

1 STEVEN FLOYD VOSS #5209Y
2 Northern Nevada Correctional Center
3 Post Office Box # 7000
4 Carson City, Nevada 89702-7000

FILED
OCT 17 2017
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

6 IN THE SUPREME COURT OF THE STATE OF NEVADA

8 STEVEN FLOYD VOSS,
9 Petitioner,
10 vs.
11 THE STATE OF NEVADA,
12 Respondent.

No. _____

The instant Petition cross
references Case No. 29783
and Case No. 38373

15 PETITION FOR EXTRAORDINARY RELIEF WRIT

17 COMES NOW Petitioner, STEVEN FLOYD VOSS, by and
18 through his proper person and hereby submits the
19 instant Petition.

21 The instant Petition is made and predicated upon
22 the attached memorandum of points and authorities
23 and all papers and pleadings on file in the above
24 entitled action.

25
26 **RECEIVED**
27 OCT 11 2017
28 ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

MEMORANDUM OF POINTS AND AUTHORITIES

I. Jurisdiction:

This Court has original jurisdiction to consider and grant the relief requested through the instant Petition for Extraordinary Relief Writ, which has been conferred upon this Court, pursuant to Article 6 § 4 of the Nevada State Constitution, the statutory provisions of NRS 34.010 - NRS 34.710, and the procedures set forth under Nevada Rules of Appellate Procedure, Rule 21(c).

II. Relief Requested:

The Petitioner hereby requests the issuance of an Extraordinary Writ, which: (a) causes this Court's prior Order Dismissing Appeal (attached Exhibit #4), filed in Case No. 29783, on March 11, 1999, to be stricken, Recalled, or Vacated, and that an Order of Remand be entered to the District Court, with instructions to formally vacate its November 27, 1996 Judgment of Conviction (attached Exhibit #3), pursuant to said Court's August 9, 2001 (Writ of Habeas Corpus) Findings of Fact, Conclusions of Law - And Judgment (attached Exhibit #2), filed in Case No. CR96-P-1581, and that said Judgment of Conviction be vacated with prejudice to the filing of an Amended - Judgment of Conviction, where the remedy contemplated by the aforementioned writ of Habeas Corpus, is no longer

1 available to the Petitioner due to the passage of time,
2 and the District Court's failure to undertake a
3 prompt Re-sentencing proceeding subsequent to its
4 August 9, 2001 granting of a Writ of Habeas Corpus
5 (attached Exhibit #2). Which has caused the Petitioner,
6 as of present date, to serve a term of incarceration
7 which is greater than the term which he would have
8 received if not for the Trial Court's decidedly "onerous,"
9 "suspect and impalpable" sentences, which had caused the
10 District Court's entry of its August 9, 2001 Writ of Habeas -
11 Corpus; and (b) Causes this Court's prior Order of -
12 Affirmance (attached Exhibit #7) filed in case No.
13 38373, on January 17, 2002, to be Stricken, Recalled,
14 or Vacated, due to jurisdictional defect, where, the
15 District Court's August 9, 2001 Writ of Habeas Corpus
16 (attached Exhibit #2), functioned to vitiate and
17 render null and void, the District Court's prior
18 November 27, 1996 Judgment of Conviction (attached
19 Exhibit #3). Thereby, depriving the Nevada Supreme
20 Court of Appellate Jurisdiction to consider the District
21 Court's denial of the Appellant's habeas claims in the
22 context of Case No. 38373. Where the Appellant's claims
23 in Case No. 38373 were derived from the previously
24 vitiated and nullified Judgment of Conviction (attached
25 Exhibit #3). Thereby, rendering the Order of Affirmance
26 (attached Exhibit #7) the product of an ultra vires act.

27 28 III. Issues Presented For Review:

(1) The Nevada Supreme Court's Order Dismissing Appeal
filed in Case No. 29783, (the direct appeal from the
Judgment of Conviction entered in Second Judicial
District Court, Case No. CR96-1581, on November 27, 1996)
should be stricken, Recalled, or Vacated. Whereas,
in light of the District Court's August 9, 2001 entry of
writ of Habeas Corpus, which has vitiated and
rendered null the Court's November 27, 1996 Judgment
Of Conviction, this Court's April, 1999 Order Dismissing
Appeal, which had been based on the District Court's earlier
Judgment of Conviction which has been reversed, vitiated, and
hulified, thus its prospective application can no longer be
construed as equitable. Therefore, the November 27, 1996
Judgment Of Conviction is not deserving of affirmance
and the maintainance of such affirmance is
violative of the Petitioners rights to due process and
equal protection of law conferred under Article 138
of the Nevada State Constitution, and the Fourteenth
Amendment to the United States Constitution

(2) The Nevada Supreme Court was not vested with
Appellate Jurisdiction in Case No. 38373, to consider
an appeal relative to the Petitioner's habeas corpus
claims which had been denied by the District Court
in the context of Case No. CR96-P-1581 on August 9,
2001. Where, the District Court on such date had
granted a writ of Habeas Corpus, which had reversed,
vitiated, and rendered null, the Judgment Of Conviction

1 entered on November 27, 1996, from which the
2 Petitioner's Case No. CR96-P-1581 habeas corpus claims
3 were derived.

4
5 IV. Statement of Interested Parties:

6
7 (1) ISIDRO BACA, Warden,
8 Northern Nevada Correctional Center
9 Post Office Box #7000
10 Carson City, Nevada 89702-7000
11

12 (2) ADAM PAUL LAXALT, ESQ.,
13 Nevada Attorney General
14 100 North Carson Street
15 Carson City, Nevada 89701-4717
16

17 (3) CHRISTOPHER HICKS, ESQ.,
18 Washoe County District Attorney
19 Post Office Box #11130
20 Reno, Nevada 89502-
21

22 V. Statement of Relevant Facts:

23
24 Following a Jury Trial in Case No. CR96-1581,
25 the Jury had returned Guilty Verdict(s) in regard
26 to each of the six (6) counts charged in the States
27 Criminal Information. Sentencing proceedings were
28 undertaken on November 27, 1996, whereat, such time

1 the Trial Court, District Court Judge, James A. Stone,
2 after having denied the Petitioner's Motion For Acquittal -
3 Or A New Trial, had adjudicated the Petitioner's guilt
4 in regard to all six (6) counts charged. He had then
5 orally pronounced sentences upon the Petitioner within
6 his, now infamous, rendition of sentence, Judge Stone,
7 had made substantial factually unsupported references
8 to his belief that the alleged victim was last seen
9 alive in the company of the Petitioner, and that
10 she would not be found alive. Such commentary
11 which had immediately preceeded Judge Stone's
12 imposition of maximum and consecutive sentences
13 in regard to each of the six (6) counts charged.

14 Defense Counsel had failed to address, to any degree,
15 Judge Stone's, inappropriate commentary at sentencing,
16 his personal bias, or the rather obvious disproportionality
17 of the sentences imposed, in contrast to the nature of
18 the crimes charged, and the Petitioner's insubstantial
19 criminal history. Similarly, Appellate Counsel failed to
20 raise on direct appeal any claims relative to the
21 sentencing proceedings or the sentences imposed, or
22 judicial bias. More specifically, that the sentences imposed
23 were based, at least in part, upon uncharged criminal
24 conduct, attributable to the personal bias of the Trial Judge,
25 who had imposed disproportionate ("onerous") sentences,
26 based upon his "suspect and impalpable" belief that the
27 Petitioner had kidnapped and murdered Beverly Baxter,
28 the alleged victim of the crimes being tried. However, the

1 Petitioner, in the context of his first,
2 Post-Conviction Petition For writ of Habeas Corpus,
3 Filed in Case No. CR96-P-1581, on March 9, 2000,
4 and within Ground Six thereof, had raised claims that:

5 "The sentencing court erred, and violated
6 the Defendant's independent state and Federal
7 Constitutional Guarantees to Due Process of Law
8 when it imposed sentence based in part on
9 allegations of a murder the Defendant had not
10 been tried for." See, Exhibit #1, at Page 12,
11 Line 1, through Line 14.

12
13 In the context of such habeas corpus proceedings the District
14 Court had ordered the appointment of Post-Conviction Counsel
15 and that an evidentiary hearing be conducted. Such
16 evidentiary hearing was held on July 8, 2001. Wherein, the
17 Court, from the bench, had announced that it was granting
18 the writ of Habeas Corpus in regard to the Petitioner's
19 Ground Six claims, and had ordered that Findings of-
20 Fact, Conclusions of Law, And Judgment be prepared. Same
21 were signed by District Court Judge, Stephen P. Elliot, on
22 August 6, 2001 and filed on August 9, 2001. See, Exhibit #2,
23 Wherein, the Court ruled as follows:

24 "Voss's claim that his sentence was based, at least in
25 part, on Judge Stone's belief that Voss caused the
26 murder or disappearance of Beverly Baxter, has
27 merit. It is supported by the record. Even though
28 Voss has not been charged for the murder of Ms. Baxter,

1 Judge Stone made reference in his rendition
2 of sentence, to his belief that she would not
3 be found alive. He then imposed the maximum
4 sentence on Voss, a sentence clearly outside
5 the heartland of sentences for a person with
6 Voss's criminal record being sentenced for
7 forgery offenses...

8 Because Judge Stone based Voss's onerous
9 sentence, at least in part, on the suspect and
10 impalpable ground that Voss had murdered Ms. Barter,
11 Voss is entitled to a new sentencing hearing...

12 It is hereby the Judgment and Order of this
13 Court that Voss's Petition For Writ of Habeas Corpus
14 (Post-Conviction) is granted, but only insofar as
15 allowing for a new sentencing proceeding. In all
16 other respects, the Petition is denied." See,

17 Exhibit #2, at Page 6, Line 9, through Page 7, Line 8.

18 The Petitioner filed a Notice of Appeal (Exhibit #5) from
19 the District Court's Judgment and Order (Exhibit #2).

20 An appeal was thereafter docketed in the Nevada Supreme
21 Court, Case No. 38373, and said Court had entered an
22 Order of Affirmance (Exhibit #3) on January 17, 2003.

23 Wherein, the Court had merely affirmed, specifically,
24 the District Court's denials of the majority of the

25 Petitioner's habeas corpus claims. However, the Court
26 failed to comment upon and directly affirm the

27 District Court's granting of its Writ of Habeas Corpus

28 (Exhibit #2) relative to Petitioner's Ground Six habeas

1 corpus claims. Instead, the Court had merely ordered
2 the Judgment of the District Court affirmed in general
3 terms.

4
5 VI. Arguments:

6
7 (1) The Nevada Supreme Court's Order Dismissing
8 Appeal, filed in Case No. 29783 (the direct appeal from the
9 Judgment of Conviction entered in Second Judicial
10 District Court, Case No. CR96-1581, on November 27, 1996),
11 should be Stricken, Recalled, or Vacated. Whereas,
12 in light of the District Court's August 9, 2001 entry of a
13 Writ of Habeas Corpus, which has reversed, vitiated,
14 and rendered null, the Trial Court's November 27, 1996
15 Judgment of Conviction, the Nevada Supreme Court's March 11,
16 1999 Order Dismissing Appeal, which had been based upon
17 the District Court's earlier Judgment of Conviction,
18 which has been reversed, vitiated, and rendered null,
19 can not be construed as equitable in its prospective
20 application. Therefore, the District Court's November 27,
21 1996 Judgment of Conviction is no longer deserving of
22 affirmance, and the maintainance of the Nevada Supreme
23 Court's affirmance, violates the Petitioner's rights to Due
24 Process and Equal Protection of Law, conferred under Article 138
25 of the Nevada State Constitution, and under the Fourteenth
26 Amendment to the United States Constitution.

27
28 It is clear from the District Court's granting

1 of a writ of Habeas Corpus (Exhibit #2), that the November
2 27, 1996 Judgment of Conviction (Exhibit #3) is constitutionally
3 infirm, because it functions to punish the Petitioner
4 for uncharged criminal conduct, of the kidnapping
5 and murder of Beverly Baxter, and because the
6 maximum sentences imposed are disproportionate to
7 the charged offenses in light of the Petitioner's
8 insubstantial criminal record. The Transcript of -
9 Sentencing Proceedings, November 27, 1996 (Exhibit #6), and
10 the Findings of Fact, Conclusions of Law, And Judgment
11 (Exhibit #2) demonstrate the infirmity of said Judgment -
12 Of Conviction.

13 The Court should take Judicial Notice of the fact that
14 the State did not appeal from the District Court's Judgment
15 and Order (Exhibit #2). In fact, it was the State's
16 Counsel who had drafted the Findings of Fact, Conclusions of -
17 Law, And Judgment (Exhibit #2), which memorializes the
18 District Court's Judgment and Order, relative to the
19 habeas corpus proceedings undertaken in Case No.
20 CR96-P-1581. Thus, the State has waived all challenges
21 to the propriety of the District Court's Judgment and Order
22 (Exhibit #2) and is thus, estopped from raising such challenge.

23 The very language, however, of the District Court's
24 Judgment and Order (Exhibit #2) is circumspect of the
25 District Court's substantive invalidation of its prior
26 November 27, 1996 Judgment of Conviction (Exhibit #3),
27 constituting a reversal, vitiation, and nullification, of
28 such Judgment of Conviction. Of course the District

1 Court had contemplated that Re-sentencing proceedings
2 would be conducted pursuant to said Judgment and
3 Order, that the November 27, 1996 Judgment of -
4 Conviction (Exhibit # 3) would be formally vacated,
5 and that an Amended Judgment of Conviction
6 would be entered which set out fair and
7 proportionate sentences in regard to the six counts
8 charged. However, no Re-sentencing proceedings have
9 ever been conducted, and no Amended Judgment of -
10 Conviction has been entered pursuant to the District
11 Court's Judgment and Order (writ of habeas corpus)
12 entered on August 9, 2001, (Exhibit # 2),

13 Nonetheless, the Nevada Supreme Court's Order -
14 Dismissing Appeal functions to affirm the Judgment -
15 of Conviction entered on November 27, 1996, a
16 Judgment which has been effectively reversed,
17 vitiated and nullified by the District Court's August 9,
18 2001 Judgment and Order (Exhibit # 2), thus, the
19 Nevada Supreme Court's Order Dismissing Appeal
20 (Exhibit # 4) cannot reasonably be construed as
21 a valid or equitable Order, because it
22 represents a material variance from the facts
23 present within the trial record and the decision of
24 the trial court which acknowledges its own errors
25 relative to the imposition of sentence, and there
26 exists no abuse of discretion on the part of the
27 trial court upon which the Court's August 9, 2001
28 Judgment and Order can be disturbed.

1 Therefore, principles of equity require that
2 this Court, at this juncture, strike, Recall, or
3 vacate the Nevada Supreme Court's March 11, 1999
4 Order Dismissing Appeal (Exhibit #4). Whereas,
5 there can be absolutely no prejudice to the state
6 from such action by this Court, and the Doctrine
7 of Laches is patently inapplicable. Because, the
8 state cannot at this juncture complain in regard to
9 the propriety of the District Court's August 9, 2001
10 Judgment and Order (Exhibit #2) because they are
11 estopped from doing so by their own waiver,
12 effected by their election not to pursue an appeal
13 from the District Court's Judgment and Order; and
14 moreover, by their failure to pursue resentencing
15 proceedings contemplated to result in the entry of
16 an Amended Judgment of Conviction.

17
18 (2) The Nevada Supreme Court was not vested
19 with Appellate Jurisdiction in Case No. 38373, to consider
20 an appeal relative to the Petitioner's habeas corpus claims
21 which had been denied by the District Court in the context
22 of post-conviction proceedings in Case No. CR96-P-1581.
23 Where, on August 9, 2001, and prior to the Petitioner's
24 filing of his Notice of Appeal, the District Court had granted
25 a Writ of Habeas Corpus, which had reversed, vitiated,
26 and rendered null and void, the Judgment of Conviction
27 entered on November 27, 1996, from which the Petitioner's
28 Case No. CR96-P-1581 habeas corpus claims were derived.

The District Court record clearly reflects that in regard to the Petitioner's Ground SIX habeas corpus claim (see, Exhibit #1, at Page 12, Line 1 through Line 14), that the District Court had granted the Petitioner a Writ of Habeas Corpus, see, Exhibit #2, at Page 6, Line 9, through Page 7, Line 8, whereby, the District Court had reversed, vitiated, and rendered null and void, the Court's prior November 27, 1996 Judgment of Conviction (Exhibit #3) entered in Case No. CR96-1581. Whereas, the District Court had affirmatively recognized the Petitioner's claims, and the constitutional infirmity of the November 27, 1996 Judgment of Conviction (Exhibit #3), and the Court had ordered that Re-Sentencing proceedings be conducted to remedy the Constitutional violations.

Therefore, because the District Court's Judgment and Order (Exhibit #2) functioned to reverse, vitiate, and render null and void, the Court's prior November 27, 1996 Judgment of Conviction (Exhibit #3); the Petitioner's Notice of Appeal (Exhibit #5) filed August 20, 2001 was clearly premature, and failed to vest the Nevada Supreme Court with Appellate Jurisdiction to consider any of the Petitioner's habeas corpus claims which had been denied by the District Court in the context of proceedings in Case No. CR96-P-1581, until such time as the District Court had undertaken Re-Sentencing proceedings relative to Case No. CR96-1581, and had entered an

1 Amended Judgment of Conviction setting out fair
2 and proportionate sentences relative to each of
3 the counts charged. Thus, the Nevada Supreme
4 Court's January 17, 2002 entry of an Order of-
5 Affirmance (Exhibit#7) in the context of Case
6 No. 38373, constitutes an ultra vires action by
7 the Court rendering said Order of Affirmance
8 (Exhibit#7) void and the proceedings a legal
9 nullity.

10 Therefore, the Petitioner submits that he is
11 entitled to have the Nevada Supreme Court's January 17,
12 2002 Order of Affirmance (Exhibit#7), stricken,
13 Recalled, or Vacated, based upon a substantive
14 defect in the Nevada Supreme Court's Appellate
15 Jurisdiction, precluding the Court's consideration
16 of the claims raised in Case No. 38373.

17 Nonetheless, the Petitioner is of the opinion that
18 had the state filed a Notice of Appeal from the
19 District Court's August 9, 2001 Judgment and Order
20 within the 30 day time limitation period prescribed
21 under Nevada Law, that the Nevada Supreme Court
22 would have been vested with Appellate Jurisdiction to
23 consider claims by the state that the District Court
24 had abused its discretion in granting a writ of-
25 Habeas Corpus. However, the state had failed to
26 perfect an appeal by the filing of a timely Notice-
27 of Appeal and the time to do so has long since
28 passed. Such failure which functions as a waiver

1 of all challenges to the propriety of the District Court's
2 August 9, 2001 Judgment and Order (Exhibit # 2). Thus,
3 said Judgment and Order must be construed at its
4 face value as a condemnation of the conduct of
5 District Court Judge, James A. Stone, and the
6 "onerous" sentences that he had imposed upon the
7 Petitioner through his November 27, 1996 Judgment of-
8 Conviction. Under Nevada State Law, NRS 176.105 and
9 NRS 176.125, there are two essentials to a valid
10 Judgment of Conviction, namely, the statement
11 defining the punishment, and the statement of the
12 offense for which the punishment is inflicted. See,
13 Ex parte Dela, 25 Nev. 346, 60 P. 217 (1900) (decision under
14 former similar statute). However, the District Court had
15 clearly identified within its Judgment and Order
16 (Exhibit # 2) that the sentences imposed pursuant
17 to the November 27, 1996 Judgment of Conviction
18 (Exhibit # 3) upon the Petitioner, were "onerous" and
19 "clearly outside the heartland" of appropriate sentences.
20 Thus, the District Court had clearly invalidated
21 the punishment prescribed by the November 27, 1996
22 Judgment of Conviction (Exhibit # 3), irradiating
23 an essential element of a valid Judgment of Conviction
24 and rendering the November 27, 1996 Judgment of Conviction
25 (Exhibit # 3) void. Plainly, as a natural consequence
26 of the District Court's August 9, 2001 Judgment and Order
27 (Exhibit # 2) the prior November 27, 1996 Judgment of-
28 Conviction has been reversed, vitiated, and rendered null

1 and void. Clearly, in the absense of a Judgment of-
2 Conviction the denied balance of the Petitioner's habeas
3 corpus claims were rendered moot, at least until such
4 time as an Amended Judgment of Conviction were to
5 be entered. Because, once the November 27, 1996 Judgment-
6 of Conviction (Exhibit #3) had been reversed, vitiated,
7 and rendered null and void, the statutory provisions
8 of NRS 34.724 were no longer applicable to the denied
9 balance of the Petitioner's habeas corpus claims.

10 Because, at that juncture, the Petitioner was no longer
11 in-custody pursuant to a Judgment of the District Court
12 relative to any charge set out within the state's
13 Criminal Information (Exhibit #8). Therefore, there
14 simply did not exist a cognizable claim of unlawful
15 restraint of liberty under NRS 34.724, much less, a
16 cognizable claim by the state of an abuse of discretion
17 by the District Court, for the Nevada Supreme Court to
18 decide, once the District Court had entered its
19 August 9, 2001 Judgment and Order (Exhibit #2) and
20 the state failed to file a Notice of Appeal therefrom.

21 Whereas, all questions concerning the legality of the
22 Petitioner's restraint pursuant to the November 27, 1996
23 Judgment of Conviction had been resolved, and any
24 questions regarding the Petitioner's future restraint
25 pursuant to an Amended Judgment of Conviction were
26 rendered moot, until such time as an Amended-
27 Judgment of Conviction were to be entered by the
28 District Court. Quite simply, the District Court's

1 August 9, 2001 Judgment and Order (Exhibit # 2)
2 required no affirmance by the Nevada Supreme Court
3 because of the state's waiver of all challenges to the
4 District Court's use of discretion, and the District
5 Court's presumptively correct and unchallenged use
6 of its discretion in granting the August 9, 2001
7 Writ of Habeas Corpus, i.e., Judgment and Order
8 (Exhibit # 2), had functioned to dissolve the
9 November 27, 1996 Judgment of Conviction (Exhibit # 3)
10 divesting the Nevada Supreme Court of Appellate
11 Jurisdiction even in the face of the Petitioner's
12 filing of a Notice of Appeal (Exhibit # 5). Clearly,
13 the Petitioner did not complain of the District Court's
14 entry of a Writ of Habeas Corpus (Exhibit # 2), and
15 the claims raised by the Petitioner were no longer
16 cognizable following the District Court's entry of said
17 Writ.

18 However, despite the alleged jurisdictional
19 defects, the Nevada Supreme Court's Order of Affirmance
20 (Exhibit # 7) is clearly erroneous, where the Court
21 had affirmed the portion of the District Court's
22 Judgment and Order (Exhibit # 2), regarding the
23 Petitioner's claims of unlawful restraint under a
24 Judgment of Conviction (Exhibit # 3), which is null
25 and void, and which has no legal force or effect
26 subsequent to the District Court's entry of its
27 August 9, 2001 Writ of Habeas Corpus (Exhibit # 2),

28 Nonetheless, the Nevada Supreme Court's Order of-

1 Affirmance (Exhibit # 7) even if construed as
2 properly entered by the Court, cannot be construed
3 as equitable at this juncture, first because it
4 fails to acknowledge the fact that the District
5 Court had entered its August 9, 2001 writ of Habeas
6 Corpus and its natural consequences, of reversing,
7 vitiating, and rendering null and void the
8 District Court's prior November 27, 1996 Judgment of -
9 Conviction; and where said Order of Affirmance
10 (Exhibit # 7) failed to affirm the District Court's
11 August 9, 2001 granting of a writ of Habeas Corpus
12 by direct affirmative language, and where any
13 affirmance of the granting of such writ was merely
14 by a general affirmance of the District Court's
15 Findings of Fact, Conclusions of Law, And Judgment
16 (Exhibit # 2).

17 Therefore, the Nevada Supreme Court's Order of -
18 Affirmance (Exhibit # 7) should be stricken, Recalled,
19 or Vacated, where: (i) the appeal in case No 38373
20 was not properly before the Court, and the Court was
21 devoid of subject-matter-jurisdiction, due to the
22 District Court's Judgment and Order (Exhibit # 2)
23 which had reversed, vitiated, and rendered null and
24 void the November 27, 1996 Judgment of Conviction (Exhibit # 3)
25 and (2) said Order of Affirmance (Exhibit # 7)
26 cannot reasonably be construed as equitable in
27 light of the District Court's prior reversal and
28 vitiation of the Judgment of Conviction (Exhibit # 3) by

1 Writ of Habeas Corpus (Exhibit #2). Clearly, in
2 light of the District Court's Writ of Habeas Corpus,
3 i.e., Judgment and Order, (Exhibit #2) the November
4 27, 1996 Judgment of Conviction (Exhibit #3) cannot
5 be construed as the final Judgment of the District
6 Court under NRS 176.105. Thus, the Court's
7 Order of Affirmance (Exhibit #7) which functions
8 to reaffirm a Judgment of Conviction previously
9 reversed and vitiated by the District Court is
10 improvident, where the Court had not found an
11 abuse of discretion by the District Court in granting
12 its August 9, 2001 Writ of Habeas Corpus.

14 VII. Conclusion:

16 The Nevada Supreme Court's March 11, 1999
17 Order Dismissing Appeal, filed in Case No 29783; and
18 Order of Affirmance, filed in Case No. 38373, should
19 be stricken, Recalled, or Vacated, as improvident
20 and/or inequitable, in light of the District Court's
21 granting of a Writ of Habeas Corpus which has
22 effectively reversed, vitiated, and rendered null
23 and void, the prior Judgment of Conviction upon which
24 the aforementioned Nevada Supreme Court Orders were
25 based.

1 VIII Verification:

2
3 Under penalty of perjury, I STEVEN
4 FLOYD VOSS, do hereby certify that I have read
5 the content of the foregoing document, and that
6 same is true and correct of my own personal
7 information, knowledge and belief.

8 DATED this 5th day of October 2017.

9 By: 

10 STEVEN FLOYD VOSS,

11 Petitioner, in pro. per.

12
13 CERTIFICATE OF SERVICE VIA U.S. MAIL


14
15 I, STEVEN FLOYD VOSS, do hereby certify that
16 on this 5th day of October 2017, that I mailed
17 a true and correct copy of the foregoing document
18 addressed to:

19 CHRISTOPHER HICKS, ESQ.

20 Washoe County District Attorney

21 Post Office Box #11130

22 Reno, Nevada 89520 -

23
24 By: 

25 STEVEN FLOYD VOSS

1 STEVEN FLOYD VOSS #52094
2 Northern Nevada Correctional Center
3 Post Office Box #7000
4 Carson City, Nevada 89702-7000
5

6 IN THE SUPREME COURT OF THE STATE OF NEVADA
7

8 STEVEN FLOYD VOSS,
9 Petitioner,

No. _____

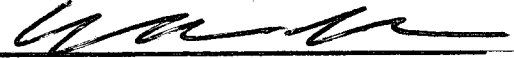
10 VS

11 THE STATE OF NEVADA,
12 Respondent
13

14
15 PETITIONER'S APPENDIX OF EXHIBITS IN SUPPORT OF
16 PETITION FOR EXTRAORDINARY RELIEF WRIT
17

18 COMES NOW Petitioner, STEVEN FLOYD VOSS, and
19 hereby submits the instant Appendix of Exhibits.
20

21 DATED this 5th day of October 2017.
22

23 By: 

24 STEVEN FLOYD VOSS,
25 Petitioner, in pro. per.
26

26 ///

27 ///

28 ///

APPENDIX OF EXHIBITS

EXHIBIT #1: PETITION FOR WRIT OF HABEAS CORPUS
(Post-Conviction), Second Judicial
District Court of The State of Nevada,
Case No. CR96-P-1581, filed March 9, 2000.

EXHIBIT #2: FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
JUDGMENT (i.e. Writ of Habeas Corpus -
Judgment and Order), Second Judicial
District Court of The State of Nevada,
Case No. CR96-P-1581, filed August 9, 2001.

EXHIBIT #3: JUDGMENT OF CONVICTION, Second Judicial
District Court of The State of Nevada,
Case No. CR96-1581, filed November , 1996.

EXHIBIT #4: ORDER DISMISSING APPEAL, Nevada Supreme
Court, Case No. 29783, filed March 11, 1999.

EXHIBIT #5: NOTICE OF APPEAL, Second Judicial
District Court of The State of Nevada,
Case No. CR96-P-1581, filed , 2001.

EXHIBIT #6: TRANSCRIPT OF SENTENCING PROCEEDINGS,
Second Judicial District Court of The State
of Nevada, Case No. CR96-1581, filed on
December 24, 1996.

APPENDIX OF EXHIBITS (continued)

1

2

3

EXHIBIT # 7: ORDER OF AFFIRMANCE, Nevada Supreme
Court, Case No. 38373, filed on

4

5

6

7

EXHIBIT # 8 CRIMINAL INFORMATION, Second Judicial
District Court of The State of Nevada,
Case No. CR96-1581.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

EXHIBIT #1

EXHIBIT #1

FILED
IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE MAR -9 PM 1:48

AMY HARVEY, CLERK

BY DEPUTY T. White

STEVEN FLOYD VOSS,)

Petitioner,)

VS.)

THE STATE OF NEVADA,)

Respondent,)

CASE NO. CR96-P-1581

DEPARTMENT NO. 10

DOCKET NO.

PETITION FOR WRIT OF HABEAS
CORPUS

(Post-Conviction)

1. Name of institution and county in which you are presently
inprisoned or where and how you are presently restrained
of your liberty? ;LOVELOCK CORRECTIONAL CENTER,COUNTY OF
PERSHING, NEVADA.
2. Name and location of the court which entered the Judgment
under attack? :THE SECOND JUDICIAL DISTRICT COURT IN AND
FOR THE COUNTY OF WASHOE, AT RENO NEVADA.
3. Date Judgment of conviction Inposed? :NOVEMBER 27,1996
4. Case number? : CR 96-1581
5. Lenth of sentence? :(SIX CONSECUTIVE COUNTS) COUNT ONE
120 MONTHS, COUNT TWO 48 MONTHS, COUNT THREE 48 MONTHS,
COUNT FOUR 48 MONTHS, COUNT FIVE 48 MONTHS AND COUNT SIX
48 MONTHS.
6. Are you presently serving a sentence for a conviction
other than that under attack in this Petition? : If
"YES", List crime, case number and sentence being served
at this time; CASE NUMBER CR97-2077 COUNT ONE MURDER WITH
THE USE OF A DEADLY WEAPON. COUNT TWO KIDNAPPING IN

1 THE FIRST DEGREE.

2 7. Nature of offenses involved in convictions being Challenged?

3 : COUNT ONE BURGLARY, COUNTS TWO AND THREE UTTERING A FORGED
4 INSTRUMENT, COUNTS FOUR AND FIVE FORGERY, COUNT SIX ATTEMPTED
5 THEFT.

6 8. What was your Plea?: NOT GUILTY

7 9. NOT APPLICABLE

8 10. If you were found Guilty after a Plea of not Guilty, the finding
9 was made by?: JURY

10 11. Did you testify at trial? NO

11 12. Did you appeal from the Judgment of conviction? YES

12 13. If you did appeal, answer the following;

13 (A) Name of the court: THE SUPREME COURT OF THE STATE OF NEVADA

14 (B) Case Number or Citation: NO. 29783

15 (C) Result: ORDER DISMISSING APPEAL

16 (D) Date of Result: MARCH, 11, 1999

17 14. NOT APPLICABLE

18 15. Other than a direct appeal from the Judgment of conviction
19 and sentence, have you previously filed any petitions,
20 applications or motions with respect to this Judgment in any
21 court, state or Federal?; YES

22 16. If your answer to No. 15 was "YES", give the following in-
23 formation:

24 (A) (1) Name of Court: SECOND JUDICIAL DISTRICT COURT OF THE
25 STATE OF NEVADA.

26 (2) Nature of Proceedings: MOTION FOR A JUDGMENT OF ACQUITT
27 -AL OR A NEW TRIAL
28

1
2 (3) Grounds raised: INSUFFICIENT EVIDENCE TO SUPPORT GUILTY
3 VERDICTS BEYOND A REASONABLE DOUBT, IMPROPER JUROR CON-
4 DUCT.

5 (4) Did you receive an evidentiary hearing on your petition,
6 Application or motion? : YES

7 (5) Result; MOTION DENIED

8 (6) Date of result : NOVEMBER, 27, 1996

9 (7) If known, Citations of any written opinion or date of
10 orders entered pursuant to such result; NONE

11 (B). As to any second petition, application or motion, give the
12 same information;

13 (1) Name of court; SECOND JUDICIAL DISTRICT COURT OF THE
14 STATE OF NEVADA.

15 (2) Grounds raised; COUNT SIX ATTEMPTED THEFT MUST BE DIS-
16 MISSED, IT IS NECESSARILY INCLUDED IN COUNT THREE UTTER-
17 RING A FORGED INSTRUMENT.

18 (3) Nature of proceeding: MOTION TO DISMISS

19 (4) Did you receive an evidentiary hearing on your petition
20 application or motion; YES

21 (5) Result: MOTION DENIED

22 (6) Date of result: NOVEMBER, 27, 1996.

23 (7) If known, citations of any written opinion or date of
24 orders entered pursuant to such result: NONE

25 (C). As to any third petition, application or motion give the
26 same Information;

(1) Name of court: SECOUND JUDICIAL DISTRICT COURT OF NEVADA.

(2) Nature of proceeding: MOTION TO SET ASIDE VERDICT.

(3) Grounds raised: THE STATE FAILED TO DISCLOSE MATERIAL EXCULPITORY EVIDENCE.

(4) Did you receive an evidentiary hearing on your petition, application or motion; YES

(5) Result; NON-CONCLUSIVE (INCOMPLETE).

(6) Date of Result; NONE

(7) If known, Citations of any written opinion or date of orders entered pursuant to such result: THIS MOTION WAS HEARD MAY, 21, 1998 BY THE HONORABLE DEBORAH AGOSTI, SHE ELECTED TO EVALUATE THE TESTOMONY OF EDWARD ANTHONY VILARDI DURING THE TRIAL OF CR97-2077 DUE TO TIME CONSTRAINTS AND HIS EXPECTED TESTOMONY DURING THAT TRIAL. THEN TO RENDER HER DECISION AFTER HEARING THAT TESTOMONY, HOWEVER TO MY KNOWLEDGE NO DECISION HAS EVER BEEN RENDERED IN REGARDS TO THIS MOTION.

(D). Did you appeal to the highest state or federal court having Jurisdiction, the result or action taken on any petition, application or motion?:

(1) First petition, application or motion?: YES

(2) Second petition, application or motion?: YES

(3) Third petition, application or motion?: NO

(E). If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not: IN REGARDS TO THE THIRD MOTION FILED, MOTION TO SET ASIDE VERDICT, THE APPOINTED COUNCIL REPRESENTING ME

1 FAILED TO FOLLOW UP ON MY REPEATED REQUESTS FOR
2 INFORMATION IN THIS MATTER. AS WELL AS TO ADDRESS THE COURT
3 WITH MY CONCERNS AS TO ITS APPARENT OVERSIGHT IN RESPONDING
4 TO THIS MOTION.

5 17. Has any ground being raised in this petition been previous-
6 ly presented to this or any other court by way of petition
7 for habeas corpus, motion, application or any other post-
8 conviction proceeding? If so, Identify:

9 (A) Which of the grounds is the same?; THE STATE FAILED TO
10 DISCLOSE MATERIAL EXCULPATORY EVIDENCE.

11 (B) Name the proceeding in which these grounds were raised:
12 MOTION TO SET ASIDE VERDICT, MAY, 21, 1998 IN THE SECOND
13 JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA AT RENO,
14 NEVADA.

15 (C) Explain why you are again raising these grounds: THE
16 PRESIDING JUDGE FAILED TO MAKE A DECISION IN REGARDS
17 TO MY MOTION.

18 (18). If any of the grounds listed in NO. 23 (a), (b), (c), (d),
19 (e) and (f) were not previously presented in any other
20 court, state or federal. List what grounds were not so
21 presented, and give your reasons for not presenting them.
22 Ground Two; THE DEFENDANT WAS EXPOSED TO JURORS IN PRISON
23 GARB. IN MANICLE RESTRAINTS OR PHYSICAL RESTRAINT BY
24 SHERRIFF DEPUTIES AND COURT BAILIFF ON AT LEAST TWO
25 OCCASIONS.

26 Ground Three; JURY MEMBERS WERE ALLOWED TO HEAR COMMENTS
27 BETWEEN COURT BAILIFF AS TO THE DEFENDANTS IN CUSTODY
28 STATUS.

1 Ground Four; THE SECOND JUDICIAL DISTRICT COURT OF THE
2 STATE OF NEVADA. ERRORED WHEN IT FAILED TO REACH A DECIS-
3 ION, IN REGARD TO A MOTION TO SET ASIDE VERDICT. AND
4 SHOULD NOW BE HELD IN DEFAULT OF SAID MOTION.

5 Ground Five; APOINTED COUNCIL WAS INEFFECTIVE AND INCOM-
6 PETENT.

7 Ground Six; THE SENTENCING COURT ERRORED, AND VIOLATED THE
8 DEFENDANTS INDEPENDENT STATE AND FEDERAL CONSTITUTIONAL
9 GUARANTEES TO DUE PROCESS OF LAW, WHEN IT IMPOSED SENTENCE
10 BASED IN PART ON ALLEGATIONS, OF A MURDER THE DEFENDANT
11 HAD NOT BEEN TRIED FOR.

12 Ground Seven; SHERRIFFS INVESTIGATORS NEGLECTED TO GIVE WARNINGS,
13 CONCERNING THE DEFENDANTS CONSTITUTIONAL PRIVLEDGE AGAINST
14 SELF INCRIMINATION AND TO HIS RIGHT TO LEGAL COUNCIL AS A PRE-
15 REQUISITE, TO POLICE DOMINATED INTERRIGATIONS, VIOLATING THE
16 DEFENDANTS RIGHTS UNDER THE FIFTH AND SIXTH AMENDMENTS. AND THERE
17 FORE ALL DEFENDANT STATEMENTS INCLUDING, WRITEN STATEMENTS,
18 RECORDED AUDIO STATEMENTS, RECORDED VIDEO STATEMENTS, AND ANY
19 OTHER STATEMENT BY DEFENDANT TO POLICE. SHOULD HAVE BEEN EXCLUDED
20 AT TRIAL.

21 GROUND. TWO, THREE, FOUR, FIVE, SIX AND SEVEN WERE NOT A MATTER
22 OF COURT RECORD IN CR96-1581 AND AS SUCH COULD NOT BE INCLUDED
23 IN DIRECT APPEAL.

24
25
26 (19). Not Applicable
27
28

1
2 20. Do you have any petition or appeal now pending in any court,
3 state or federal, as to the Judgement under attack?: NO

4 21. Give the name of each attorney who represented you in the
5 proceedings resulting in your conviction and on direct
6 appeal: COTTER C. CONWAY, MARY LOU WILSON, JENNIFER LUNT.

7 22. Do you have any future sentences to serve after you complete
8 the sentence imposed by the Judgement under attack?: YES

9 23. State concisely every ground on which you claim you are be-
10 ing held unlawfully.

11 (A) Ground One: THE STATE FAILED TO DISCLOSE MATERIAL
12 EXCULPATORY EVIDENCE, THE VALUE OF WHICH WOULD HAVE CLEARLY
13 PLAYED A SIGNIFICANT ROLE TO THE DEFENCE OF THESE CHARGES,
14 AND THE VALUE OF WHICH WAS KNOWN BY THE STATE BEFORE TRIAL.

15 Supporting Facts: THE STATE HAD KNOWLEDGE OF AN ESSENCIAL
16 DEFENCE WITNESS EDWARD ANTHONY VILARDI FROM A SECRET WITNESS
17 REPORT DATED JUNE, 19, 1996 THEN FAILED TO DISCLOSE THIS INFOR
18 -MATION TO THE DEFENCE BEFORE TRIAL IN OCTOBER, OF 1996. IN
19 FACT THE DEFENCE WAS NOT MADE AWARE OF THE EXISTANCE OF THIS
20 WITNESS UNTIL DECEMBER, 23, 1997. WELL OVER ONE YEAR AFTER
21 THE TRIAL OF CR96-1581 EVEN THOUGH DURING THE ARRAINMENT
22 PROCEEDING FOR THAT CASE ON JULY, 19, 1996 THE HONORABLE
23 DEBORAH AGOSTI ORDERED THAT FULL DISCOVERY TAKE PLACE
24 PURSUANT TO TRIAL COUNCIL'S STIPULATION, BY WITHHOLDING THE
25 EXISTANCE OF THIS ESSENCIAL WITNESS, THE STATE COLLECTIVLY
26 AND ADVERSLY AFFECTED THE OUTCOME OF THE TRIAL. AND SEVERELY
27 INFLUENSED SENTENCING.
28

1 AND WHILE THE JURY WAS SUPPOSED TO BE SECURED IN THE JURY ROOM,
2 DEPUTY CLIFFORD FIRST CONFERED WITH ANOTHER BAILIFF, WHO WAS
3 TO TAKE CHARGE OF SECURING THE JURY IN THE JURY ROOM. HE THEN
4 LOOKED OUT THE DOOR INTO THE HALLWAY. HE THEN ESCORTED ME OUT
5 OF THE COURTROOM, AND WALKED ALONGSIDE ME DOWN THE HALLWAY TOWARD
6 THE LOCKUP AREA. AS WE APPROACHED THE AREA NEAR THE PUBLIC
7 TELEPHONES IN THAT SAME HALLWAY. DEPUTY CLIFFORD AND MYSELF WERE
8 APPROACHED BY ANOTHER DEPUTY. WHO WAS CARRYING THE KEYS FOR THE
9 LOCKUP , THIS DEPUTY ASKED DEPUTY CLIFFORD IF HE WAS READY TO
10 GO TO LUNCH, BECOULDS IF HE WAS THEN, HE WOULD PLACE ME IN LOCK-
11 UP AND FEED ME. DEPUTY CLIFFORD REPLIED THAT HE WOULD LOCK ME
12 UP AND THAT MY LUNCH WAS IN A BAG ON THE DESK, AND HIS LUNCH WAS
13 ON THE WAY. DEPUTY CLIFFORD THEN TOOK HOLD OF MY ARM TO ESCORT
14 ME THE REST OF THE WAY DOWN THE HALL. AT THAT TIME I SAW A MALE
15 JUROR WHO WAS ON THE TELEPHONE JUST A FEW FEET AWAY. HE WAS
16 LOOKING DIRECTLY AT THE TWO DEPUTIES AND MYSELF, I INFORMED
17 DEPUTY CLIFFORD OF THE JUROR ON THE TELEPHONE AND OF THE FACT
18 THE JUROR SAW HIM RESTRAINING ME AND THAT HE CERTAINLY HEARD
19 THE CONVERSATION BETWEEN THE TWO DEPUTIES. HE CONTINUED DOWN
20 THE HALLWAY HOLDING MY ARM UNTILL HE PLACED ME IN THE LOCKUP.
21 THEN AT APPROXIMATLY 1:30 PM AS COURT WAS TO BE RECONVEINED
22 I NOTIFIED MY APOINTED COUNCIL COTTER CONWAY WHO AGAIN REFUSED
23 TO BRING THIS TO THE ATTENTION OF THE TRIAL JUDGE. IT SHOULD
24 BE NOTED THAT ON OCTOBER, 7, 1996 THE HONORABLE JAMES A. STONE
25 GRANTED THE FOLLOWING DEFENCE MOTIONS IN LIMNE. MOTION THAT
26 DEFENDANT NOT BE EXPOSED TO JURORS IN PRISON GARB. AND MOTION
27 TO PRECLUDE REFERENCE TO IN CUSTORY STATUS.
28

1 (B) Ground Two; THE DEFENDANT WAS EXPOSED TO JURORS IN PRISON
2 GARB, IN MANICLE RESTRAINTS OR PHYSICAL RESTRAINT BY SHERRIFF
3 DEPUTIES AND COURT BAILIFF ON ATLEAST TWO OCCASIONS.

4 Supporting Facts: THE FIRST INCIDENT TOOK PLACE ON OCTOBER, 7
5 1996. I WAS TRANSPORTED TO THE NEVADA SECOND JUDICIAL
6 DISTRICT COURTHOUSE IN RENO, NEVADA. FROM THE WASHOE COUNTY
7 JAIL, 911 PARR BLVD. RENO, BY WASHOE COUNTY SHERRIFF DEPUTIES
8 FOR THE PURPOSE OF TRIAL, UPON ARRIVAL AT THE COURTHOUSE
9 MYSELF AND APPROXIMATELY TEN OTHER PRISONERS WERE ESCORTED
10 FROM THE SHERRIFFS TRANSPORT VAN PARKED ON THE STREET, IN
11 JAIL CLOTHING AND FULL RESTRAINTS PAST BYSTANDERS. INCLUDING
12 THEN PROSPECTIVE JURORS OUTSIDE AT THAT TIME SMOKING CIGARE-
13 TTS. THEN INTO THE COURTHOUSE LOBBY AREA. THEN ORDERED TO
14 STAND WITH OUR FACES TO THE WALL, WHILE DEPUTIES ATTEMPTED TO
15 COMMANDEER AN ELEVATOR TO BRING US UPSTAIRS. THIS IN DIRECT
16 VEIW AND EARSHOT OF PROSPECTIVE JURORS, NOW ENTERING THE
17 COURTHOUSE, AND THOSE STANDING IN THE AREA OF THE ELEVATORS.
18 LATTER THAT MORNING DURING JURY SELECTION. I POINTED OUT THE
19 PROSPECTIVE JURORS THAT HAD SEEN ME EARLYER. HOWEVER APPOIN-
20 TED COUNCIL COTTER CONWAY TOOK NO ACTION TO BRING THIS TO
21 TH ATTENTION OF THE TRIAL JUDGE. RESULTING IN ATLEAST ONE OF
22 THE JURORS SELECTED FOR TRIAL TO SEE ME IN PRISON GARB AND
23 FULL RESTRAINTS. AS WELL AS HEAR THE VERBAL COMMANDS OF THE
24 SHERRIFF DEPUTIES, AND TO HEAR AND TO SEE PRISONER RESPONCES
25 TO THOSE COMMANDS, AND IN ANOTHER INCIDENT ON OCTOBER, 9, 1996
26 AT APPROXIMATELY 12:30PM WHILE THE COURT WAS AT RECESS FOR
27 LUNCH AND WHILE THE BAILIFF, DEPUTY GARY CLIFFORD ESCORTED
28 ME FROM THE COURTROOM TO THE LOCKUP ON THAT SAME FLOOR.

1 (C)Ground Three: JURY MEMBERS WERE ALLOWED TO HEAR COMMENTS
2 BETWEEN COURT BAILIFFS OR SHERRIFF DEPUTIES. AS TO THE
3 DEFENDANTS IN CUSTODY STATUS.

4 Supporting Facts: (SAME AS GROUNDS TWO).

5 (D)Ground Four: THE SECOND JUDICIAL DISTRICT COURT OF THE STATE
6 OF NEVADA. ERRORED WHEN IT FAILED TO REACH A DECISSION. IN
7 REGARD TO A MOTION TO SET ASIDE VERDICT, AND SHOULD NOW BE
8 HELD IN DEFAULT OF SAID MOTION.

9 Supporting Facts: ON APRIL, 30, 1998 A MOTION TO SET ASIDE VER-
10 DICT, WAS FILED WITH THE CLERK OF THE SECOND JUDICIAL DISTRICT
11 COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE
12 LOCATED IN RENO NEVADA. IN BEHALF OF STEVEN FLOYD VOSS BY AND
13 THROUGH THE WASHOE COUNTY PUBLIC DEFENDERS OFFICE, THE BASIS OF
14 THIS MOTION LIED STRONGLY ON THE FACT THAT A WITNESS EDWARD,
15 ANTHONY VILARDI HAD CALLED SECRET WITNESS ON JUNE 19, 1996
16 REPORTING TO HAVE CONTACT WITH A THEN, MISSING PERSON BEVERLY
17 ANN BAXTER, THE ALLEGED VICTOM IN THIS CASE, AT ABOUT 10:30 PM,
18 SITTING WITH A MAN IN A PICKUP TRUCK THAT WAS CLEARLY DIFFERENT,
19 FROM THE PICKUP TRUCK BELONGING TO STEVEN VOSS. AND TWELVE HOURS
20 OR SO AFTER THE TIME THE PROSICUTION CLAIMED THAT MISS BAXTER
21 HAD BEEN SEEN FOR THE LAST TIME, AT A GAS STATION IN THE TRUCK
22 BELONGING TO STEVEN VOSS, THE HONORABLE DCBORAH AGOSTI HEARD
23 THE MOTION ON MAY 21, 1998 DURING PROCEEDINGS TO CONFIRM A TRIAL
24 DATE. THE JUDGE DETERMINED THAT IN ORDER TO REACH A DECISSION,
25 IT WOULD BE NECESSARY TO HEAR TESTOMONY FROM THE WITNESS EDWARD
26 VILARDI. HOWEVER DUE TO THE DOCKET AND THE APPROACHING TRIAL DATE
27 OF CR97-2077 THE JUDGE CHOSE TO EVALUATE THE WITNESS AS HE TEST-
28 IFIED IN THE UPCOMING CASE. EDWARD VILARDI DID TESTIFIE DURING

1 THOSE PROCEEDINGS, HOWEVER JUDGE DEBARA AGOSTI NEVER MADE THE
2 EXPECTED FINNAL DECISSION IN REGARDS TO THE MOTION.

3 (E) Ground Five: APPOINTED COUNCIL WAS INEFFECTIVE AND INCOMPETENT
4 IN REPRESENTING THE DEFENCE

5 Supporting Facts: SINCE HIS APPOINTMENT AS COUNCIL FOR THE
6 DEFENCE COTTER C. CONWAY WAS EVASIVE, IRRESPONSIBLE AND DISHONEST
7 HE WOULD CONTINUALY FAIL TO ARRIVE AT SCHEDULED MEETINGS WITH
8 ME TO DISCUSS THE CASE. AND ON THE OCCASSION HE WOULD ARRIVE HE
9 WOULD QUICKLY END THE MEETING WITH EXCUSSES AND FALSE PROMISES.
10 HE DENIED ME ANY INPUT INTO MY DEFENCE. THEN REFUSED ME ANY
11 EXPLAINATION OF HOW HE INTENDED TO APPROACH MY DEFENCE, HE FAILED
12 TO INVESTIGATE SUSPECTS AND TO LOCATE AND INTERVEIW WITNESSES.
13 WHILE CONTINUALY TELLING ME HE WAS WORKING ON IT. APPOINTED
14 COUNCIL COTTER C. CONWAY REFUSED TO REPORT THE FIRST INCIDENT
15 OF INPROPER JUROR CONTACT WITH ME TO THE TRIAL JUDGE THE
16 HONORABLE JUDGE JAMES A. STONE ON OCTOBER 7, 1996. THEN THAT SAME
17 MORNING AT APPROXIMATLY 9:00 AM COTTER CONWAY WAIVED MY APPEAR-
18 ANCE TO BE PRESENT AT A HEARING ON DEFENCE MOTIONS IN LIMINE
19 THIS BOLD AND CALLOUS MOVE BY COUNCIL WAS DONE JUST MINITES
20 AFTER I SPECIFICLY REQUESTED TO BE PRESENT DURING THOSE PRO-
21 CEEDING. PARTLY BECOULDS HE CLAIMED HE DID NOT HAVE TIME TO LET
22 ME READ THE MOTIONS BEFORHAND. AND EVEN AFTER HE HAD AGREED TO SEE
23 THAT I WAS PRSENT AT THAT HEARING. AT THE TIME OF THAT HEARING
24 I WAS ALLREADY IN THE COURT HOUSE AND DRESSED FOR COURT . I WAS
25 IN THE LOCKUP ON THAT VERY SAME FLOOR. WHEN I ASKED WHY I WAS NOT
26 PRESENT, COTTER CONWAY LIED WHEN HE TOLD ME THAT THE JUDGE WAS
27 IN A HURRY AND WOULD NOT ALLOW ME TO BE PRESENT. A MISREPRESENT-
28 TATION THAT IS CLEARLY POINTED OUT IN THE TRIAL TRANSCRIPTS.

1 (F). Ground Six : THE SENTENCING COURT ERRORED, AND VIOLATED
2 THE DEFENDANTS INDEPENDENT STATE AND FEDERAL CONSTITU-
3 TIONAL GUARANTEES TO DUE PROCESS OF LAW. WHEN IT IMPOSED
4 SENTENCE BASED IN PART ON ALLEGATIONS, OF A MURDER THE
5 DEFENDANT HAD NOT BEEN TRIED FOR.

6 Supporting Facts : PRIOR TO SENTENCING ON NOVEMBER 27, 1996
7 THE SENTENCING JUDGE THE HONORABLE JAMES A. STONE MADE
8 THE FOLLOWING INAPPROPRIATE COMMENTS DIRECTLY BEFORE
9 SENTENCING. "WE ARE ALL ADULTS HERE! MISS BAXTER WILL NOT
10 BE FOUND ALIVE! MR. VOSS YOU ARE A MENACE, A MENACE TO
11 SOCIETY AND A MENACE TO THE COMMUNITY! THEREFORE I SENT-
12 ENCE YOU AS FOLLOWS!" THE JUDGE THEN IMPOSED THE MAXIMUM
13 ALLOWABLE SENTENCE FOR EACH COUNT, WITH EACH COUNT TO BE
14 SERVED CONSECUTIVE TO THE NEXT.

15
16 (G) Ground Seven; SHERRIFFS INVESTIGATORS NEGLECTED TO GIVE WARN-
17 INGS, CONCERNING DEFENDANTS CONSTITUTIONAL PRIVLEDGE AGAINST
18 SELF INCRIMINATION, AND TO HIS RIGHT TO LEGAL COUNCIL. AS A
19 PREREQUISITE TO POLICE DOMINATED INTERRIGATIONS. VIOLATING THE
20 DEFENDANTS RIGHTS UNDER THE FIFTH AND SIXTH AMENDMENTS. THERE-
21 FORE ALL DEFENDANT STATEMENTS, INCLUDING WRITTEN STATEMENTS,
22 RECORDED AUDIO STATEMENTS, RECORDED VIDEO STATEMENTS, AND ANY
23 OTHER STATEMENTS BY OR FROM DEFENDANT TO POLICE. SHOULD HAVE BEEN
24 EXCLUDED AT TRIAL.

1 Supporting Facts; ON MULTIPLE OCCASIONS THE DEFENDANT STEVEN
2 FLOYD VOSS WAS QUESTIONED BY DEPUTIES OF THE WASHOE COUNTY,
3 NEVADA SHERRIFFS DEPARTMENT.

4 THE FIRST INCIDENT: TOOK PLACE ON JUNE 14,1996 STARTING AT APPR-
5 OXIMATELY 4;30PM. IN THE LOBBY AREA OF THE SPARKS, NEVADA BRANCH
6 OF THE CALIFORNIA FEDERAL BANK. WHILE MR VOSS WAS SPEEKING WITH
7 MS. YVONNE KLINE. THE OPERATIONS MANAGER FOR THE BANK, MR VOSS
8 WAS APPROACHED BY DETECTIVE STACEY HILL. THE DETECTIVE IMMEDIATLY
9 ORDERED MR. VOSS TO SIT DOWN. HE THEN BEGAN QUESTIONING MR. VOSS
10 WITHOUT ADMONISHMENT OF HIS RIGHTS. SHORTLY THEREAFTER DETECTIVE
11 DALE PAPAS ALSO APPROACHED MR. VOSS. FIRST REQUESTING TO SEE HIS
12 IDENTIFICATION. AND THEN A \$5,000.00 CHECK DRAWN ON THE CHECKING
13 ACCOUNT OF BEVERLY ANN BAXTER. MR. VOSS COMPLIED WITH THOSE
14 REQUEST. THEN BOTH DETECTIVES STEPED AWAY TO TALK PRIVATLY. WHEN
15 THEY HAD FINNISHED THEIR CONVERSATION. DETECTIVE HILL ADDRESSED
16 A QUESTION TO MR. VOSS AND THEN BEFORE HE COULD ANSWER, DETECTIVE
17 PAPAS THEN ASKED A DIFFERENT QUESTION OF MR. VOSS.THE TWO DETEC-
18 TIVES CONTINUED TO ALTERNATLY ASK QUESTIONS. WITHOUT ALLOWING
19 MR. VOSS TO ANSWER ANY OF THEIR QUESTIONS. THIS DOUBLE TEAMING
20 APPROACH WENT ON FOR SEVERAL MINITES. AND WAS OBVIOUSLY INTTENDED
21 TO HARASS, CONFUSE, OR TO INTIMIDATE MR. VOSS. NEXT DETECTIVE
22 HILL PLACED A BLANK STATEMENT FORM IN FRONT OF MR. VOSS THEN
23 DEMANDED HE MAKE A WRITEN STATEMENT. DETECTIVE PAPAS SIGNALLED
24 TO DEPUTY GAZES, STANDING AT THE LOBBY ENTRANCE TO COME OVER.
25 DETECTIVE PAPAS INSTRUCTED DEPUTY GAZES TO DETAIN MR.VOSS,UNTILL
26 HE RETURNED. AS MR. VOSS ATTEMPTED TO WRITE A STATEMENT. DEPUTY
27 GAZES BEGAN TO QUESTION HIM. AND AS WITH DETECTIVES HILL, AND
28

1 PAPAS. DEPUTY GAZES ALSO FAILED TO ADMONISH MR. VOSS AS TO HIS
2 RIGHTS. AFTER SEVERAL MINUTES THE DETECTIVES RETURNED. AND ALL
3 THREE DEPUTIES NOW INTERRIGATED MR. VOSS. AFTER SOME TIME THE
4 DETECTIVES LEFT THE BANK, LEAVING DEPUTY GAZES TO DETAIN MR. VOSS
5 APPOXIMATLY TEN MINUTES OR SO LATTER MR. VOSS COMPLETED THE WRIT-
6 EN STATEMENT. HE THEN ASKED DEPUTY GAZES "ARE YOU THROUGH WITH
7 ME". DEPUTY GAZES INFORMED MR. VOSS THAT HE WOULD HAVE TO WAIT
8 FOR THE DETECTIVES TO RETURN BEFORE HE COULD LEAVE. MR. VOSS AS-
9 KED IF HE COULD ATLEAST STEP OUTSIDE FOR A CIGARETT. DEPUTY
10 GAZES RELUCTANTLY AGREED TO ASK THE DETECTIVES. BUT ONLY AFTER
11 WARNING MR. VOSS TO STAY IN THE CHAIR UNTILL HE RETURNED. DEPUTY
12 GAZES OBTAINED PERMISSION FROM THE DETECTIVES ALLOWING MR. VOSS
13 TO STEP OUTSIDE, AND TO RETRIEVE HIS CIGARETTS FROM THE POCKET
14 OF HIS JACKET, LOCATED INSIDE HIS TRUCK, UNDER THE SUPERVISION
15 OF DEPUTY GAZES. AT THAT TIME MR. VOSS ASKED DEPUTY GAZES "HOW
16 LONG ARE YOU GOING TO DETAIN ME HERE". HE RESPONDED "I DONT
17 KNOW". HE THEN WALKED SEVERAL YARDS TO WHERE THE DETECTIVES WERE
18 STANDING. DETECTIVE HILL THEN WALKED OVER AND ASKED MR. VOSS
19 WERE HE NEEDED TO GO. MR. VOSS RESPONDED "THATS NOT THE POINT,
20 HOW LONG DO YOU INTEND TO DETAIN ME". DETECTIVE HILL STATED HE
21 WOULD CHECK WITH DETECTIVE PAPAS. WHEN DETECTIVE HILL RETURNED
22 HE STATED "DETECTIVE PAPAS WOULD LIKE TO SEARCH YOUR TRUCK".
23 AND ASKED IF MR. VOSS WOULD COMPLIE, MR. VOSS AGREED TO THE
24 SEARCH. AND DETECTIVE HILL SEARCHED THE VEHICLE FOR SEVERAL
25 MINUTES OCCASIONALLY STOPING TO ASK MR. VOSS, VARIOUS QUESTIONS
26 ABOUT ITEMS IN THE CAB OF THE TRUCK. UPON COMPLETION OF THE SEARCH
27 MR. VOSS ASKED DETECTIVE HILL IF HE WAS NOW FREE TO LEAVE.
28

1 DETECTIVE HILL STATED THAT "DETECTIVE PAPAS WOULD ALSO LIKE TO
2 SEARCH YOUR APPARTMENT LOCATED AT 565 SPARKS BLVD." MR. VOSS INF-
3 ORMED DETECTIVE HILL THAT DUE TO A FIRE HE NO LONGER LIVED AT
4 THAT ADDERESS. AND THAT HE CURRENTLY WAS LODGING AT THE WESTERN
5 VILLAGE INN, ROOM NUMBER 135. DETECTIVE HILL ASKED IF HE COULD
6 SEARCH THAT ROOM MR. VOSS DECLINED THAT REQUEST, DETECTIVE HILL
7 THEN CONSULTED PRIVATLY WITH DETECTIVE PAPAS. THEN BOTH DETECTIVE
8 WALKED OVER TO MR. VOSS,WHO AGAIN ASKED IF HE COULD LEAVE. DETE-
9 CTIVE PAPAS LAUGHED AND SAID "YOU ARE FREE TO GO, YOU HAVE ALWAYS
10 BEEN FREE TO LEAVE AT ANY TIME". DETECTIVE PAPAS TURNED AND
11 WALKED AWAY AND DETECTIVE HILL FOLLOWED. WHEN MR. VOSS SAT DOWN
12 INSIDE HIS TRUCK DETECTIVE PAPAS RETURNED. AND STATED "MR. VOSS
13 YOU HAVE NO DRIVERS LICENCE". MR. VOSS RESPONDED."I THINK YOUR
14 MISTAKEN". DETECTIVE PAPAS STATED "THIS IS THE ONLY FAVOR I AM
15 GOING TO GIVE YOU" AND RETURNED TO HIS VEHICLE. MR. VOSS THEN
16 SECURED HIS VEHICLE AND WALKED SEVERAL BLOCKS TO THE WESTERN
17 VILLAGE INN WITH THE DETECTIVES SHADOWING BEHIND HIM IN THEIR
18 CAR.

19 THE SECOND INCIDENT: TOOK PLACE LATTER THAT SAME EVENING AT APP-
20 ROXIMATELY 8;00PM. MR. VOSS AND HIS MOTHER, MARY DUPLIN WERE IN
21 THEIR ROOM AT THE WESTERN VILLAGE INN. WHEN THERE WAS A KNOCK ON
22 THE DOOR. MRS. DUPLIN OPENED THE DOOR. THEN TWO PLAIN CLOTHED
23 DEPUTIES FROM THE WASHOE COUNTY SHERRIFFS DEPARTMENT. PUSHED
24 PAST HER AND ENTERED THE ROOM UNINVITED. THEY IDENTIFIED THEM
25 SELVES AS DETECTIVES LARRY CANFIELD AND JOHN YARYAN.THEY WERE
26 ACOMPANIED BY A THIRD OFFICER IN A BLUE UNIFORM (POSBLY
27 SPARKS POLICE) HE NEVER IDENTIFIED HIMSELF AND HE LEFT AFTER A
28 FEW MINITES. DETECTIVE YARYAN STATED "ARE YOU STEVEN FLOYD VOSS"

1 MR. VOSS RESPONDED "YES". DETECTIVE YARYAN THEN STATED "I HAVE
2 SOME QUESTIONS TO ASK YOU" HE CONTINUED TO SAY THAT HE WAS IN-
3 VESTIGATING A REPORT OF A MISSING PERSON. NAMED BEVERLY ANN
4 BAXTER HE THEN STATED "MR. VOSS YOUR NAME KEEPS COMMING UP".
5 AS WITH THE PREVIOUS DEPUTIES DETECTIVES CANFIELD AND YARYAN
6 ALSO FAILED TO ADMONISH MR. VOSS AS TO HIS RIGHTS, BEFORE THEY
7 BEGAN QUESTIONING. AFTER A FEW MINITES OR SO DETECTIVE YARYAN
8 STATED "YOU KNOW IT DOES'NT LOOK GOOD FOR YOU". AND THEN INCRE-
9 ACED THE INTENSITY OF THE INTERRIGATION. THE DETECTIVES CONTI-
10 NUED THEIR QUESTIONING UNTILL APPROXIMATELY 11;30PM. BEFORE LEAV-
11 ING DETECTIVE CANFIELD ASKED IF HE AND DETECTIVE YARYAN COULD
12 SEARCH THE ROOM. BOTH MR. VOSS AND MRS. DUPLIN CONCENTED TO THE
13 SEARCH. THE SEARCH WAS COMPLETED WITHOUT ANYTHING OF ANY CON-
14 SEQUENCE FOUND. DETECTIVE CANFIELD THEN REQUESTED THAT MR. VOSS
15 COME TO THE SHERRIFFS STATION AND MAKE A TAPED STATEMENT. MR.
16 VOSS DECLINED THAT REQUEST, NOTING THE LATE HOUR TO THE DETEC-
17 TIVES. BOTH OF THE DETECTIVES CONTINUED TO PRESS MR. VOSS FOR A
18 TAPED STATEMENT UNTILL HE FINNALLY AGREED TO MEET THEM THE NEXT
19 DAY. AND ONLY AT THAT TIME 11;55PM DID THE DETECTIVES LEAVE THE
20 ROOM.

21 THE THIRD INCIDENT TOOK PLACE AT APPROXIMATLY 12;00PM ON JUNE
22 15, 1996. MR. VOSS ARRIVED AS AGREED WITH MRS. DUPLIN AND WERE
23 ESCORTED UPSTAIRS TO THE DETECTIVE DIVISION LOBBY. AT THIS TIME
24 DETECTIVES CANFIELD AND YARYAN SAID THEY WOULD INTERVIEW MRS.
25 DUPLIN FIRST. MR. VOSS STATED THAT HE WOULD LIKE TO BE PRESENT
26 DURRING THAT INTERVIEW. THE DETECTIVES REPLIED THAT NORMALLY
27 THEY LIKE TO DO INTERVIEWS SEPARATELY. BUT THEN DECIDED MR. VOSS
28 COULD BE PRESENT IF HE DID NOT INTERFERE WITH THERE QUESTIONING.

1 UPON COMPLETION OF MRS. DUPLINS INTERVIEW. THE DETECTIVES THEN
2 INTERVIEWED MR. VOSS FROM APPROXIMATELY 12:52PM UNTILL APPROXI-
3 MATELY 4:00PM NEARLY TWENTY MINUTES OF THAT INTERVIEW WAS SPENT
4 TRYING TO COAX MR. VOSS TO AGREE TO A POLYGRAPH EXAMINATION,
5 AFTER HE HAD REFUSED TO PARTISIPATE IN SUCH AN EXAM. AND VOICED
6 HIS GENERAL DISTRUST IN POLYGRAPH EXAMS. IT SHOULD BE NOTED THAT
7 THIS "INTERVIEW" WAS NO LESS THAN AN INTERRIGATION WITHIN A
8 POLICE CONTROLLED ENVIRONMENT. AND THE VIDEO TAPE OF THIS INTER-
9 RIGATION AMOUNTS TO A STAGED PRODUCTION BY POLICE. THE POLICE
10 WENT TO GREAT MEASURES TO MAKE MR. VOSS AWARE OF AUDIO TAPEING
11 EVEN USING A HAND HELD RECORDER AND CHANGING THE TAPE AS NECESS-
12 ARY. HOWEVER THE DETECTIVES MADE NO MENTION OF VIDIO TAPEING BE-
13 FORE OR AFTER THE INTERRIGATION. IN ADDITION AT NO TIME BEFORE
14 OR DURRING THIS INTERRIGATION. WERE MR. VOSS OR MRS. DUPLIN
15 ASMONISHED AS TO THEIR RIGHTS. EVEN THOUGH MR. VOSS, THROUGH THE
16 EYES OF LAW INFORCEMENT WAS CLEARLY A SUSPECT.

17 THE FOURTH INCIDENT: BEGAN IN THE CASSINO AREA OF THE WESTERN
18 VILLAGE INN ON JUNE 17, 1996 AT APPOXIMATELY 6:30PM. MR. VOSS
19 AND HIS MOTHER MRS. MARY DUPLIN WERE ABOUT TO BE SEATED FOR DIN-
20 NER, WHEN THEY WERE APPROUCHED BY SEVERAL PLAIN CLOTHES SHERRIFF
21 DEPUTIES. THE DEPUTIES INFORMED MR. VOSS AND MRS. DUPLIN THAT THEY
22 WERE EXECUTING A SEARCH WARRANT ON THEIR ROOM. AND THAT THEY MUST
23 BE PRESENT DURRING THAT SEARCH. BOTH MR. VOSS AND MRS. DUPLIN
24 COMPLIED WITH THAT REQUEST, AND WALKED OUT OF THE CASSINO, ESCOR-
25 TED BY THE DEPUTIES. AS THEY WALKED ACCROSS THE PARKING LOT WALK-
26 ING IN THE DIRECTION OF THEIR ROOM, THEY PASSED DETECTIVE CAN-
27 FIELD STANDING BY A GOLD COLORED SEDAN. DETECTIVE CANFIELD ASKED
28 IF THEY WOULD LIKE A RIDE TO THEIR ROOM. MR. VOSS,

1 DECLINED THE RIDE STATEING "MY ROOM IS JUST RIGHT OVER THERE"
2 POINTING IN THE DIRECTION OF THE ROOM. MR. VOSS, MRS. DUPLIN
3 AND SEVERAL PLAIN CLOTHED DEPUTIES CONTINUED WALKING IN THAT
4 DIRECTION. AS MR. VOSS APPROACHED THE ENTRANCE TO THE BUILDING
5 WHERE HIS ROOM WAS LOCATED HE OBSERVED SIX ADDITIONAL PLAIN
6 CLOTHED OFFICERS, THEN AS HE ENTERED THE BUILDING TWO OF THOSE
7 OFFICERS PHYSICALY SIEZED MR. VOSS. AND PLACED HANDCUFFS ON HIS
8 WRIST. THE OFFICERS RAPIDLY ESCORTED HIM DOWN THE HALLWAY AND
9 PAST HIS ROOM. WHERE HE COULD SEE A SEARCH WAS ALLREADY UNDER-
10 WAY. THEN OUT THE REAR ENTRANCE OF THE BULDING . AT THAT TIME
11 MR. VOSS OBSERVED TOW TRUCKS CONNECTING TO BOTH HIS TRUCK AND
12 TO MRS. DUPLINS CAR. AT THIS TIME DETECTIVES CANFIELD AND YAR-
13 YAN ARRIVED IN THE GOLD COLORED SEDAN. AS THEY APPROACHED MR.
14 VOSS HE ASKED WHY THE VEHICLES WERE BEING TOWED. DETECTIVE
15 YARYAN RESPONDED STATING THAT THE VEHICLES WERE BEING IMPOUN-
16 DED FOR SEARCH. MR VOSS THEN ASKED WHEN THE VEHICLES WOULD BE
17 RETURNED. AT THAT TIME WASHOE COUNTY DEPUTY DISTRICT ATTORNEY
18 EGAN WALKER STATED "YOU ARE NOT GOING TO GET THEM BACK."
19 THEN DETECTIVE YARYAN STATED "WE'VE GOT YOU NOW" AND PHYSICALY
20 TOOK HOLD OF MR. VOSS'S RIGHT ARM AND ESCORTED HIM TO THE GOLD
21 SEDAN, AND THEN TO THE WASHOE COUNTY JAIL. ARRIVING AT 7:03PM
22 ONCE THERE HE WAS ESCORTED INTO THE D.U.I. LAB AREA WHERE
23 HE WAS DETAINED IN HANDCUFFS FOR APPROXIMATLY FOURTY FIVE
24 MINITES BEFORE BEING ASKED TO COMPLIE WITH A SEIZURE ORDER
25 FOR BLOOD, HAIR, AND SALIVA SAMPLES, MR. VOSS THEN ASKED TO SEE
26 A COPY OF THE ORDER. AND WAS TOLD BY DETECTIVE CANFIELD THAT
27 HE DID NOT HAVE A COPY. BUT HE WAS SURE MR. VOSS WOULD RECEIVE
28

1 A COPY LATTER. IT WAS AT THAT TIME MR. VOSS RECIEVED WARNING FROM
2 INVESTIGATOR CHUCK LOWE THAT HE HAD BETTER COMPLIE, OR THE ORDER
3 WOULD BE EXECUTED BY FORCE. MR VOSS COMPLIED WITH ALL DEMANDS.
4 AFTER ALL SAMPLES WERE OBTAINED MR. VOSS WAS DETAINED IN THE D.
5 U.I. LAB FOR AN ADDITIONAL THIRTY MINITES OR SO. BEFORE DETEC-
6 TIVES CANFIELD AND YARYAN ESCORTED MR. VOSS TO AN ELEVATOR AND
7 UPSTAIRS TO A LOBBY AREA. AT THAT TIME MR. VOSS ASKED THE DETEC-
8 TIVES, WHERE THEY WERE TAKEING HIM . DETECTIVE CANFIELD STATED
9 "WE ARE FINNISHED WITH YOU". THEN MR. VOSS STATED "THEN I AM
10 NOT UNDER ARREST". DEPUTY D.A. WALKER STATED "NOT YET" MR. VOSS
11 STATED "THEN I'M FREE TO GO" AND STARTED WALKING IN THE DIRECTION
12 OF THE PAY TELEPHONES TO CALL A CAB. AS MR. VOSS STARTED TO PLACE
13 A CALL. DETECTIVE YARYAN STATED THAT "YOUR MOTHER IS ALLRIGHT
14 THERE ARE SEVERAL DEPUTIES WITH HER RIGHT NOW" AND TOLD MR. VOSS
15 THAT HE WOULD DRIVE HIM BACK TO THE WESTERN VILLAGE. AT THAT TIME
16 BOTH DETECTIVES AND MR. WALKER ESCORED MR. VOSS IN THE DIRECTION
17 OF THE FRONT DOORS. HOWEVER AS THEY APPROACHED THE MAIN ELEVAT-
18 TORS DETECTIVE YARYAN STOPED AND STATED "MR. VOSS I WOULD LIKE
19 YOU TO COME UPSTAIRS, THERE ARE SOME THINGS I WOULD LIKE TO CLEAR
20 UP" MR. VOSS DECLINED STATING "I AM NOT GOING TO TALK TO YOU UN-
21 TILL I CAN RETAIN AN ATTORNEY AND IF YOU ARE NOT GOING TO GIVE
22 ME A RIDE, I WILL CALL A CAB" DETECTIVE CANFIELD STATED "THAT WONT
23 BE NESESSARY WE WILL DRIVE YOU BACK". WITH THAT EVERYBODY WALKED
24 OUT THE MAIN ENTRANCE AND TO THE GOLD SEDAN NOW PARKED IN THE
25 FIRE ZONE DIRECTLY IN FRONT OF THE MAIN ENTRANCE. BEFORE MR. VOSS
26 AND THE OTHERS REACHED TO CAR DETECTIVE YARYAN ENGAGED IN CON-
27 VERSATION WITH AN UNIDENTIFIED MAN. DETECTIVE YARYAN CONTINUED
28

1 THIS CONVERSATION FOR SEVERAL MINUTES. MR. VOSS USED THIS TIME
2 TO SMOKE A CIGARETT. WHEN DETECTIVE YARYAN FINNISHED HIS CON-
3 VERSATION. HE ADDRESSED MR. VOSS STATING THAT THERE WERE SOME
4 PROBLEMS RELATIVE TO MR. VOSS'S PREVIEOUS STATEMENT. MR. VOSS
5 STATED "ARE YOU DRIVING ME BACK OR NOT". DETECTIVE YARYAN STATED
6 "YES" BUT CONTINUED IN HIS ATTEMPTS TO COAX MR. VOSS BACK INTO
7 THE BUILDING. DETECTIVE CANFIELD INSTRUCTED MR. VOSS TO SIT IN
8 THE PASSENGER FRONT SEAT OF THE VEHICLE, AND TO FASTEN HIS SAFETY
9 BELT. DETECTIVE CANFIELD SAT IN THE DRIVERS SEAT. DETECTIVE YAR-
10 YAN AND MR. WALKER SAT IN THE REAR SEATS. AS THE CAR WAS STARTED
11 DETECTIVE YARYAN GOT OUT OF THE CAR. HE OPENED THE FRONT PASSEN-
12 GER DOOR, AND THEN STATED "NO YOU ARE GOING TO TALK TO ME" MR.
13 VOSS PROTESTED STATING "I AM NOT GOING IN THERE VOLUNTARILY" THE
14 DETECTIVE AND MR. WALKER ESCORTED MR. VOSS BACK INTO THE BUILD-
15 ING AND UPSTAIRS TO THE DETECTIVE DIVISION. MR. VOSS STATED " I
16 WANT TO TALK TO AN ATTORNEY FIRST" DEPUTY D.A. WALKER ASKED "DO
17 YOU HAVE AN ATTORNEY" MR. VOSS REPLIED "I THINK YOU HAVE TO GIVE
18 ME ONE" DETECTIVE CANFIELD STEPED BETWEEN MR. VOSS AND MR. WALKER
19 AS MR. VOSS WAS SPEEKING LOUD AND WAS NOTICEABLY ANGERED BY HIS
20 DETAINMENT, DETECTIVE CANFIELD PULLED MR. VOSS TO THE SIDE
21 INITIALY TO DISARM THE SITUATION AND THEN TO MANIPULATE MR. VOSS
22 INTO ANOTHER INTERRIGATION. STATING AMONG OTHER THINGS THAT MR.
23 VOSS "SHOULD LISTEN TO WHAT DETECTIVE YARYAN HAS TO SAY, AND
24 THEN YOU WILL BE DRIVEN HOME" ULTIMATELY MR. VOSS AGREED TO COM-
25 PLIE, AT APPROX 8;30PM. HOWEVER HIS REPEATED REQUEST FOR COUNCIL
26 WERE NOT MET BEFORE INTERRIGATION. AND HIS COMPLIANCE CAN ONLY
27 BE VEIUED AS A RESULT OF OFFICIAL OVERBEARING AND COMPULSION,
28

1 WITHIN A GOVERNMENT CONTROLLED SETTING. MR. VOSS ONLY MADE A PAR-
2 TIAL WAIVER OF RIGHTS. AFTER BEING DENIED COUNCIL AND WHILE UNDER
3 UNLAWFUL DETAINMENT. AND WHILE SECURED IN A SMALL INTERROGATION
4 ROOM WITH TWO DETECTIVES. IN ADDITION FROM THE TIME MR. VOSS FIRST
5 REQUESTED COUNCIL, HE NEVER INITIATED ANY CONVERSATION WITH THE
6 DETECTIVES. DURING THIS INTERROGATION MR. VOSS COMPLIED FULLY
7 UNTILL THE DETECTIVES RESORTED TO ACCUSATORY REMARKS. DETECTIVES
8 STATED THAT "THEY KNEW MISS. BAXTER WAS DEAD AND THAT MR. VOSS
9 KNEW WHERE SHE COULD BE FOUND." WITH THIS ACCUSATION MR. VOSS
10 REFUSED TO FURTHER COMPLY, AND AGAIN REQUESTED TO LEAVE. AS
11 THIS WAS ON VIDEO TAPE THE DETECTIVES HAD NO CHOICE BUT TO ALLOW
12 MR. VOSS HIS REQUEST, BUT ONCE MR. VOSS WAS INSIDE THEIR VEHICLE
13 IN ROUTE BACK TO THE WESTERN VILLAGE. BOTH DETECTIVES CONTINUALLY
14 TRIED TO INITIATE CONVERSATION WITH MR. VOSS. UPON ARRIVAL AT THE
15 WESTERN VILLAGE MR. VOSS CONTACTED AN ATTORNEY BY TELEPHONE. AFTER
16 THAT TELEPHONE CALL MR. VOSS ADVISED BOTH DETECTIVE LARRY CANFIELD
17 AND JOHN YARYAN THAT ON THE ADVICE OF COUNCIL HE WOULD NOT BE
18 ANSWERING ANY FURTHER QUESTIONS. AND EVEN AFTER THAT STATEMENT
19 BY MR. VOSS. THE DETECTIVES CONTINUED TO CONTACT HIM STATING
20 "JUST ONE MORE QUESTION" EACH TIME, MR. VOSS TOLD THE DETECTIVES
21 THAT IF THEY WISHED TO SPEAK WITH HIM HIS LAWYER WOULD HAVE TO
22 BE PRESENT. THIS CARRIED NO WEIGHT WITH THE DETECTIVES. AND THEY
23 CONTINUED TO ASK QUESTIONS. THIS PRACTICE CONTINUED EVERYDAY
24 UNTILL JUNE, 28, 1996 WHEN MR. VOSS WAS ARRESTED ON THE CHARGES
25 RELATIVE TO THIS PETITION.

1 IT SHOULD BE FURTHER NOTED THAT THE DEFENDANT HAD
2 PREVIOUSLY AGREED TO VOLUNTARILY SUBMIT BLOOD, HAIR,
3 AND SALIVA SAMPLES IF NEEDED. IN FACT THE SAMPLES SEIZED
4 BY POLICE WERE NEVER EXAMINED. THE SEIZURE ORDER WAS
5 USED ONLY AS A PLOY TO COMPEL, STATEMENT OR CONFESSION.
6 BY TRICKING THE THEN SUSPECT INTO A POLICE -- GOVERNMENT
7 CONTROLLED ENVIRONMENT. FOR THE PURPOSE OF INTERRIGATION
8 WITH NO HONEST CONCERN FOR THE SUSPECTS CONSTITUTIONAL
9 RIGHTS.

10
11
12
13
14
15 WHEREFORE, Petitioner prays that the court grant Petitioner
16 Relief to which he may be entitled in this proceeding

17 EXECUTED at _____ On the 3 day of
18 March, 2000.

19
20
21
22 Petitioner; STEVEN FLOYD VOSS #52094

23 Steven F Voss

24 LOVELOCK CORRECTIONAL CENTER

25 POST OFFICE BOX, 359

26 LOVELOCK, NEVADA 89419
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
84

2
3
4
5
6

1

3

11

1

EXHIBIT #2

EXHIBIT #2

ORIGINAL

FILED

2001 AUG -9 AM 10:09

AMY HARVEY, CLERK

BY
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE

* * *

STEVEN FLOYD VOSS,

Petitioner,

v.

Case No. CR96P1581

THE STATE OF NEVADA,

Dept. No. 10

Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND JUDGMENT

This matter came before the court on Voss's Petition for Writ of Habeas Corpus (Post-Conviction). An evidentiary hearing on the petition has been held. The court, now being fully advised of the premises, denies the relief requested in part and grants the relief requested in part.

FINDINGS OF FACT

1. On or about June 28, 1996, Voss was arrested and charged with one count of burglary, two counts of forgery and two counts of uttering a forged instrument.

2. Following Voss's arrest, the Washoe County Public Defender's

1 Office was appointed to represent him.

2 a. Voss's defense was assigned to Deputy Public
3 Defender Cotter Conway, who represented Voss at all
4 relevant times.

5 b. Owing to his training and experience, Conway was
6 well qualified to represent Voss in this case.

7 3. After pleading not guilty to all charges, Voss's case was set
8 for trial in October of 1996.

9 4. Prior to trial, Conway conducted a reasonably complete
10 investigation of Voss's case.

11 a. Conway discussed the case with Voss in sufficient
12 depth and detail to formulate a defense consistent with
13 Voss's version of the events. Voss's testimony to the
14 contrary is not credible.

15 b. Conway received all requested and authorized
16 discovery from the prosecution, including Voss's
17 statements to the police, and discussed this matter
18 with Voss. Voss's testimony to the contrary is not
19 credible.

20 c. One item of information the defense did not receive
21 from the State was a secret witness report submitted by
22 Edward Villardi.

23 i. Villardi's report suggested that he had
24 seen the victim, Beverly Ann Baxter, with
25 another man, nearly 12 hours after Voss was
26 caught allegedly uttering forged instruments.

1 (It is undisputed that Ms. Baxter's body was
2 found many months later. Voss was charged
3 and convicted of her murder. Villardi
4 testified for the defense in the murder
5 trial. Given the guilty verdict in the murder
6 trial, it seems very clear that the jury did
7 not believe Villardi in any particular).

8 ii. No credible evidence was presented in
9 habeas proceeding proving that the prosecutor
10 was in possession of or withheld the secret
11 witness report, but it is clear that the
12 Washoe County Sheriff's Office did possess
13 it.

14 iii. Neither Conway nor any member of the
15 Washoe County Public Defender's Office
16 received this secret witness report until
17 Voss's murder trial was underway
18 approximately 18 months later.

19 iv. Villardi's secret witness report,
20 insofar as the guilt phase of Voss's case is
21 concerned, was neither material or
22 exculpatory.

23 v. Despite Conway's testimony with respect
24 to the perceived importance of Villardi's
25 secret witness report in the burglary,
26 forgery and uttering trial, the court is

1 confident that no reasonably competent trial
2 attorney would have had, at least, serious
3 reservations about premising Voss's defense
4 in this case on evidence that would clearly
5 open the door to a consideration of evidence
6 implicating his or her client in the Baxter
7 murder.

8 5. Prior to trial, Conway did not file and/or litigate a motion
9 to suppress Voss's statements to the investigating detective, but
10 this omission was reasonable under prevailing professional norms.

11 a. The record of the trial reveals that defense
12 counsel stipulated to admission of redacted versions of
13 Voss's pretrial statements. At the habeas proceeding,
14 Conway testified credibly that he perceived no
15 legitimate legal basis upon which to have the
16 statements suppressed. Neither the evidence presented
17 in the habeas proceeding or the applicable legal
18 standard draw Conway's conclusion into question.

19 b. At no relevant time was Voss subjected to custodial
20 interrogation without a Miranda warning, or where
21 applicable, did not knowingly, voluntarily or
22 intelligently waive his constitutional rights. Voss's
23 testimony to the contrary is not credible.

24 c. None of Voss's statements were obtained by duress
25 or coercion, nor can they be considered, as a matter of
26 law, involuntary. Voss's testimony to the contrary is

1 not credible.

2 6. At various times, both before and during trial, Voss was
3 dressed in jail garb and/or escorted while in plain clothes, by
4 uniformed court personnel employed by the Washoe County Sheriff's
5 Department.

6 a. Voss testified credibly that he arrived at the
7 courthouse on the morning of his trial in a jail van
8 along with several other prisoners, and that he was, at
9 that time, dressed in jail garb issued to him at the
10 jail.

11 i. His claim that he was seen by members of
12 his jury venire is not credible.

13 ii. Voss's testimony that he mentioned to
14 Conway that he had been seen by potential
15 juror members or actual seated jurors in jail
16 garb is not credible.

17 b. Voss testified credibly that he was routinely
18 escorted between the courthouse to the holding cell
19 and/or the elevator by a uniformed Sheriff's Deputy.

20 i. Voss's claim that he was seen by one of
21 the seated jurors while being escorted as the
22 juror was using a pay phone and/or that the
23 juror or potential juror had heard an
24 exchange between he and the deputy is not
25 credible.

26 ii. In the habeas proceeding, Voss called

1 Deputy Gary Clifford, but Clifford could not
2 remember any such incident(s) occurring
3 during his watch, and it is undisputed that
4 Clifford never reported the alleged incident.

5 iii. Voss did not report this incident to
6 counsel.

7 c. Neither of the jurors involved in the alleged
8 instances testified in the habeas proceeding.

9 7. Voss's claim that his sentence was based, at least in part,
10 on Judge Stone's belief that Voss caused the murder or
11 disappearance of Beverly Baxter, has merit. It is supported by
12 the record. Even though Voss has not been charged for the murder
13 of Ms. Baxter, Judge Stone made reference in his rendition of
14 sentence, to his belief that she would not be found alive. He
15 then imposed the maximum sentence on Voss, a sentence clearly
16 outside the heartland of sentences for a person with Voss's
17 criminal record being sentenced for forgery offenses.

18 CONCLUSIONS OF LAW

- 19 1. Voss was not deprived of the effective assistance of counsel.
- 20 2. The State did not withhold exculpatory evidence within the
21 contemplation of either Brady or Kyles and their progeny.
- 22 3. Voss's right to due process as construed in Grooms v. State,
23 96 Nev. 142, 605 P.2d 1145 (1980), and similar cases condemning
24 convictions in which the accused was observed by potential jurors
25 or seated jurors in jail garb was not violated.
- 26 4. Because Judge Stone based Voss's onerous sentence, at least

1 in part, on the suspect and impalpable ground that Voss had
2 murdered Ms. Baxter, Voss is entitled to a new sentencing
3 hearing.

4 JUDGMENT

5 It is hereby the judgment and order of this court that
6 Voss's Petition for Writ of Habeas Corpus (Post-Conviction) is
7 granted, but only insofar as allowing for a new sentencing
8 proceeding. In all other respects, the Petition is denied.

9 DATED this 6 day of August, 2001.

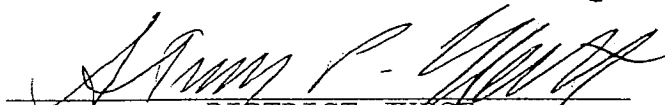
10
11 
12 DISTRICT JUDGE

EXHIBIT #3

EXHIBIT #3

No. CR 96-1581

Dept. No. 10

FILED

11-27-96

JUDY BAILEY, Clerk

By

J. E. H. H. H.
Deputy Clerk

**IN THE SECOND JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE**

STATE OF NEVADA,

Plaintiff,

vs.

STEVEN FLOYD VOSS

Defendant.

Reporter: R. Walker

J U D G M E N T

No sufficient cause being shown by Defendant as to why judgment should not be pronounced against him, the Court rendered judgment as follows:

That Steven Floyd Voss is guilty of the crimes as charged in the Information that he be punished by imprisonment in the Nevada State Prison for a maximum term of one hundred twenty (120) months with a minimum term of forty-eight (48) months on Count I Burglary; Count II Uttering A Forged Instrument to a term of a maximum term of forty-eight (48) months with a minimum term of sixteen (16) months, consecutive to Count I; Count III Uttering A Forged Instrument to a term of a maximum of forty-eight (48) months with a minimum term of sixteen (16) months consecutive to Count I and II; Count IV Forgery to a term of a maximum of forty-eight (48) months with a term of a minimum of sixteen (16) months, consecutive to Count I, II and III; Count V Forgery to a term of a maximum term of forty eight (48) months with a minimum

term of sixteen (16) months consecutive to Count's I, II, III and IV; Count VI Attempted Theft to a term maximum of forty-eight (48) months with a minimum term of sixteen (16) months, consecutive to all Counts, with credit for one hundred thirty-seven (137) days time served. It is further ordered that the Defendant pay Seven Hundred Fifty Dollars (\$750.00) attorney fees and the statutory administrative assessment fee of Twenty-Five Dollars (\$25.00).

Dated 27th this November day of, 1996.

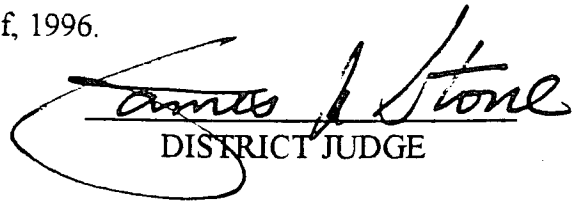

DISTRICT JUDGE

EXHIBIT #4

EXHIBIT #4

5

No. 29783

FILED

MAR 11 1969

JANETTE A. BLECH
CLERK OF DISTRICT COURT
BY *J. Richards*
NOTARY PUBLIC

Respondent.

J. Richards

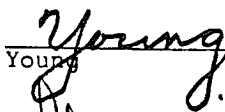
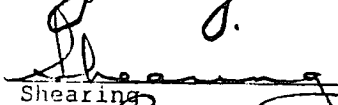

ORDER DISMISSING APPEAL

ORDER DISMISSING APPEAL

E-28

forged instrument and therefore the district court erred by denying his motion to dismiss the attempted theft count. This contention has no merit. The crime of uttering a forged instrument requires the person to utter, offer, dispose of, or put off as true any forged writing, knowing that writing to be forged and with intent to defraud. NRS 205.110. The crime of attempted theft requires the person to attempt to "[c]ontrol any property of another person with the intent to deprive that person of the property." NRS 205.0832(1); see also NRS 193.330(1) (defining an attempt crime). In this case, Voss presented Baxter's forged personal check to the bank knowing it was forged and with intent to defraud. He also controlled Baxter's personal check with intent to deprive her of \$5,000.00. Voss fails to show how attempted theft is a lesser included offense of uttering a forged instrument. They are two separate crimes, and Voss's actions fulfill the elements of both. Accordingly, we

ORDER this appeal dismissed.

 _____ Young	J.
 _____ Shearing	J.
 _____ Leavitt	J.

cc: Hon. Steven P. Elliott, District Judge
Hon. Frankie Sue Del Papa, Attorney General
Hon. Richard A. Garmick, District Attorney
Michael A. Specchio, Public Defender
Amy Harvey, Clerk

EXHIBIT #5

EXHIBIT #5

ORIGINAL

FILED

CODE: 4100

Scott W. Edwards

Bar Number 3400

1030 Holcomb Ave., Reno, NV 89502

(775)786-4300

Attorney for Petitioner

2001 AUG 20 PM 1:27

AMY HARVEY, CLERK

BY A. Sullivan
DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

STEVEN FLOYD VOSS,

Petitioner,

VS.

Case No. CR96P-1581A

THE STATE OF NEVADA,

Dept. No. 10

Respondent

NOTICE OF APPEAL TO SUPREME COURT

COMES NOW, Petitioner, STEVEN FLOYD VOSS, by and through appointed counsel, SCOTT W. EDWARDS, and hereby appeals the district court denial of his petition for writ of habeas corpus (post-conviction) to the Nevada Supreme Court. Notice of Entry of the Order denying relief was mailed

August 20th, 2001.

DATED this 20th day of August, 2001.

Scott Edwards
SCOTT EDWARDS, ESQ.
Nevada Bar No. 3400
Attorney for Petitioner
1030 Holcomb Avenue
Reno, Nevada 89502
Telephone: (775) 786-4300

CERTIFICATE OF SERVICE BY MAIL

I, SCOTT EDWARD RIDS, hereby certify pursuant to N.R.C.P. 5, that on this 20th day
of August, 2001, I mailed a true and correct copy of the foregoing NOTICE OF APPEAL TO
SUPREME COURT addressed to:

STEVEN FLOYD VOSS #52094

NSP

P.O. Box 607

Carson City, NV 89702

~~Washoe County District Attorney~~

Appellate Division

P.O. Box 11130

Reno, NV 89520

EXHIBIT #6

EXHIBIT #6

SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA:15

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE JAMES A. STONE, DISTRICT JUDGE

--oOo--

STATE OF NEVADA,

Plaintiff,

Vs.

STEVEN FLOYD VOSS,

Defendant.

SENTENCING

TRANSCRIPT OF PROCEEDINGS

November 27, 1996

~~Reno, Nevada~~

APPEARANCES:

For the State:

DAVID STANTON
Deputy District Attorney
Washoe County Courthouse
Reno, Nevada

For the Deft:

COTTER CONWAY
Deputy Public Defender
75 Court Street
Reno, Nevada

Reported by:

RANDI LEE WALKER, CSR #137
Computer-Aided Transcription

ORIGINAL

1
2 WEDNESDAY, NOVEMBER 27, 1996, 8:30 A.M.

3 //

4 THE COURT: This is Case Number CR96-1581, the
5 State of Nevada versus Steven Floyd Voss.

6 The record should reflect the defendant is
7 present in Court with his attorney, Mr. Conway.

8 The State is represented by Mr. Stanton.

9 The Division by Mr. Lorang.

10 This is the time set for sentencing.

11 Before we do that, there has been a motion
12 filed on behalf of the defendant with which the Court
13 must deal first.

14 Do you have anything you want to add to your
15 motion, Mr. Conway?

16 MR. CONWAY: Briefly, Your Honor, I would note
17 there are actually two motions that have been filed.
18 There was a previous motion filed concerning -- asking
19 for a judgement of acquittal on some or all of the
20 counts; in addition to motion to dismiss Count 6 related
21 to Merger.

22 THE COURT: Do you have anything to add?

23 MR. CONWAY: Your Honor, the only thing I
24 would -- at this point I would just submit it with what

1 is on the brief, unless the Court has any questions
2 related to what I put forth in the motions.

3 THE COURT: Mr. Stanton?

4 MR. STANTON: Your Honor, I believe Mr. Walker
5 adequately addressed the argument relative to the
6 judgement of acquittal. That's basically an argument
7 that insufficient evidence was presented to convict on
8 all the counts.

9 I would submit it to the jury's verdict and
10 the Court's recollection of the facts and Mr. Walker's
11 opposition, which I think is clearly set forth in the
12 legal standard and the attendant facts as to each count.

13 As to the recently-filed motion to dismiss,
14 the only thing I would add to Mr. Walker's opposition
15 is: The analysis I believe the Court must undergo
16 relative to the doctrine of double jeopardy of Merger;
17 and that is that the elements are separate and distinct
18 and not by necessity lesser included. They do not merge
19 for purposes of sentencing.

20 I think Mr. Walker adequately sets forth the
21 factual basis as to why the requested count of attempted
22 -- I believe the last count, Count 6, attempted theft,
23 does not merge with either the forgery or the uttering,
24 since it's a separate and distinct act, and by necessity

1 could have been committed by one individual without
2 committing the other, which I think is the test this
3 Court has in the doctrine of Merger.

4 MR. CONWAY: Briefly with respect to what the
5 District Attorney said about the motion to dismiss. He
6 states precisely what the standard is; that necessarily
7 included act.

8 I put forth that the act of uttering a forged
9 instrument, say of \$5,000, is the same act as attempting
10 to get the \$5,000 by uttering a forged instrument. They
11 are necessarily included in each other, under these
12 facts. And that is what is supposed to be required under
13 the Merger, the statute that I set forth in the motion to
14 dismiss.

15 Your Honor, we would ask since those are the
16 same acts -- they are identical, Your Honor -- to punish
17 him for the same act twice would violate double jeopardy,
18 and we would ask the motion to dismiss be granted.

19 THE COURT: The motion for acquittal or new
20 trial is denied.

21 The Court has reviewed the motion to dismiss
22 and the opposition. The Court is of the opinion they are
23 two separate and distinct offenses, and do not merge, and
24 therefore the motion to dismiss Count 6 is also denied.

1 On October 10, 1996, the jury convicted Mr.
2 Voss on Count 1, of burglary; Counts 2 and 3 of uttering
3 a forged instrument; and Counts 4 and 5 of forgery; and
4 Count of attempted theft.

5 Judgment will enter based upon the jury's
6 verdict and the Court's rulings this morning.

7 I have received a copy of the Presentence
8 Investigation, and I've had an opportunity to read it.
9 I, of course, sat through the trial and am well familiar
10 with the facts of this case and I'm prepared to listen to
11 any arguments as regard sentencing.

12 Mr. Conway?

13 MR. CONWAY: Thank you, Your Honor. I would
14 note one correction, however, in reviewing the
15 Presentence Investigation Report with Mr. Voss last
16 night. I would note that he does not have any prior
17 felony convictions.

18 The felony that's put forth on page 3 in 1990,
19 practicing electrical contract without a license, that's
20 a misdemeanor.

21 I would note, however, it had been charged as
22 a felony larceny, and it was reduced due to the fact he
23 was practicing without a license that had expired, Your
24 Honor. However, that is a misdemeanor, not a felony.

1 Therefore, he has no prior felony
2 convictions. These are his first convictions.

3 With respect to sentencing, we're asking the
4 Court not to follow the recommendation. I think it's
5 quite clear that but for the tenor of this trial and some
6 of the outlying things, I don't think a request for any
7 prison time would have been requested.

8 However, I would note that a normal person
9 under these circumstances would probably be given the
10 grant of probation.

11 I would note for the record that the concerns
12 of the Division of Parole & Probation with respect to his
13 prior criminal history, they are all misdemeanors, as I
14 have pointed out, they also say he has a lack of
15 stability.

16 I will note, and I think it's quite clear,
17 that he was burned out of his apartment that he and his
18 mother were residing in prior to this incident.

19 He's otherwise always remained in the company
20 of his mother and resided with his mother, and has always
21 been locatable during this investigation.

22 He was never one they couldn't find. In fact
23 at one point he called them and told them where he had
24 moved to. So I think he's very stable in the community.

1 I think his criminal history speaks for itself
2 with respect to misdemeanors. Under normal circumstances
3 this would be a probationary term for a first-time felony
4 conviction.

5 If the Court is considering imposing any
6 prison time, the events of this thing were one
7 transaction. There may have been a number of crimes
8 committed during that transaction, but it's one
9 transaction. And any prison time should be minimum and
10 should run concurrent to all counts.

11 Thank you.

12 THE COURT: Mr. Stanton?

13 MR. STANTON: Well, I don't know where Mr.
14 Conway assesses that this case -- or what he bases his
15 assessment on that but for some other facts this would be
16 a probation case.

17 To begin with that analysis, page 2 of the
18 PSI, which is at this juncture uncontroverted save and
19 except for the felony conviction.

20 A review of that shows that the defendant has
21 had 12 arrests, six convictions, he has four outstanding
22 warrants from no less than three different states.

23 So his criminal record -- and now I guess
24 we're at a point where defense counsel begins to argue to

1 this Court: Well, he's got a criminal record and he's
2 wanted from three different states for four outstanding
3 warrants. But guess what, Judge,? They are only
4 misdemeanors.

5 What kind of misdemeanors are they? Because
6 the type of his conduct, the past history of the
7 defendant's I think is very important for this Court to
8 consider in his statement to the Court about the type of
9 character this man is, and the truthfulness and veracity
10 of his underlying claims to this Court, and the
11 protestations of innocence in this matter.

12 All of the offenses, save and except for the
13 first DUI in 1987 out of Wanette County, in Georgia,
14 every single offense deals with someone, particularly
15 this man, committing a fraud.

16 And yet this man wants to assert facts to this
17 Court, to take it as gospel, that he's an innocent man
18 without any attendant facts to support it.

19 He's a chronic, habitual criminal, and he's a
20 chronic and habitual, untruthful person.

21 In the PSI on page 4, we have strikingly
22 similar conduct committed by the defendant in
23 Hillsborough County in Florida in November of 1991.

24 Then we have at the bottom of page 4 a listing

1 of outstanding and undocumented criminal offenses, all
2 again have indicated a propensity to commit fraud and to
3 steal money. He was a thief. And he's been a thief for
4 over a decade and a half.

5 At the bottom, we have on page 4, receiving
6 back as early as 1979, receiving stolen property;
7 embezzlement in '81; vehicle theft; prowling in '83; and
8 spousal battery in 1990.

9 One of the things that I was waiting with
10 baited breath this morning for counsel and the defendant
11 to address is his DUI in July of 1996, in Washoe County.
12 And I did not hear any comment to the Court about that
13 offense.

14 And I think when the Court hears the attendant
15 facts of that case, you will know why you did not hear
16 anything about it.

17 That conviction was originally had under the
18 name Allen Voss, the defendant's brother. And he went
19 through the entire Court proceedings in Washoe County
20 using his brother's name, so his brother had a conviction
21 for DUI, until it was finally caught and this man was
22 properly convicted under his true and correct name.

23 That tells you the character of this man and
24 the ability for him to tell the truth. To use his own

1 brother and sustain conviction on his own brother and go
2 through the entire Court process, lying all the way.

3 Another insight into Mr. Voss is on page 7 of
4 the PSI. Not in his formal written statement to the
5 Department, but apparently in his interview with the
6 Department officials.

7 Mr. Voss has an excuse why he is convicted,
8 wrongfully so, according to him, and that is because of
9 many things. Number one, the District Attorney in this
10 case has an ego and bad blood problem between him and Mr.
11 Walker.

12 Well, last time I checked, a jury trial
13 doesn't occur where the District Attorney stands in front
14 of a jury and testifies as to what they think the
15 evidence is. And I am sure that didn't happen in this
16 courtroom.

17 He also attributes his problems to be an
18 election year. I fail to see the logic of connecting the
19 election year to his conviction.

20 THE COURT: If this case was supposed to do me
21 any good, it didn't.

22 MR. STANTON: And I think the logic doesn't
23 fall on the Court either, or at least compel the Court to
24 understand that.

1 Page 8, this is a good one. At the bottom of
2 page 8, the defendant, semi truthfully, tells the
3 Department: I have child support.

4 Well, of course the Department knows he has an
5 outstanding warrant for failing to pay child support.
6 But read his explanation. The defendant advises that
7 he's not followed through with required payments,
8 primarily due to the fact the child's mother will not
9 maintain contact with him, and will further not provide a
10 current address.

11 When is the last time this Court has ever
12 heard of a woman who needs child support, refusing to
13 give her address or location to the parent who owes
14 money? In all 50 states in the United States, payment is
15 -- payments can and usually is collected either by the
16 State Attorney General, or by the local District
17 Attorney's Office.

18 So there is absolutely no requirement
19 whatsoever for a woman, if there were some reason she did
20 not want to provide her address, and there certainly are
21 occasions where that's appropriate, but there is
22 absolutely no reason why the system cannot have a
23 location for the defendant to pay child support
24 payments.

1 And I think that statement speaks volumes of
2 Mr. Voss. And that is, frankly, Your Honor, he is a
3 chronic and habitual liar.

4 It's proven fact after fact, time after time.
5 Not only in this case, but in his criminal history and
6 his statements to the Division of Parole & Probation.

7 On page 9, his present employer -- well, I
8 know he's incarcerated, but prior to his arrest in this
9 matter and his incarceration, odd jobs, down on debts.
10 \$30,000 in debt, related to medical bills, loans,
11 foreclosures and something called legal fees.

12 All, I think, showing a pattern and a history
13 of what Mr. Voss's situation was when he decided to steal
14 money from Miss Baxter.

15 He did not have any income coming in from his
16 jobs. And he was, by his own admission, seriously in
17 debt.

18 The question, I think, as it comes to the
19 Court, contrary to Mr. Conway's's evaluation that this is
20 but for some other attendant facts, and I am not sure
21 what he's driving at, but I am sure it's probably obvious
22 to the Court, he didn't articulate what are the obvious
23 outside facts, other than the victim in this case is
24 still to this date missing.

1 A woman who was punctual socially and
2 professionally, all of a sudden vanishes from the face of
3 the earth at precisely the same time that the defendant
4 begins stealing significant quantities of money from
5 her.

6 Is that a fact that is hanging over this case?
7 Absolutely. And in my comments in just a moment, the
8 State would recommend how this Court should take that
9 fact into consideration.

10 Number one, and I think the two important
11 things that a Court appropriately addresses in sentencing
12 is the character and the history and the criminal
13 behavior of the defendant, and the attendant facts of
14 this case.

15 I have already addressed the character and the
16 criminal behavior of this defendant. While certainly
17 they are not felony convictions, what difference does it
18 make in this particular case, when you look at the
19 pattern of this man's criminal history? It runs
20 unabated, at least according to his arrest and formal
21 interaction with the system from 1980 -- actually 1979,
22 and every single year for over a decade and a half this
23 man is interacting practically with the law in a negative
24 fashion for a formal arrest or formal conviction.

1 His repeated attempts or comments to this
2 Court and to the Department, that are clearly based upon
3 the facts, lies.

4 Now the facts of this case: Should the Court,
5 when it looks at the parameters of the minimum and the
6 maximum of, say, for instance, Count 1, consider what is
7 the most aggravated burglary, and what is the most
8 mitigated burglary as far as time goes to give this
9 defendant?

10 Well, certainly we have addressed the criminal
11 history. But how about the aggravated and mitigated
12 section of the facts of this case?

13 Regardless, and putting aside the defendant's
14 criminal history and character, let's just look at the
15 facts of the crime itself, and what type of burglary does
16 this indicate to the Court as far as degree of
17 offensiveness?

18 This woman, Beverly Baxter, has vanished. The
19 evidence before this Court in the trial is that contrary
20 to what the defendant told the police, and his comments
21 in here in his written comments to the Court that he was
22 always truthful to the police -- I will get to that in a
23 moment, because he wasn't -- specifically his
24 untruthfulness to the police was when he was with Miss

1 Baxter.

2 And that's precisely at the time, as the Court
3 remembers, Mr. Voss in his pickup truck outside the ATM,
4 which is now recorded, as far as the time he was there at
5 Fourth and Keystone, 10:00 a.m., withdrawing money.

6 And the testimony was that in his truck was a
7 woman that entirely matched the description of Beverly
8 Baxter. The last time that she's seen alive, it's with
9 this man, right at the time that he is stealing money
10 from her.

11 And so when the Court considers the
12 aggravation and the facts, the State cannot present a
13 more aggravated set of thefts, cases to this Court, based
14 upon that fact alone, as to this woman, who by all the
15 testimony, was punctual both in her professional and
16 social life.

17 And this man, wanting and needing money, all
18 of a sudden gets some from the victim, who can't be found
19 anymore.

20 That is, as the State has indicated
21 previously, one of the most aggravating factors of a
22 burglary, of an uttering of a forged instrument, a
23 forgery and attempted theft.

24 In his written statement, as I know the Court

1 has read, he concludes several times that he was truthful
2 to the police.

3 Well, as the Court recollects the facts of
4 this case, he lied to the detectives about his
5 whereabouts on Thursday morning.

6 And he also, as the Court recalls, what his
7 version of events was that he told each of the bank
8 tellers when he attempted to pass this check. The
9 stories were inconsistent with one another. He didn't
10 tell Teller 1 that he had -- or didn't tell Teller 2 that
11 he had tried to attempt to pass a check to Teller 1 at a
12 different branch.

13 So for him to come in here and tell the Court,
14 that, hey, look, I'm a truthful person and I cooperated
15 with the police, is a flat out lie based upon the
16 evidence this Court heard during trial.

17 I think the process of the final DUI, using
18 his brother's name all the way through the conviction,
19 and representing to the court that he indeed is Allen
20 Voss, is once again something that if the Court hasn't
21 already viewed anything that Mr. Voss would say either by
22 himself, or through counsel to this Court, it should be
23 viewed with grave suspicion, unless there is absolute
24 facts to corroborate it.

1 And based upon all his statements and
2 allegations and his comments to the Department or
3 comments to the Court, not one of them is corroborated by
4 any independent evidence. Not one.

5 Based upon the two primary considerations from
6 the State's perspective of Mr. Voss; that is, his
7 character, his criminal history and attendant facts of
8 the instant offenses, the State's recommendation to the
9 Court is that these are all on the upper tier of
10 aggravation; therefore, the State's recommendation to the
11 Court is not only that probation is not viable, which I
12 believe my comments make obvious, but that his sentence
13 relative to Count 1 should indeed be the maximum.

14 The State would recommend to the Court that it
15 be 120 months as a maximum, 48 as the minimal. I concur
16 with the recommendation on Counts 2, 3 and 4, especially
17 relative to consecutive nature of those offenses.

18 I would recommend, however, that Count 4 and
19 5, the forgeries, because of the attendant nature and
20 elements of those counts, that that is indeed an
21 aggravated forgery, and that they should also be maximum
22 in nature.

23 My calculations show 48 months on the maximum
24 for counts 4 and 5; 19 months -- or actually I calculated

1 it at 19.2 months as the minimum on Counts 4 and 5. All
2 those to be consecutive in nature to Count 1, which the
3 State has indicated should be 120 to 48. That's the
4 recommendation from the State.

5 I have nothing further to add unless the Court
6 has specific questions.

7 Thank you, Your Honor.

8 THE COURT: Mr. Lorang, does the Division have
9 anything to add?

10 THE DIVISION: Nothing, Your Honor, except for
11 the disposition of the felony conviction. That's the
12 information we received from the Florida officials, and
13 we stand by that.

14 THE COURT: Mr. Voss, do you have anything you
15 want to say?

16 THE DEFT: I believe Mr. Conway has pretty
17 much addressed our side.

18 MR. CONWAY: I have a couple points I want to
19 address, if I may.

20 With respect to the character on record, that
21 certainly stands for what is in the Presentence Report,
22 except for what has been reported as a prior felony, that
23 we have tried to correct.

24 With respect to requesting the recommendation

1 the State requested with respect to the sentence they are
2 asking for, I would only point out the aggravated
3 circumstance that they are doing is based on speculation,
4 conjecture.

5 They are trying very hard to add a number of
6 years to this man's sentence based on something they
7 believe happened to this victim.

8 The problem is, is that if they knew that
9 happened, they would have charged. This is not the time
10 to punish him for what they think or what they speculate
11 would have happened.

12 The crime that occurred, as I pointed out, all
13 six counts relate to one transactional event. And I
14 think the most important thing to note, is even if the
15 Court doesn't find that Count 6 and I believe 3, which is
16 the uttering and attempted theft, may not fit under the
17 Merger statute, they certainly are the same event. These
18 are the same crime.

19 Your Honor, I believe that there is -- other
20 than the fact that his character may not allow him to be
21 a probationary candidate, it certainly -- there is
22 nothing in this case, this particular case, that warrants
23 anything above the minimums, or anything above running
24 them anything but concurrent.

1 And we would ask the Court to impose it in
2 that manner.

3 THE COURT: I have reviewed the Presentence
4 Investigation, and I have thought about this case a great
5 deal. All of us are human beings, and there is just no
6 way in the world that we can pretend that Miss Baxter was
7 here and that she testified. We know that's not true.

8 The last person she was seen with was Mr.
9 Voss.

10 It's says in his letter and his comments that
11 when she shows up alive, she will say that all of these
12 things are not true.

13 But to be very honest with you, I don't think
14 she's ever going to show up alive.

15 The jury listened to this case, the jury made
16 the decisions, and the jury convicted him on all six
17 counts.

18 When I look at his Presentence Investigation,
19 I see somebody who has, for the last 17 years, done
20 everything under his power to evade responsibilities for
21 his actions.

22 And his conduct, quite frankly, has been
23 escalating. When you combine that with the fact his most
24 recent encounter with the law, after this case arose, was

1 a driving-under-the-influence charge in this county.

2 And in order to evade responsibility, he lied
3 about who he was, and attempted to pass the blame off on
4 somebody else.

5 I think Mr. Voss is a menace. He's a menace
6 to society, a menace to this community. And because I
7 believe that way, I am going to sentence him as follows:

8 In addition to the \$25.00
9 administrative-assessment fee and \$750.00 in attorney's
10 fees, probation will be denied, and the defendant, Steven
11 Floyd Voss, is sentenced as follows on Count 1, burglary,
12 to a maximum term of 120 months, and a minimum parole
13 eligibility of 48 months in the Nevada Department of
14 Prisons.

15 Count 2, uttering a forged instrument, to a
16 maximum term of 48 months, and a minimum parole
17 eligibility of 16 months in the Nevada Department of
18 Prisons, consecutive to Count 1.

19 In Count 3, uttering a forged instrument, to a
20 maximum term of 48 months, with a minimum parole
21 eligibility of 16 months in the Nevada Department of
22 Prisons, consecutive to Counts 1 and 2.

23 On Count 4, to a maximum term of 48 months and
24 a minimum parole eligibility of 16 months in the Nevada

1 Department of Prisons, consecutive to Counts 1, 2 and 3.

2 On Count 5, forgery, to a maximum term of 48
3 months, and a minimum parole eligibility of 16 months in
4 the Nevada Department of Prisons, consecutive to Counts
5 1, 2, 3 and 4.

6 On Count 6, attempted theft, to a maximum term
7 of 48 months, with a minimum parole eligibility of 16
8 months in the Nevada Department of Prisons, consecutive
9 to all of the previously-entered counts.

10 With credit for 137 days time served.

11 That's the Court's order.

12 Mr. Voss, the law requires me to advise you
13 that you have the right to appeal this conviction, if you
14 chose to do so, you let Mr. Conway know and he will file
15 the proper notices.

16 You have 30 days from today's date to do
17 something.

18 THE DEFT: Yes, I'm aware of that. Thank
19 you.

20 //
21
22
23
24

1 STATE OF NEVADA)
2) ss.
3 COUNTY OF WASHOE)
4

5 I, RANDI LEE WALKER, Official Reporter of the
6 Second Judicial District Court of the State of Nevada, in
7 and for the County of Washoe, do hereby certify:

8 That as such Reporter, I was present in
9 Department No. 10 of the above court on said date, time
10 and hour, and I then and there took verbatim stenotype
11 notes of the proceedings had and testimony given therein.

12 That the foregoing transcript is a full, true
13 and correct transcript of my said stenotype notes, so
14 taken as aforesaid.

15 That the foregoing transcript was taken down
16 under my direction and control, and to the best of my
17 knowledge skill and ability.

18 DATED: At Reno, Nevada, this 29th day of
19 November, 1996.

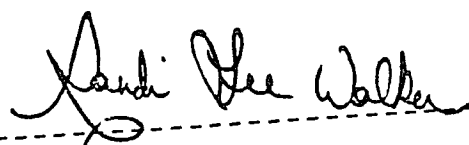
20 
21 -----
22 RANDI LEE WALKER, CSR #137
23
24

EXHIBIT #7

EXHIBIT #7

IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN FLOYD VOSS,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

No. 38373

FILED

JAN 17 2002

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from an order of the district court denying appellant Steven Floyd Voss' post-conviction petition for a writ of habeas corpus.

On November 27, 1996, Voss was convicted, pursuant to a jury verdict, of one count of burglary, one count of attempted theft, two counts of uttering a forged instrument, and two counts of forgery. The district court sentenced Voss to serve a prison term of 48 to 120 months for the burglary count and to five consecutive prison terms of 16 to 48 months for the remaining counts. Voss filed a direct appeal, arguing that: (1) there was insufficient evidence to support his convictions; and (2) the district court erred in denying his motion to dismiss the attempted theft count.

JAN 22 2002

This court concluded that Voss' contentions lacked merit and affirmed his conviction.¹

Thereafter, Voss filed a post-conviction petition for a writ of habeas corpus. After conducting an evidentiary hearing, the district court denied the petition. Voss filed the instant appeal.

Voss contends that the district court erred in denying his petition because his trial counsel was ineffective. Specifically, Voss claims that his counsel was ineffective for failing to: (1) adequately investigate his case; (2) object when the jury saw him in jail attire; and (3) file a motion to suppress. We conclude that Voss' contentions lack merit.

To state a claim of ineffective assistance of counsel sufficient to invalidate a judgment of conviction, a defendant must demonstrate that counsel's performance fell below an objective standard of reasonableness, and that counsel's errors were so severe that they rendered the jury's verdict unreliable.²

Voss first contends that his trial counsel was ineffective for failing to investigate his case. Particularly, Voss contends that had his counsel conducted an adequate investigation, he would have discovered Anthony Villardi's secret witness report. Villardi reported to the police that he had seen the victim alive twelve hours after she was observed with Voss. We conclude that counsel was not ineffective for failing to uncover

¹Voss v. State, Docket No. 29783 (Order Dismissing Appeal, March 11, 1999).

²See Strickland v. Washington, 466 U.S. 668 (1984); Warden v. Lyons, 100 Nev. 430, 683 P.2d 504 (1984).

the Villardi report. The Villardi report was not material to Voss' trial on the theft counts³ because the pivotal issue in that proceeding was whether the victim had consented to Voss cashing a check in her name, and whether she had also written a check to Voss for \$5,000.00. Accordingly, even if counsel had discovered the Villardi report, we conclude that its discovery and Villardi's testimony would not have changed the outcome of the proceeding.

Voss next contends that both his trial and appellate counsel were ineffective for failing to raise the issue of whether his conviction should be reversed because the jurors saw him jail attire and overheard conversations between court personnel about Voss' "in custody" status. We conclude that Voss' contention lacks merit.

There is sufficient evidence in support of the district court's finding that Voss was not seen by the jury while wearing jail attire. In particular, Deputy Sheriff Gary Clifford testified that Voss was always dressed in plain clothes while the jury was present. Likewise, Voss' trial counsel testified that Voss never told him that he had been seen by the jurors wearing jail attire. Finally, prior to trial, the district court granted Voss' motion in limine, ordering that Voss was not to be seen by the jury in jail attire. Accordingly, we conclude that trial and appellate counsel were

³Defense counsel used the Villardi report in Voss' subsequent murder trial involving the same victim. The Villardi report was highly relevant to the issues involved in that trial because it rebutted the State's theory that Voss was the last person with whom the victim was seen with before her demise. Despite Villardi's testimony at the murder trial, Voss was convicted of murdering the victim.

not ineffective for failing to raise this issue because the district court found that that the jurors had not seen Voss in jail attire.

Voss next contends that his counsel was ineffective for failing to file a motion to suppress statements made in violation of his Miranda⁴ rights. We disagree.

The district court's finding that counsel was not ineffective for failing to file a motion to suppress is supported by substantial evidence. Specifically, Deputy Sheriff Stacy Hill testified that, before Voss was arrested, Hill interviewed Voss for ten to fifteen minutes and that he voluntarily cooperated. Hill also testified that Voss gave him permission to search his truck and that he was "very cooperative."

Likewise, Washoe County Sheriff's Detective Larry Canfield testified that Voss consented to a thirty minute interview regarding the disappearance of the victim in this case. Canfield further testified that Voss was not under arrest, fully cooperative, and that both Voss and his mother consented to the officer's subsequent search of their motel room. Moreover, Canfield testified that he interviewed both Voss and his mother the following day at the Sheriff's station for approximately forty minutes and that it was scheduled in advance, voluntary, and conversational in nature.

Finally, defense counsel Conway testified that he reviewed Voss' police statements and discussed them with Voss and had no basis to file a motion to suppress. Conway further stated that Voss expressed "no

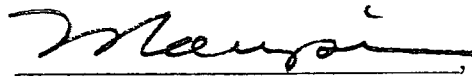
⁴Miranda v. Arizona, 384 U.S. 436 (1966).

dissatisfaction" with Conway's decision not to file a suppression motion. Because the record reveals that Voss' statements to police were consensual and voluntary in nature, we conclude that counsel was not ineffective in failing to file a motion to suppress.


Even assuming counsel's performance fell below an objective standard of reasonableness, we note that the alleged deficiency would not have changed the outcome of the proceeding. Indeed, Voss was essentially caught in the midst of the commission of the crime at a Reno bank as he attempted to cash the victim's forged personal check. Although Voss alleged that he had consent from the victim, there was sufficient evidence to support the jury's finding to the contrary.

Having considered Voss' contentions and concluded that they lack merit, we

ORDER the judgment of the district court AFFIRMED.

 C. J.
Maupin

 J.
Young

 J.
Leavitt

cc: Hon. Steven P. Elliott, District Judge
Attorney General/Carson City
Washoe County District Attorney
Scott W. Edwards
Washoe County Clerk

EXHIBIT #8

EXHIBIT #8

DA #138461

WCSO 129294-96

'96 JUL 16 P3:11

Case No. CR 96-1581

Dept. No. 3

JUD. CLERK
W. Stewart
DEPT.

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE

* * *

THE STATE OF NEVADA,

Plaintiff,

v.

INFORMATION

STEVEN FLOYD VOSS,

Defendant.

RICHARD A. GAMMICK, District Attorney within and for
the County of Washoe, State of Nevada, in the name and by the
authority of the State of Nevada, informs the above entitled
Court that STEVEN FLOYD VOSS, the defendant above named, has
committed the crimes of:

COUNT I. BURGLARY, a violation of NRS 205.060, a
felony, in the manner following:

That the said defendant on or between the 12th day of
June A.D. 1996, and the 14th day of June A.D. 1996, or
thereabout, and before the filing of this Information, at and
within the County of Washoe, State of Nevada, did willfully and
unlawfully enter a certain apartment located at 5501 West Fourth

1 Street, apartment #1, Reno, Washoe County, Nevada, with the
2 intent then and there to steal check #4842 in the amount of
3 \$5,026.00.

4 COUNT II. UTTERING A FORGED INSTRUMENT, a violation of
5 NRS 205.090 and NRS 205.110, a felony, in the manner following:

6 That the said defendant on or between the 12th day of
7 June A.D. 1996, and the 14th day of June A.D. 1996, or
8 thereabout, and before the filing of this Information, at and
9 within the County of Washoe, State of Nevada, did willfully and
10 unlawfully, and with intent to defraud, utter and pass, as true
11 and genuine, a certain false and forged check, dated May 8, 1996,
12 in the amount of \$5,026.00, made payable to BEVERLY BAXTER, and
13 written on an account owned by BURGESS NORTH AMERICAN MOVING AND
14 STORAGE, at 593 East Prater Way, Sparks, Washoe County, Nevada.

15 COUNT III. UTTERING A FORGED INSTRUMENT, a violation
16 of NRS 205.090 and NRS 205.110, a felony, in the manner
17 following:

18 That the said defendant on or between the 12th day of June
19 A.D. 1996, and the 14th day of June A.D. 1996, or thereabout, and
20 before the filing of this Information, at and within the County of
21 Washoe, State of Nevada, did willfully and unlawfully, and with intent
22 to defraud, utter and attempt to pass as true and genuine, a certain
23 false and forged check number 563 drawn upon CALIFORNIA FEDERAL BANK,
24 Sparks office, dated June 13, 1996, and made payable to STEVEN VOSS at
25 593 East Prater Way, Sparks, Washoe County, Nevada, knowing the same to
26 be false and forged.

1 COUNT IV. FORGERY, a violation of NRS 205.090, a felony, in
2 the manner following:

3 That the said defendant on or between the 12th day of June
4 A.D. 1996, and the 14th day of June A.D. 1996, or thereabout, and
5 before the filing of this Information, at and within the County of
6 Washoe, State of Nevada, did willfully, unlawfully, and falsely, and
7 with intent to defraud, endorse and forge a name other than his own, to
8 wit: that of B. A. BAXTER, upon a check drawn upon an account owned by
9 BURGESS NORTH AMERICAN MOVING AND STORAGE, dated May 8, 1996, and made
10 payable to FOR DEPOSIT ONLY B. A. BAXTER at 593 East Prater Way,
11 Sparks, Washoe County, Nevada.

12 COUNT V. FORGERY, a violation of NRS 205.090, a felony, in
13 the manner following:

14 That the said defendant on or about the 12th day of June A.D.
15 1996, and the 14th day of June A.D. 1996, or thereabout, and before the
16 filing of this Information, at and within the County of Washoe, State
17 of Nevada, did willfully, unlawfully, and falsely, and with intent to
18 defraud, endorse and forge a name on a check without the lawful owner's
19 consent, namely: STEVEN VOSS, upon a check number 563 drawn upon
20 CALIFORNIA FEDERAL BANK, Sparks, dated June 13, 1996, and made payable
21 to STEVEN VOSS at 593 East Prater Way, Washoe County, Nevada.

22 COUNT VI. ATTEMPTED THEFT, a violation of NRS 193.330, being
23 an attempt to violate NRS 205.0832, a felony, in the manner following:

24 That the said defendant on or about the 12th day of June A.D.
25 1996, and the 14th day of June A.D. 1996, or thereabout, and before the
26 filing of this Information, at and within the County of Washoe, State

1 of Nevada, did willfully and unlawfully attempt to control the property
2 of BEVERLY A. BAXTER with the intent to permanently deprive her of that
3 property in that said defendant attempted to cash a check written on
4 the personal account of the victim in an amount of \$5,000.00 and made
5 payable to himself when he had no legal authority to do so.

6
7 All of which is contrary to the form of the Statute in such
8 case made and provided, and against the peace and dignity of the State
9 of Nevada.

10 RICHARD A. GAMMICK
11 District Attorney
12 Washoe County, Nevada

13 By: 
14 EGAN WALKER
15 Deputy District Attorney
16
17
18
19
20
21
22
23
24
25
26

1 The following are the names and addresses of such witnesses
2 as are known to me at the time of the filing of the within Information:
3

4 WASHOE COUNTY SHERIFF'S OFFICE

5 DEPUTY LARRY CANFIELD
6 DEPUTY JOHN YARYAN
7 DEPUTY ED DIXON
8 SERGEANT DALE PAPPAS

9 SANDRA CRUMB, 5501 West Fourth, Reno, Nevada

10 ANDREA BUTTERS, 2657 Chapparral, 3490 South Virginia, Reno, Nevada

11 CALIFORNIA FEDERAL BANK, 593 East Prater Way, Sparks, Nevada

12 DUC HAMILTON
13 TONYA CAMPANILLE
14 YVONNE KLINE

15 CLAUDETTE ANDREWS 1640 Carol Drive, Sparks, Nevada

16 JOYCE REA, 2300 Harvard Way, #107, Reno, Nevada

17 LINDA WEEKS, 169 Leadfield, Reno, Nevada

18 ED PARKS, 515 South Virginia #421, Reno, Nevada

19 SOPHIA PANTOJA, 950 Nutmeg Place, #I-21, Reno, Nevada

20 DAVE BOYD

21 RICHARD A. GAMMICK
22 District Attorney
23 Washoe County, Nevada

24 By 
EGAN WALKER
25 Deputy District Attorney

26 07164294