorder: TOM MERCER Heard By: Stephen Huffaker
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HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	Bell, Stewart L.	Attorney
	Guymon, Gary L.	Attorney
	Owens, Steven S.	Attorney
	PUBDEF	Attorney
	Public Defender	Attorney

JOURNAL ENTRIES

- State filed in open Court an Amended Witness List and a Motion to Permit Testimony Regarding Defendant's Gang Affiliation During Penalty Phase. Mr. Kohn represented to Court he did not want to disclose at this time his expert witness. The Court indicated that he must do that at this time. This is the cut off date and all discovery is to be turned over at this time if it is to be used in the Penalty Hearing. Counsel indicated they were ready to proceed. COURT ORDERED, this matter is continued for Penalty Phase and anything else that needs to be put on the record will be done when the

94C117513

Defendant is present.

CUSTODY

7-10-95 10:30 AM PENALTY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 10, 1995**

94C117513 State of Nevada
 vs
 William Witter

July 10, 1995**10:30 AM****Penalty Hearing**

**PENALTY
HEARING Court
Clerk: BERNIECE
STUCKI
Reporter/Recorder:
TOM MERCER
Heard By:
HUFFAKER,
STEPHEN**

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

PRESENT:	Bell, Stewart L.	Attorney
	Guymon, Gary L.	Attorney
	Owens, Steven S.	Attorney
	PUBDEF	Attorney
	Public Defender	Attorney
	Witter, William L	Defendant

JOURNAL ENTRIES

- (OUTSIDE PRESENCE OF JURY) Mr. Kohn filed in Open Court Defendant's Motion to Continue the Penalty Phase and Defendant's opposition to the State's Motion to Permit Testimony Regarding Defendant's Gang Affiliation During Penalty Phase and Defendant's Motion to Exclude Evidence Regarding Allegations that the Defendant possessed a Weapon While in Jail in open Court. The Court, having read briefs from both sides, and hearing oral argument ORDERED, that testimony will

be allowed as to evidence of gang affiliation and reasons for that decision were put on the record. FURTHER ORDERED, Defendant's Motion to continue the Penalty Hearing is DENIED. and testimony regarding the weapon found in Defendant's cell will be allowed. Mr. Guymon stated he would file an Amended Notice of Intent to Seek Death Penalty, striking the first aggravator since Defendant Witter had completed his parole prior to this incident. There was discussion as to the packet of information brought by State's witness Linda Rose. The Court deemed that could be used at the hearing. Mr. Kohn stated again his concern on the discovery issue. He said they have had Dr. Etcoff used against them before they call him as a witness. Mr. Kohn asked to have a picture marked as Defense Exhibit #A to be published to the Jury through his opening statement, and by the Court SO ORDERED. (JURY PRESENT) The Clerk called the roll of the jurors, with all answering present. Opening argument by Mr. Guymon and then Mr. Kohn. Lunch Break. Ronald A. Ezell sworn and testified. David Scot Rumsey sworn and testified. Michael Pomeroy sworn and testified. Linda Rose sworn and testified. James Ford sworn and testified. Shanta Franco sworn and testified. Timothy Jackson sworn and testified. Thomas Pipitone sworn and testified. The Court admonished and excused the jurors and ORDERED, matter continued to July 11, 1995 at the hour of 11:00 am.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 11, 1995**

94C117513

State of Nevada

vs

William Witter

July 11, 1995**10:30 AM****Penalty Hearing**

**PENALTY
HEARING Court
Clerk: BERNIECE
STUCKI
Reporter/Recorder:
TOM MERCER
Heard By:
HUFFAKER,
STEPHEN**

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

Bell, Stewart L.

Attorney

Guymon, Gary L.

Attorney

Owens, Steven S.

Attorney

PUBDEF

Attorney

Public Defender

Attorney

Witter, William L

Defendant

JOURNAL ENTRIES

- (JURY PRESENT) James Randall Cox sworn and testified. Lunch recess. Phillip Cox, brother of Jim Cox, sworn and testified. Kathryn Terry Cox sworn and testified. State Rests. (OUTSIDE PRESENCE OF JURY) Mr. Kohn put on the record his objection about the parole evidence presented by State. Response by State. Response by Mr. Kohn. Mr. Kohn moved for a mistrial based on the statements of Mrs. Cox, asking the jury to show no mercy. Response by Mr. Guymon. The COURT ORDERED,

motion for Mistrial is DENIED. Mr. Kohn represented to Court Defendant Witter does not want him family called in testify, but Mr. Kohn feels this is his choice to make and he feels he must present this evidence on behalf of his client. Mr. Witter would like the Court to Order Mr. Kohn not to bring his family into Court, or allowed him to be removed from the Courtroom. The Court spoke with Defendant. COURT ORDERED, Defendant is to be re- moved from the Courtroom during the testimony of his family, per his request. (JURY PRESENT) Ruth Amador Ffabela sworn and testified. Louis Witter, defendant's father, sworn and testified. The jurors were amonished and excused. The COURT ORDERED, matter is continued to the date of July 12, 1995 at the hour of 10:30 AM.. (OUTSIDE PRESENCE) The Court directed Mr. Kohn to give Defendant a chance to come back in- to the Courtroom, if he chooses to do so.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

94C117513

State of Nevada

vs

William Witter

July 12, 1995**11:00 AM****Penalty Hearing**

**PENALTY
HEARING Court
Clerk: BERNIECE
STUCKI
Reporter/Recorder:
TOM MERCER
Heard By:
HUFFAKER,
STEPHEN**

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

Bell, Stewart L.

Attorney

Guymon, Gary L.

Attorney

Owens, Steven S.

Attorney

PUBDEF

Attorney

Public Defender

Attorney

JOURNAL ENTRIES

- (JURY PRESENT) Mr. Guymon filed an Amended Notice of Intent to Seek Death Penalty in Open Court. Arlan Justice, Investigator for Public Defenders' office, sworn and testified. Lani Sanders sworn and testified. Michael Ritchison sworn and testified. LUNCH BREAK. Dr. Lewis Marion Etcoff sworn and testified. Afternoon break. Defense Rests. No rebuttal testimony. The Jurors were admonished and excused and told to return on July 13, 1995 at the hour of 11:00 AM. (OUTSIDE PRESENCE OF JURY) The Court had defendant brought over from the jail and he was brought

before the Court. The Court told him who had testified and where they were in the trial and asked him if he wanted to come back into Court for the final arguments. The Defendant indicated it was his choice to remain out of the courtroom until the verdict is read. The Court allowed that. Mr. Kohn advised Court he was going to file a motion allowing him to argue last in the penalty phase. The Court said he could file it, but the Court will not grant it.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 13, 1995**

94C117513 State of Nevada
 vs
 William Witter

July 13, 1995**11:00 AM****Penalty Hearing**

**PENALTY
HEARING Court
Clerk: BERNIECE
STUCKI
Reporter/Recorder:
TOM MERCER
Heard By: Stephen
Huffaker**

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

PRESENT:	Bell, Stewart L.	Attorney
	Guymon, Gary L.	Attorney
	Owens, Steven S.	Attorney
	PUBDEF	Attorney
	Public Defender	Attorney

JOURNAL ENTRIES

- (OUTSIDE PRESENCE OF JURY) Instructions settled in open Court. On behalf of State Mr. Guymon had no instructions to offer that the Court indicated it would not give and had no objections to the instructions the Court indicated it would give. Mr. Kohn made his objection to Court settling instructions outside presence of Defendant. He also made a record of his objection to the word "appropriate" in Instruction No. 8, line 26 and argued. Mr. Kohn had one instruction to offer that the Court indicated it would not give and that was marked Defense proffered A. Counsel stipulated that instructions have been settled in open Court and will be read prior to closing arguments. (JURY

PRESENT) The Court instructed the Jury as to the law of the case. Opening argument by Mr. Owens. Answering argument by Mr. Bassett and then Mr. Kohn. Closing argument by Mr. Guymon. The officers were sworn to take charge of the jury. The alternate jurors were thanked and excused. The jury retired to deliberate at the hour of 1:30 PM. (OUTSIDE PRESENCE OF JURY) Mr. Kohn put on the record his argument regarding future dangerousness. Response by Mr. Guymon. Defendant was present when the Jury returned with a verdict at the hour of 6:00 p.m. The jurors were polled at request o Mr. Kohn, thanked and excused by Court. (OUTSIDE PRESENCE OF JURY) Defendant was remanded to custody and COURT ORDERED, matter set for sentencing.

CUSTODY

8-3-95 10:00 AM SENTENCING COUNTS I-IV

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 03, 1995**

94C117513 State of Nevada
 vs
 William Witter

August 03, 1995	10:00 AM	Sentencing	SENTENCING COUNTS I-IV Court Clerk: BERNIECE STUCKI Reporter/Recorder: TOM MERCER Heard By: Stephen Huffaker
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HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	Bell, Stewart L.	Attorney
	Guymon, Gary L.	Attorney
	PUBDEF	Attorney
	Public Defender	Attorney
	Witter, William L	Defendant

JOURNAL ENTRIES

- JENE CAREY, Division of Parole and Probation, present. Defendant Witter adjudged guilty of Count I, MURDER OF THE FIRST DEGREE WITH USE OF A DEADLY WEAPON (F), Count II, ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (F), Count III, ATTEMPT SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON (F) and Count IV, BURGLARY (F) by reason of Jury Verdict. Argument to Court by State. State- ment by Defendant. Mr. Kohn submitted the matter. The Court ORDERED, Defendant Witter is sentenced, in addition to the \$25 Administrative Assessment as follows:

COUNT I DEATH BY LETHAL INJECTION COUNT II TWENTY (20) YEARS in the Nevada Department of Prisons and a consecutive TWENTY (20) YEARS for Use of a Deadly Weapon. COUNT III TWENTY (20) YEARS in the Nevada Department of Prisons and a consecutive TWENTY (20) YEARS for Use of a Deadly Weapon. This sentence to run consecutively to Count II. COUNT IV TEN (10) YEARS in the Nevada Department of Prisons. This sentence to run consecutively to Count III. Defendant is to pay \$2,790 in restitution, with an additional amount to be determined. Also, Defendant is given six hundred twenty-seven (627) days credit for time served. The State filed in Open Court the Verdict, Judgment of Conviction, Warrant of Execution and Order of Execution.
NDP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 18, 1997**

94C117513 State of Nevada
 vs
 William Witter

September 18, 1997	8:30 AM	Motion for Appointment	DEFT'S MOTION FOR APPOINTMENT OF COUNSEL Relief Clerk: LINDA SKINNER Reporter/Recorder: ROBERT MINTUN Heard By: Joseph Bonaventure
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HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	Miller, Robert L.	Attorney
	Owens, Steven S.	Attorney
	Public Defender	Attorney

JOURNAL ENTRIES

- Upon Court's inquiry, Mr. Miller advised that defendant has not filed any motion. Court inquired if this motion was premature. Mr. Miller stated he felt it might be, but that defendant was going to be filing something soon. Mr. Schieck stated that if he were going to be appointed, he would rather be appointed before defendant prepared his writ as it would be less work for him. COURT ORDERD, MOTION GRANTED. Mr. Schieck is APPOINTED to help with the appeal.

NDP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****November 12, 1997**

94C117513 State of Nevada
 vs
 William Witter

November 12, 1997	8:30 AM	Petition for Writ of Habeas Corpus	DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) Court Clerk: LINDA VIGIL Relief Clerk: BILLIE JO CRAIG Reporter/Recorder: ROBERT MINTUN Heard By: Bonaventure, Joseph T.
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HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT: Schieck, David M. Attorney

JOURNAL ENTRIES

- Prior to Court commencing, counsel requested a briefing schedule. COURT ORDERED briefing schedule as follows: Mr. Schieck to file supplemental points and authorities by 1/14/98; the State to respond by 3/2/98; Mr. Schieck to reply by 3/17/98; argument 3/19/98.

NDP

3/19/98 8:30 AM DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 09, 1998**

94C117513

State of Nevada

vs

William Witter

March 09, 1998**8:30 AM****Motion**

**DEFT'S MTN FOR
EXTENSION OF
TIME TO
FILESUPPLEMENTA
L POINTS/MTN
CONTINUE
ARGUMEN Court
Clerk: LINDA VIGIL
Relief Clerk: JO ANN
HANEMAN/JAH
Reporter/Recorder:
ROBERT MINTUN
Heard By: Joseph
Bonaventure**

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

Kollins, Stacy L.

Attorney

Schieck, David M.

Attorney

JOURNAL ENTRIES

- State requested a briefing schedule in this matter, there being no opposition from Mr. Schiek,
COURT ORDERED, DEFT'S BRIEF DUE BY 4/27/98; STATE'S OPPOSITION DUE BY 6/8/98;
DEFT'S REPLY DUE BY 7/13/98; ARGUMENT SET 7/15/98.

NDP

7/15/98 8:30AM ARGUMENT

PRINT DATE: 07/11/2017

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Minutes Date: January 25, 1994

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 15, 1998**

94C117513 State of Nevada
 vs
 William Witter

July 15, 1998**8:30 AM****All Pending Motions**

**ALL PENDING
MOTIONS 07/15/98
Court Clerk: LINDA
VIGIL
Reporter/Recorder:
ROBERT MINTUN
Heard By: Joseph
Bonaventure**

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

PRESENT: Benedict, Susan M. Attorney
 Schieck, David M. Attorney

JOURNAL ENTRIES

- DEFT'S PETITION FOR WRIT OF HABEAS CORPUS...ARGUMENT

Mr. Schieck advised the Court he needs to arrange to have the Defendant sign documents and requested a continuance. COURT ORDERED, matter continued to mid August.

NDP

8/12/98 8:30 AM SAME

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 12, 1998**

94C117513

State of Nevada

vs

William Witter

August 12, 1998**8:30 AM****Hearing**

ARGUMENT Court
Clerk: CYNTHIA
NAVARRETTE-
LORY
Reporter/Recorder:
ROBERT MINTUN
Heard By: Joseph
Bonaventure

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

Owens, Steven S.
 Schieck, David M.

Attorney
 Attorney

JOURNAL ENTRIES

- Mr. Schieck stated he filed points and authorities yesterday. COURT ORDERED, matter
 CONTINUED for FINAL ARGUMENT; NO MORE CONTINUANCES.

NDP

09-16-98 8:30 AM FINAL ARGUMENT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 16, 1998**

94C117513 State of Nevada
 vs
 William Witter

September 16, 1998	8:30 AM	Revocation of Probation	ARGUMENT: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) Court Clerk: NORA PENA Reporter/Recorder: ROBERT MINTUN Heard By: Bonaventure, Joseph T.
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HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	Guymon, Gary L.	Attorney
	Oram, Christopher R.	Attorney

JOURNAL ENTRIES

- Mr. Oram present on behalf of Mr. Schieck advised there is no opposition to continue. Mr. Guymon agreed and stated he talked with Mr. Schieck and now is waiting to file his opposition in the next day or two. COURT ORDERED, Briefing schedule as follows: State to file opposition on 9/23rd, Mr. Schieck to file reply 10/7th and set for argument. Court admonished parties and stated NO MORE CONTINUES.

NDP

PRINT DATE: 07/11/2017

Page 49 of 73

Minutes Date: January 25, 1994

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 14, 1998**

94C117513 State of Nevada
 vs
 William Witter

October 14, 1998	8:30 AM	Revocation of Probation	ARGUMENT: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) Court Clerk: NORA PENA Reporter/Recorder: ROBERT MINTUN Heard By: Joseph Bonaventure
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HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	Guymon, Gary L.	Attorney
	Schieck, David M.	Attorney

JOURNAL ENTRIES

- Argument by Mr. Schieck, in addition he would like to call Phil Kohn as a witness, he was the trial attorney and appeal attorney. No opposition by the State to set an evidentiary hearing because it can be done very quickly. Court noted an evidentiary hearing is appropriate. Mr. Schieck advised he would like to check Mr. Kohn's schedule but would request a date sometime in November and thinks it would not be so quick, further would like to bring the deft. here. COURT ORDERED, matter set on a Monday for an Evidentiary Hearing.

94C117513

NDP

11-16-98 10:00 AM EVIDENTIARY HEARING: DEFT'S PETITION FOR WRIT OF HABEAS CORPUS
(POST CONVICTION)

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****November 16, 1998**

94C117513 State of Nevada
 vs
 William Witter

November 16, 1998	8:30 AM	Evidentiary Hearing	EVIDENTIARY HEARING: DEFT'S PETITION FORWRIT OF HABEAS CORPUS (POST CONVICTION) Court Clerk: NORA PENA Reporter/Recorder: ROBERT MINTUN Heard By: Bonaventure, Joseph T.
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HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	Guymon, Gary L.	Attorney
	Schieck, David M.	Attorney

JOURNAL ENTRIES

- Mr. Schieck requested a continuance, defendant is not present and is not cooperating also has refused to see him, further has written to the deft. and thinks the deft. is needed here. Court asked if he could proceed without the deft. as the deft. doesn't want to come down. Mr. Schieck noted this is the first continuance. No objection by the State for a continuance. COURT ORDERED, matter CONTINUED.

94C117513

NDP

December 14, 1998

Minutes Date: January 25, 1994

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****December 23, 1998**

94C117513 State of Nevada
 vs
 William Witter

December 23, 1998**8:30 AM****Minute Order**

**MINUTE ORDER
RE:
REASSIGNMENT
Court Clerk: NORA
PENA Heard By:
Joseph Bonaventure**

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

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Upon review of the case, COURT ORDERED, it would like this case reassigned to Judge Loehrer as in the normal course pursuant to the change over.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 13, 1999**

94C117513

State of Nevada

vs

William Witter

January 13, 1999**1:30 PM****Evidentiary Hearing**

**EVIDENTIARY
HEARING: DEFT'S
PETITION
FORWRIT OF
HABEAS CORPUS
(POST
CONVICTION)
Relief Clerk:
REBECCA FOSTER
Reporter/Recorder:
JOY HINCK Heard
By: Loehrer, Sally**

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

Schieck, David M.

Attorney

Sweetin, James R.

Attorney

JOURNAL ENTRIES

- Mr. Schieck advised Court Mr. Kohn is ill and needs a continuance. COURT ORDERED, Mr.Schiek to prepare a transport order. Mr. Schieck stated a waiver of appearance was filed. COURT ORDERED, defendant's presence waived and matter CONTINUED.

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 19, 1999**

94C117513 State of Nevada
 vs
 William Witter

February 19, 1999**3:00 PM****Evidentiary Hearing**

**EVIDENTIARY
HEARING: DEFT'S
PETITION
FORWRIT OF
HABEAS CORPUS
(POST
CONVICTION)
Court Clerk: CINDY
HORTON Heard By:
Loehrer, Sally**

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

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- DUE TO COURT'S TRIAL SCHEDULE, HEARING CONTINUED.
NDP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 26, 1999

94C117513 State of Nevada
vs
William Witter

February 26, 1999

3:00 PM

Evidentiary Hearing

**EVIDENTIARY
HEARING: DEFT'S
PETITION
FOR WRIT OF
HABEAS CORPUS
(POST
CONVICTION)
Court Clerk: CINDY
HORTON
Reporter/Recorder:
LISA MAKOWSKI
Heard By: Sally
Loehrer**

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES

PRESENT: Kane, Edward R. Attorney
Schieck, David M. Attorney

JOURNAL ENTRIES

- Mr. Schieck advised the deft waived his right to be present for todays proceedings. P. Kohn and R. Miller sworn and testified. Mr. Schieck requested closing argument be submitted by brief. COURT ORDERED, BOTH COUNSEL TO SUBMIT CLOSING BRIEF WITH PROPOSED ORDER.
NDP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 31, 2000**

94C117513 State of Nevada
 vs
 William Witter

October 31, 2000**8:30 AM****Motion**

**DEFT'S MOTION
FOR
APPOINTMENT OF
APPELLATE
COUNSEL Court
Clerk: THERESA LEE
Relief Clerk:
GEORGETTE
BYRD/GB
Reporter/Recorder:
LISA MAKOWSKI
Heard By: Sally
Loehrer**

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

Pace, Barter G.
Schieck, David M.

Attorney
Attorney

JOURNAL ENTRIES

- COURT ORDERED, Mr. Shieck is appointed as counsel for purposes of appealing post conviction relief.
NDP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 27, 2007**

94C117513 State of Nevada
 vs
 William Witter

February 27, 2007	9:00 AM	Motion for Appointment of Attorney	DEFT'S MTN FOR APPOINTMENT OF ATTY/37 Court Clerk: Billie Jo Craig Reporter/Recorder: Lisa Lizotte Heard By: Valorie Vega
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HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	Owens, Steven S.	Attorney
	Pescetta, Michael L.	Attorney
	Roger, David J.	Attorney

JOURNAL ENTRIES

- As there was no opposition, COURT ORDERED, Defendant's Motion for Appointment of Counsel is GRANTED pursuant to EDCR 3.20. The Federal Public Defender's Office is APPOINTED as Counsel of Record. Colloquy regarding status of case. COURT ORDERED, a briefing schedule set as follows: State's Motion to Dismiss Petition for Writ Due: 5/1/07 Defendant's Opposition Due: 6/14/07 State's Reply Due: 6/28/07 ARGUMENT/DECISION: 7/12/07 10:30 AM
COURT ORDERED, the Petition for Writ of Habeas Corpus scheduled for 4/10/07 is CONTINUED to the same date and time.
7/12/07 10:30 AM ARGUMENT/DECISION ON STATE'S MOTION TO DISMISS PETITION FOR WRIT...PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 12, 2007**

94C117513 State of Nevada
 vs
 William Witter

July 12, 2007**10:30 AM****All Pending Motions**

**ALL PENDING
MOTIONS FOR
7/12/07 Court Clerk:
Billie Jo Craig
Reporter/Recorder:
Lisa Lizotte Heard
By: Valorie Vega**

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

PRESENT:	Owens, Steven S.	Attorney
	Pescetta, Michael L.	Attorney
	Roger, David J.	Attorney

JOURNAL ENTRIES

- DEFT'S PETITION FOR WRIT OF HABEAS CORPUS...ARGUMENT/DECISION ON STATE'S MOTION TO DISMISS PETITION

State's Order for today's Transcript FILED IN OPEN COURT.

Due to the congestion of the Court's morning Calendar, COURT ORDERED, matter to TRAIL to later today. RECALLED AT 2:33 PM. COURT ORDERED, defendant's PRESENCE WAIVED today.

Arguments by counsel regarding the State's Motion to Dismiss Petition. As the Court wished to further review case law cited and the transcript from the Penalty Hearing, COURT ORDERED, above matters CONTINUED for Decision. The State submitted its Order for today's Transcript to the Court, which it signed, and was FILED IN OPEN COURT.

NDC

CONTINUED TO: 8/2/07 10:30 AM DEFT'S PETITION FOR WRIT OF HABEAS
CORPUS...ARGUMENT/DECISION ON STATE'S MOTION TO DISMISS PETITION

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 02, 2007**

94C117513 State of Nevada
 vs
 William Witter

August 02, 2007	10:30 AM	All Pending Motions	ALL PENDING MOTIONS FOR 8/2/07 Court Clerk: Billie Jo Craig Reporter/Recorder: Lisa Lizotte Heard By: Valorie Vega
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HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	Owens, Christopher J.	Attorney
	Pescetta, Michael L.	Attorney
	Roger, David J.	Attorney

JOURNAL ENTRIES

- DEFT'S PETITION FOR WRIT OF HABEAS CORPUS...ARGUMENT/DECISION ON STATE'S MOTION TO DISMISS PETITION

COURT ORDERED, defendant's PRESENCE WAIVED today. Court reviewed the Points and Authorities, and ORDERED, the State's Motion to Dismiss is GRANTED as to Ground 4 and stated its findings. There remains only one aggravator for violent Felony conviction. COURT ORDERED, the State's Motion to Dismiss is GRANTED as to Ground 12. Balance of State's Motion to Dismiss is GRANTED. Matter can now proceed on the one remaining aggravator. Colloquy regarding verdict form. Court directed counsel to provide a copy of the transcript from the Penalty Phase. COURT ORDERED, matter CONTINUED for Decision on Ground 4 of the Petition. Counsel requested to prepare an Order after Decision on Ground 4. COURT SO ORDERED. The State requested a copy of

94C117513

the transcript from today. COURT SO ORDERED.

NDC

CONTINUED TO: 8/30/07 10:30 AM DEFT'S PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 30, 2007**

94C117513 State of Nevada
 vs
 William Witter

August 30, 2007	10:30 AM	Petition for Writ of Habeas Corpus	PTN FOR WRIT OF HABEAS CORPUS Court Clerk: Billie Jo Craig Reporter/Recorder: Lisa Lizotte Heard By: Valorie Vega
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HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	Jimenez, Sonia V.	Attorney
	Owens, Steven S.	Attorney
	Pescetta, Michael L.	Attorney
	Roger, David J.	Attorney

JOURNAL ENTRIES

- COURT ORDERED, defendant's PRESENCE WAIVED today. Court noted this was a continued matter regarding one remaining issue. It had reviewed the evidence from the Vault in the Clerk's Office and the transcript from the Penalty Phase provided by the Federal Public Defender. Court stated its findings and that it found one aggravator and mitigators under NRS 200.035(2) for emotional disturbance (7) and other mitigating circumstances. COURT ORDERED, the sentence previously imposed STANDS. The State to prepare a global Order and submit to Mr. Pescetta for approval before submitting to the Court. Mr. Owens submitted State's Order for Transcript which was signed by the Judge and FILED IN OPEN COURT for today's hearing. A copy provided to the Court Recorder.

94C117513

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 17, 2008**

94C117513 State of Nevada
 vs
 William Witter

June 17, 2008	9:00 AM	Petition for Writ of Habeas Corpus	PTN FOR WRIT OF HABEAS CORPUS Court Clerk: Billie Jo Craig Relief Clerk: Monica Schmidt/ms Reporter/Recorder: Lisa Lizotte Heard By: Vega, Valorie J.
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HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	Owens, Steven S. Roger, David J.	Attorney Attorney
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JOURNAL ENTRIES

- COURT ORDERED, defendant's PRESENCE WAIVED today. Messrs. Bierbaum and Taylor, from the Federal Public Defender's Office, present representing defendant. Colloquy regarding jurisdiction as this case is on appeal with the Supreme Court. Counsel stipulated to WAIVE any jurisdictional defects. COURT SO ORDERED. COURT ORDERED, a briefing schedule set as follows: State's Opposition Due: 7/15/08 Defendant's Reply Due: 7/29/08 ARGUMENT/DECISION: 8/7/08 10:30 AM
COURT ORDERED, matter CONTINUED.
NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****October 28, 2008**

94C117513 State of Nevada
 vs
 William Witter

October 28, 2008	10:30 AM	Petition for Writ of Habeas Corpus	PTN FOR WRIT OF HABEAS CORPUS Court Clerk: Billie Jo Craig Reporter/Recorder: Lisa Lizotte Heard By: Valorie Vega
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HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES**

PRESENT:	Owens, Steven S.	Attorney
	Roger, David J.	Attorney

JOURNAL ENTRIES

- Gerald Bierbaum and Gary Taylor present from the Federal Public Defender's Office. Arguments by counsel. Court stated its findings, and ORDERED, Petition DENIED and Writ DISCHARGED on procedural grounds. The State to prepare the Order. Order for Transcript signed and FILED IN OPEN COURT.
NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 19, 2017**

94C117513

State of Nevada

vs

William Witter

April 19, 2017**11:00 AM****All Pending Motions**

**Defendant's Petition
for Writ of Habeas
Corpus (Post
Conviction);
Defendant's
Opposition to State's
Response and Motion
to Dismiss**

HEARD BY: Miley, Stefany**COURTROOM:** RJC Courtroom 12C**COURT CLERK:** Katherine Streuber**RECORDER:** Maria Garibay**REPORTER:****PARTIES****PRESENT:**Owens, Christopher J.
State of NevadaAttorney
Plaintiff**JOURNAL ENTRIES**

- Deft. not present. Deputy Federal Public Defenders David Anthony and Tiffany Nocon SUBSTITUTED IN as counsel. Court advised it had reviewed *Slaate v. State* and *Whitehead v. State* and noted it did not find another Judgment of Conviction after the second, thus, it would not be untimely. Court also stated it did find were it would be clerical in nature and stated it appeared everything is timely by the defense. Argument by the State. Argument by Mr. Anthony. Further argument by the State. Statement by the Court. State pointed out this is the fourth habeas corpus and noted the last one filed had been time-barred. Court advised it agreed with the State after reading *Hurst* decision. Argument by Mr. Anthony. Argument by the State regarding weighing of mitigators. Further argument by Mr. Anthony regarding standard of proof. COURT ORDERED, writ DENIED as consistent with *Apprendi* and *Hurst* decisions. State to prepare the Order.

FURTHER, Deft's Motion Dismiss is DENIED. LASTLY, State to prepare a third Amended Judgment of Conviction removing the restitution.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 19, 2017**

94C117513 State of Nevada
 vs
 William Witter

June 19, 2017**9:30 AM****Motion for Order****Defendant's Motion
for Order****HEARD BY:** Miley, Stefany**COURTROOM:** RJC Courtroom 12C**COURT CLERK:** Katherine Streuber**RECORDER:** Maria Garibay**REPORTER:****PARTIES**

PRESENT:	Nocon, Tiffany L.	Attorney
	State of Nevada	Plaintiff
	Turner, Robert B.	Attorney

JOURNAL ENTRIES

- Federal Public Defender Heather Fraley present on behalf of Deft. State advised the Appeals Division did not receive the motion and requested a 20 day continuance. Argument by counsel noting the cut-off date of July 5, 2017. COURT ORDERED, matter CONTINUED. Court noted the State had not filed an Amended Judgment of Conviction.

NDC

06-28-17 9:30 AM DEFT'S MOTION FOR ORDER

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 28, 2017**

94C117513 State of Nevada
 vs
 William Witter

June 28, 2017**9:30 AM****Motion for Order****Defendant's Motion
for Order****HEARD BY:** Miley, Stefany**COURTROOM:** RJC Courtroom 12C**COURT CLERK:** Katherine Streuber**RECORDER:** Maria Garibay**REPORTER:****PARTIES**

PRESENT:	Anthony, David S.	Attorney
	Nocon, Tiffany L.	Attorney
	State of Nevada	Plaintiff
	Vanboskerck, Jonathan	Attorney

JOURNAL ENTRIES

- Deft's presence is WAIVED. Court stated it could not understand why the State had not filed the Third Amended Judgment of Conviction. Argument by the State requesting delay in filing amended judgment until decision is made by the Supreme Court. Court noted this information has been contained in the record from previous hearing and ORDERED, State to prepare Third Amended Judgment of Conviction.

NDC

OFFERED ADMITTED

1. Large Photo	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> 4/23
2. Large Photo	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
3. Medical Records for UMC	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> 4/21
4. Small Photo of Victim James Cox	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
5. Drawing of parking lot area	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
6. Small Photo	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
7. Small Photo	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
8. Small Photo	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
9. Small Photo	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
10. Large Photo of Mr. Cox's body under tarp	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
11. Photo of stab wound in skull	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> 4/24
12. Photo of stab wound in skull - different angle	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
13. Photo of stab wound in shoulder - (front)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
14. Large Photo of Michael in Morgan	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
15. Large Chart depicting location of ^{Officer & D.H.} proximity	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
16. Small Photo	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> 4/23
17. Small Photo	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
18. Small Photo Kethrup Cox	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
19. Small Photo Kethrup Cox	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
22. Small Photo Kethrup Cox	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
21. Large Photo Wounds on body of K Cox	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
22. Large Photo Wounds on body of Kethrup Cox	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
23. Large Photo of Kethrup in T-Shirt	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
24. Small Photo of Canal and parking lot	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
25. Small Photo of Canal and parking lot	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "

OFFERED ADMITTED

26	Small Photo Knife	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> 420
27	Small Photo Knife	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
28	Small Photo - Tape	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
29	" " Tape	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
30	" " Crime scene	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
31	" " car parked	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
32	" " Blood near tape	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
33	" "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
34	" "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
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36	" "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
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40	" "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
41	Large Photo	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
42	" "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
43	" "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
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49	" "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
50	" "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "

PLAINTIFF'S EXHIBITS

CASE NO. C117513

	OFFERED	ADMITTED
51 Large Photo	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> 4/26
52 "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
53 Small Photo	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
54 " "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
55 " "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
56 " "	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
57 Evidence (Bag) Envelope	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> 4/26
58 Evidence Bag	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
59 Evidence Bag	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
60 Evidence Bag	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
61 Evidence Bag	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
62 Evidence Bag	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
63 Evidence Bag	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
64 Evidence Envelope	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
65 Large Blood Kit	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
66 Middle sized Blood Kit	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
67 Small Blood Kit	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
68 "Light" Card used by meter	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> 4/26
69 Large Chart Diagram	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
70 Lab Report	<input checked="" type="checkbox"/> Stip	<input checked="" type="checkbox"/> 6-26-95
71 Affidavit	<input checked="" type="checkbox"/> Stip	<input checked="" type="checkbox"/> "
72 Evidence Bag	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
73 Evidence Bag	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
74 Evidence Bag	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "
75 Evidence Bag	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> "

PLAINTIFF'S EXHIBITS

CASE NO. C117513

OFFERED ADMITTED

N. 3 Evidence Envelopes stapled together

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77. Certificate of death

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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; 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.

WILLIAM L. WITTER,

Defendant(s).

Case No: 94C117513

Dept No: XXIII

Death Penalty

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 11 day of July 2017.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

