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RENE L. VALLADARES
Federal Public Defender
Nevada State Bar No. 11479
JONATHAN M. KIRSHBAUM
Assistant Federal Public Defender
Nevada State Bar No. 12908C
411 E. Bonneville, Ste. 250
Las Vegas, Nevada 89101
(702) 388-6577
(702) 388-6419 (Fax)
Jonathan_Kirshbaum@fd.org

Electronically Filed
Dec 29 2017 12:23 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Attorney for Petitioner William Branham

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

WILLIAM EDWARD BRANHAM,

Case No. CR92-1048
Dept. No. 10

Petitioner,

v.

ISIDRO BACA, WARDEN, etc.

Respondents.

NOTICE OF APPEAL

COMES NOW Petitioner and Movant, William Edward Branham ("Branham"), by and through his attorney, Jonathan M. Kirshbaum, Assistant Federal Public Defender, hereby appeals to the Nevada Supreme Court from the Order Dismissing Petition for Writ of Habeas Corpus entered into this action on December 5, 2017. The Notice of Entry was filed on December 5, 2017.

DATED this 15th Day of December, 2017.

Respectfully submitted,
RENE L. VALLADARES
Federal Public Defender

/s/ Jonathan M. Kirshbaum
JONATHAN M. KIRSHBAUM
Assistant Federal Public Defender

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he is an employee in the office of the Federal Public Defender for the District of Nevada and is a person of such age and discretion as to be competent to serve papers.

That on December 15, 2017, he served a true and accurate copy of the foregoing by placing it in the United States mail, first-class postage paid, addressed to:

Washoe County District Attorney
Mills B. Lane Justice Center
1 South Sierra Street
South Tower, 4th Floor, Reno, NV, 89501

Adam P. Laxalt
Nevada Attorney General
100 North Carson Street
Carson City, NV 89701

/s/ Adam Dunn
An Employee of the
Federal Public Defender
District of Nevada

1310
RENE L. VALLADARES
Federal Public Defender
Nevada State Bar No. 11479
JONATHAN M. KIRSHBAUM
Assistant Federal Public Defender
Nevada State Bar No. 12908C
411 E. Bonneville, Ste. 250
Las Vegas, Nevada 89101
(702) 388-6577
(702) 388-6419 (Fax)
Jonathan_Kirshbaum@fd.org

Attorney for Petitioner William Branham

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

WILLIAM EDWARD BRANHAM,

Petitioner,

v.

ISIDRO BACA, WARDEN, etc.

Respondents.

Case No. CR92-1048
Dept. No. 10

CASE APPEAL STATEMENT

1. Name of petitioner filing this case appeal statement:

William Edward Branham

2. Identify the judge issuing the order appealed from:

Elliott A. Sattler, District Judge Dept. 10, Second Judicial District Court

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

William Edward Branham, Appellant

Jonathan M. Kirshbaum, Assistant Federal Public Defender, Nevada Bar #
12908C, Office of the Federal Defender, 411 E. Bonneville, Ste. 250, Las Vegas,
NV 89101

1 **4. Identify each respondent and the name and address of appellate**
2 **counsel, if known, for each respondent:**

3 The State of Nevada, Appellee

4 Terrence P. McCarthy, Washoe County District Attorney's Office, Mills B.
5 Lane Justice Center, 1 South Sierra Street, South Tower, 4th Floor, Reno, NV
6 89501

7 **5. Indicate whether any attorney identified above in response to question**
8 **3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court**
9 **granted that attorney permission to appear under SCR 42: N/A.**

10 N/A

11 **6. Whether petitioner/appellant was represented by appointed or retained**
12 **counsel in the district court:**

13 Appellant was represented in the district court by counsel previously
14 appointed to represent him in a related federal matter.

15 **7. Whether petitioner/appellant is represented by appointed or retained**
16 **counsel on appeal:**

17 Appellant is represented on appeal by counsel previously appointed to
18 represent him in a related federal matter.

19 **8. Whether petitioner/appellant was granted leave to proceed in forma**
20 **pauperis, and the date of entry of the district court order granting such leave:**

21 No, since undersigned counsel had previously represented him in a federal
22 matter.

23 **9. Date proceedings commenced in the district court (e.g., date complaint,**
24 **indictment, information or petition was filed):**

25 The Petition for Writ of Habeas Corpus (Post-Conviction) was filed on April 7,
26 2017.

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

4 This is a Petition for Writ of Habeas Corpus (Post-Conviction) which resulted
5 in an order dismissing the petition. Notice of entry was filed on December 5,
6 2017.

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

10 Yes, this case has been the subject of the following prior appeals.

11 (1) Branham v. State, #45532

12 (2) Branham v. Warden, # 33830, 33831

13 (3) Branham v. State, #24648

14 **12. Indicate whether this appeal involves child custody or visitation:**

15 No

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

18 N/A.

19
20 DATED this 15th Day of December, 2017.

21 Respectfully submitted,
22 RENE L. VALLADARES
23 Federal Public Defender

24 /s/ Jonathan M. Kirshbaum
25 JONATHAN M. KIRSHBAUM
26 Assistant Federal Public Defender
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3 Federal Public Defender for the District of Nevada and is a person of such age and
4 discretion as to be competent to serve papers.

5 That on December 15, 2017, he served a true and accurate copy of the foregoing
6 by placing it in the United States mail, first-class postage paid, addressed to:

7 Washoe County District Attorney
8 Mills B. Lane Justice Center
9 1 South Sierra Street
South Tower, 4th Floor, Reno, NV, 89501

10 Adam P. Laxalt
11 Nevada Attorney General
12 100 North Carson Street
Carson City, NV 89701

13 /s/ Adam Dunn
14 An Employee of the
15 Federal Public Defender
16 District of Nevada
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**SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE**

Case History - CR92-1048

DEPT. D10

HON. ELLIOTT A. SATTLER

Report Date & Time

12/19/2017

9:01:15AM

Case Description: STATE VS WILLIAM EDWARD BRANHAM (D10)

Case ID:	CR92-1048	Case Type:	CRIMINAL	Initial Filing Date:	5/26/1992
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Parties

PLTF	STATE OF NEVADA - STATE
DA	Terrence P. McCarthy, Esq. - 2745
DEFT	WILLIAM EDWARD BRANHAM - @177730
DATY	Jonathan M. Kirschbaum, Esq. - 12908C
APPD	WILLIAM EDWARD BRANHAM - @177730

Charges

<i>Charge No.</i>	<i>Charge Code</i>	<i>Charge Date</i>	<i>Charge Description</i>
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Plea Information

<i>Charge No.</i>	<i>Plea Code</i>	<i>Plea Date</i>	<i>Plea Description</i>
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Release Information

Custody Status

Hearings

<i>Department</i>	<i>Event Description</i>	<i>Sched. Date & Time</i>		<i>Disposed Date</i>
1	D10 Request for Submission	5/8/2017	15:58:00	5/15/2017

Event Extra Text: PETITION FOR WRIT OF HABEAS CORPUS (PAPER ORDER NOT PROVIDED)

Disposition:
S200 5/15/2017

<i>Department</i>	<i>Event Description</i>	<i>Sched. Date & Time</i>		<i>Disposed Date</i>
2	D10 Request for Submission	6/26/2017	15:01:00	8/17/2017

Event Extra Text: MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)

Disposition:
S200 8/17/2017

<i>Department</i>	<i>Event Description</i>	<i>Sched. Date & Time</i>		<i>Disposed Date</i>
3	D10 ORAL ARGUMENTS	9/20/2017	10:00:00	9/20/2017

Event Extra Text: ORAL ARGUMENT ON MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)(1 HOUR)(COURT REPT. NEEDED)

Disposition:
D840 9/20/2017
COURT TOOK STATE'S MOTION TO DISMISS (FILED 6/1/17) UNDER ADVISEMENT AT THE CONCLUSION OF THE HEARING ON 9/20/17.

Case Description: STATE VS WILLIAM EDWARD BRANHAM (D10)

Case ID:	CR92-1048	Case Type:	CRIMINAL	Initial Filing Date:	5/26/1992
Department	Event Description	Sched. Date & Time		Disposed Date	
4	D10	Request for Submission		9/20/2017 10:45:00	
Event Extra Text: (STATE'S MOTION TO DISMISS (FILED 6/1/17) TAKEN UNDER ADVISEMENT AT THE CONCLUSION OF THE HEARING ON 9/20/17.)		Disposition:		S200 12/5/2017	

Agency Cross Reference

Code	Agency Description	Case Reference I.D.
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Actions

Action Entry Date	Code	Code Description	Text
1/1/1992	1315	** Case Closed	
5/26/1992	1800	Information	
5/26/1992	3373	Other ...	FINANCIAL INQUIRY TO DETERMINE ELIGIBILITY FOR WCPD
5/26/1992	1250	Application for Setting	
5/26/1992	MIN	***Minutes	CRIMINAL PROGRESS SHEET
6/8/1992	1250	Application for Setting	
6/9/1992	2045	Mtn for Discovery	MOTION FOR DISCOVERY AND PRODUCTION OF EXCULPATORY MATERIALS
6/10/1992	3700	Proceedings	JUSTICE COURT PROCEEDINGS
6/11/1992	MIN	***Minutes	ARRAIGNMENT
6/19/1992	4185	Transcript	6-11-92 ARRAIGNMENT & DISCOVERY MOTION
6/24/1992	3585	Pet Writ Habeas Corpus	
6/29/1992	2480	Mtn to Suppress...	
6/29/1992	3370	Order ...	
6/30/1992	3897	Return	
7/6/1992	2315	Mtn to Dismiss ...	WRIT OF HABEAS CORPUS
7/8/1992	3795	Reply...	REPLY TO MOTION TO DISMISS WRIT OF HABEAS CORPUS FOR FAILURE TO COMPLY WITH SJDC RULI
7/20/1992	1250	Application for Setting	
7/20/1992	3650	Points and Authorities	
7/20/1992	1250	Application for Setting	
7/21/1992	2490	Motion ...	
7/21/1992	2645	Opposition to Mtn ...	OPP TO A MOTION TO SUPPRESS
7/22/1992	1075	Affidavit ...	
7/22/1992	2280	Mtn to Continue	
7/23/1992	3370	Order ...	
7/23/1992	MIN	***Minutes	MISC MINUTES
7/24/1992	MIN	***Minutes	MOTION TO SUPPRESS
7/31/1992	2245	Mtn in Limine	
7/31/1992	2245	Mtn in Limine	
8/4/1992	3880	Response...	RESPONSE TO MOTION IN LIMINE RE PSYCHIATRIC/PSYCHOLOGIC

Case Description: STATE VS WILLIAM EDWARD BRANHAM (D10)				
Case ID:	CR92-1048	Case Type:	CRIMINAL	Initial Filing Date: 5/26/1992
8/10/1992	3880	Response...	RESPONSE TO MOTION IN LIMINE REGARDING CHARACTER OF THE VICTIM	
8/14/1992	4185	Transcript	7-24-92 MOTION TO SUPPRESS	
8/24/1992	1250	Application for Setting		
8/24/1992	4185	Transcript	7-31-92 MOTION TO CONFIRM TRIAL DATE	
8/28/1992	4055	Subpoena		
9/11/1992	3373	Other ...	FINAL ARGUMENT FOR MOTION TO SUPPRESS	
9/17/1992	2645	Opposition to Mtn ...	FINAL ARGUMENT IN OPP TO MOTION TO SUPPRESS	
9/29/1992	2610	Notice ...	NOTICE OF ALIBI	
9/30/1992	2490	Motion ...	MOTION TO RECEIVE THE JURY LIST EARLY	
9/30/1992	2490	Motion ...	MOTION FOR INVOCATION OF RULE OF EXCLUSION	
10/1/1992	2490	Motion ...	MOTION FOR INDIVIDUAL SEQUESTERED VOIRE DIRE, OR, IN THE ALTERNATIVE, FOR LIBERAL VOIRE	
10/1/1992	2490	Motion ...	MOTION TO LIMIT PHOTOGRAPHIC EVIDENCE DURING JURY TRIAL	
10/1/1992	2490	Motion ...	MOTION FOR DISCLOSURE OF OTHER BAD ACTS AND MOTION IN LIMINE FOR EXCLUSION OF SAID EV	
10/1/1992	2245	Mtn in Limine		
10/27/1992	1250	Application for Setting		
10/28/1992	1250	Application for Setting		
1/19/1993	2490	Motion ...		
1/20/1993	4050	Stipulation ...	STIPULATED RECIPROCAL DISCOVERY	
1/20/1993	3370	Order ...		
1/21/1993	2592	Notice of Witnesses		
1/22/1993	3370	Order ...		
1/22/1993	2515	Notice of Appeal Supreme Court		
2/1/1993	2315	Mtn to Dismiss ...		
2/1/1993	4105	Supplemental ...	SUPPLEMENTARY DISCOVERY MOTION	
2/2/1993	2490	Motion ...	MOTION TO PRODUCE MICROSCOPIC SECTIONS AND AUDIO TAPE OF AUTOPSY PROTOCOL	
2/3/1993	3373	Other ...	"DUPLICATE ORIGINAL" RENEWAL OF PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO NRS 34.500(2)	
2/3/1993	3370	Order ...		
2/3/1993	3373	Other ...	RENEWAL OF PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO NRS 34.500(2)	
2/5/1993	3880	Response...	RESPONSE TO MOTION FOR INVOCATION OF RULE OF EXCLUSION	
2/5/1993	3880	Response...	RESPONSE TO MOTION TO RECEIVE JURY LIST EARLY	
2/5/1993	3880	Response...	RESPONSE TO MOTION FOR INDIVIDUAL SEQUESTERED VOIR DIRE, OR IN THE ALTERNATIVE, FOR LIE	
2/8/1993	2490	Motion ...		
2/8/1993	2490	Motion ...	MOTION FOR INDEPENDENT EXAM OF PILLOW	
2/8/1993	2490	Motion ...	MOTION TO DISCOVER TEMP OF THE ROOM WHERE DECEASED WAS FOUND	
2/8/1993	2490	Motion ...	MOTION TO PRODUCE	
2/8/1993	2490	Motion ...	TO DISCOVER RESULTS OF FORENSIC SCIENCE EVAL	
2/8/1993	2490	Motion ...	MOTION FOR EXAM OF HAIR SAMPLES FROM JOHN BELL	
2/9/1993	4050	Stipulation ...		
2/9/1993	3370	Order ...		

Case Description: STATE VS WILLIAM EDWARD BRANHAM (D10)				
Case ID:	CR92-1048	Case Type:	CRIMINAL	Initial Filing Date: 5/26/1992
2/9/1993	3880	Response...	RESPONSE TO MOTION IN LIMINE RE: PRIOR CONVICTIONS	
2/9/1993	3880	Response...		
2/9/1993	2645	Opposition to Mtn ...		
2/9/1993	1960	Memorandum ...	MEMO FROM PD'S OFFICE	
2/9/1993	3980	Stip and Order...		
2/10/1993	2645	Opposition to Mtn ...		
2/10/1993	3880	Response...	RESPONSE TO MOTION TO DISCOVER TEMP OF ROOM WHERE THE DECEDENT WAS FOUND	
2/10/1993	3880	Response...		
2/10/1993	2490	Motion ...		
2/10/1993	3880	Response...	RESPONSE TO MOTION FOR DISCOVERY OF RESULTS OF FORENSIC SCIENCE EVAL	
2/10/1993	3880	Response...	RESPONSE TO MOTION FOR DISCOVERY OF MEDICAL HISTORY	
2/10/1993	4050	Stipulation ...	STIPULATION OF MOTIONS	
2/11/1993	3370	Order ...		
2/11/1993	3370	Order ...		
2/11/1993	2650	Opposition to ...	OPPOSITION TO RENEWAL OF PETITION FOR WRIT OF HABEAS CORPUS	
2/11/1993	1250	Application for Setting		
2/11/1993	3370	Order ...		
2/11/1993	3370	Order ...		
2/12/1993	3370	Order ...		
2/12/1993	MIN	***Minutes	MOTION TO CONFIRM TRIAL DATE	
2/16/1993	3880	Response...	RESPONSE TO MOTION FOR EXAMINATION OF HAIR SAMPLES FROM JOHN BELL	
2/16/1993	3880	Response...	RESPONSE TO MOTION TO PRODUCE MICROSCOPIC SECTIONS AND AUDIO TAPE OF AUTOPSY PROT	
2/16/1993	3370	Order ...		
2/19/1993	2490	Motion ...		
2/23/1993	2610	Notice ...	NOTICE OF RECIPROCAL DISCOVERY	
2/24/1993	2610	Notice ...	NOTICE OF RECIPROCAL DISCOVERY	
2/24/1993	MIN	***Minutes	HRG - TELEPHONE TESTIMONY	
2/25/1993	4185	Transcript	2-24-93 TELEPHONE TESTIMONY OF CARMEN CRUCES	
2/25/1993	2610	Notice ...	NOTICE OF RECIPROCAL DISCOVERY	
2/25/1993	2245	Mtn in Limine		
2/26/1993	3370	Order ...		
2/26/1993	MIN	***Minutes	PRE-TRIAL MOTIONS	
3/3/1993	4185	Transcript	3-2-93 - PARTIAL - CROSS- REDIRECT AND RECROSS-EXAMINATION OF JOHN O'DONNELL	
3/8/1993	4185	Transcript	3-5-93 TESTIMONY OF DR. ELLEN CLARK	
3/9/1993	4185	Transcript	3-8-93 TESTIMONY OF JOSEPH MASTERS	
3/9/1993	1885	Jury Instructions		
3/9/1993	4235	Unused Verdict Form(s)...		
3/9/1993	4245	Verdict(s)...		
3/16/1993	3370	Order ...		

Case Description: STATE VS WILLIAM EDWARD BRANHAM (D10)				
Case ID:	CR92-1048	Case Type:	CRIMINAL	Initial Filing Date: 5/26/1992
4/2/1993	4500	PSI - Confidential		
4/7/1993	2490	Motion ...	MOTION FOR NEW TRIAL	
4/12/1993	1960	Memorandum ...	MEMO FROM PD' S OFFICE	
4/14/1993	2645	Opposition to Mtn ...	FOR NEW TRIAL	
4/14/1993	1850	Judgment of Conviction		
4/14/1993	MIN	***Minutes	ENTRY OF JUDGMENT AND IMPOSITION OF SENTENCE	
4/26/1993	4185	Transcript	4-14-93 SENTENCING	
5/13/1993	2515	Notice of Appeal Supreme Court		
5/20/1993	1600	Designation Record on Appeal		
5/26/1993	2490	Motion ...	MOITON FOR TRIAL TRANSCRIPT AT PUBLIC EXPENSE AND SPECIFICATION OF ERROR	
5/26/1993	3370	Order ...		
6/24/1993	4050	Stipulation ...	STIP TO EXTEND TIME FOR TRANSMISSION OF ROA	
7/28/1993	4185	Transcript	7-23-92 MOTION TO DISMISS WRIT OF HABEAS CORPUS	
7/30/1993	4185	Transcript	3-9-93 TRIAL	
7/30/1993	4185	Transcript	3-8-93 TRIAL	
7/30/1993	4185	Transcript	3-5-93 TRIAL	
7/30/1993	4185	Transcript	3-4-93 TRIAL	
7/30/1993	4185	Transcript	3-3-93 TRIAL	
7/30/1993	4185	Transcript	3-2-93 TRIAL	
7/30/1993	4185	Transcript	3-1-93 TRIAL	
7/31/1993	MIN	***Minutes		
8/6/1993	4185	Transcript	2-26-93 PRETRIAL MOTIONS	
5/25/1995	1600	Designation Record on Appeal	W/ LETTER FROM COURT	
3/26/1997	1030	Affidavit in Support...		
5/2/1997	3005	Ord Withdrawal of Counsel	DUP ORIGINAL	
6/19/1998	1670	Ex-Parte Mtn...	EX PARTE CONFIDENTIAL MOTION FOR EXPERT SERVICES	
6/19/1998	1670	Ex-Parte Mtn...	EX PARTE CONFIDENTIAL MOTION FOR COMPENSATION OF ATTORNEY AND INTERIM PAYMENTS, OR V	
11/17/2010	FIE	**Document Filed in Error		
9/23/2013	2502	** Notes ...	10-03-13 ENTIRE CASE (VOLUME 1, 2, 3, 4 AND 5) MAILED TO DEFENDANT - JYOST	
10/8/2013	COC	Evidence Chain of Custody Form		
12/11/2013	3373	Other ...	MISC EXHIBIT LISTS	
4/7/2017	NEF	Proof of Electronic Service	Transaction 6040012 - Approved By: NOREVIEW : 04-07-2017:11:11:14	
4/7/2017	2520	Notice of Appearance	Notice of Representation of Petitioner - JONATHAN KIRSHBAUM, ESQ. FOR WILLIAM BRANHAM - Transactio	
4/7/2017	3565	Pet Post-Conviction Relief	DFX: MISSING AFFIRMATION - Petition for Writ of Habeas Corpus - (POST CONVICTION) - Transaction 60398	
4/7/2017	NEF	Proof of Electronic Service	Transaction 6040053 - Approved By: NOREVIEW : 04-07-2017:11:14:42	
5/8/2017	NEF	Proof of Electronic Service	Transaction 6089960 - Approved By: NOREVIEW : 05-08-2017:15:25:45	
5/8/2017	3860	Request for Submission	PETITION FOR WRIT OF HABEAS CORPUS (PAPER ORDER NOT PROVIDED) - Transaction 6089727 - Appi	
5/15/2017	S200	Request for Submission Complet		
5/16/2017	3370	Order ...	ORDER FOR STATE TO RESPOND - Transaction 6101977 - Approved By: NOREVIEW : 05-16-2017:10:27:48	

Case Description: STATE VS WILLIAM EDWARD BRANHAM (D10)				
Case ID:	CR92-1048	Case Type:	CRIMINAL	Initial Filing Date: 5/26/1992
5/16/2017	NEF	Proof of Electronic Service	Transaction 6101981 - Approved By: NOREVIEW : 05-16-2017:10:28:47	
6/1/2017	NEF	Proof of Electronic Service	Transaction 6128608 - Approved By: NOREVIEW : 06-01-2017:16:46:41	
6/1/2017	NEF	Proof of Electronic Service	Transaction 6128605 - Approved By: NOREVIEW : 06-01-2017:16:46:11	
6/1/2017	1130	Answer ...	ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS - Transaction 6128339 - Approved By: CSULEZIC :	
6/1/2017	2300	Mtn to Dismiss Pet	MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS - Transaction 6128343 - Approved By: CS	
6/16/2017	NEF	Proof of Electronic Service	Transaction 6152977 - Approved By: NOREVIEW : 06-16-2017:13:12:46	
6/16/2017	2650	Opposition to ...	Opposition to Motion to Dismiss Petition for Writ of Habeas Corpus (Post-Conviction) - Transaction 6152963 - A	
6/26/2017	3795	Reply...	REPLY TO OPPOSITION TO MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS (POST CON	
6/26/2017	3860	Request for Submission	Transaction 6166763 - Approved By: YVILORIA : 06-26-2017:14:57:37	
6/26/2017	NEF	Proof of Electronic Service	Transaction 6166913 - Approved By: NOREVIEW : 06-26-2017:14:55:40	
6/26/2017	NEF	Proof of Electronic Service	Transaction 6166934 - Approved By: NOREVIEW : 06-26-2017:14:58:34	
8/17/2017	3347	Ord to Set	ORDER TO SET ORAL ARGUMENT ON MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS -	
8/17/2017	S200	Request for Submission Complet		
8/17/2017	NEF	Proof of Electronic Service	Transaction 6255735 - Approved By: NOREVIEW : 08-17-2017:14:22:12	
8/21/2017	1260	Application Produce Prisoner	Transaction 6259048 - Approved By: MCHOLICO : 08-21-2017:11:21:41	
8/21/2017	NEF	Proof of Electronic Service	Transaction 6259350 - Approved By: NOREVIEW : 08-21-2017:12:56:25	
8/21/2017	NEF	Proof of Electronic Service	Transaction 6259092 - Approved By: NOREVIEW : 08-21-2017:11:22:39	
8/21/2017	NEF	Proof of Electronic Service	Transaction 6259043 - Approved By: NOREVIEW : 08-21-2017:11:13:34	
8/21/2017	3340	Ord to Produce Prisoner	Transaction 6259348 - Approved By: NOREVIEW : 08-21-2017:12:55:24	
8/21/2017	1250	Application for Setting	9/20/17 AT 10:00 AM - ORAL ARGUMENT - Transaction 6259007 - Approved By: NMASON : 08-21-2017:11:11:	
9/20/2017	NEF	Proof of Electronic Service	Transaction 6308654 - Approved By: NOREVIEW : 09-20-2017:10:55:12	
9/20/2017	MIN	***Minutes	9/20/17 - ORAL ARGUMENTS - Transaction 6308650 - Approved By: NOREVIEW : 09-20-2017:10:54:13	
12/5/2017	S200	Request for Submission Complet		
12/5/2017	2922	Ord Dismiss Post Conviction	ORDER GRANTING MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)	
12/5/2017	NEF	Proof of Electronic Service	Transaction 6424295 - Approved By: NOREVIEW : 12-05-2017:15:20:05	
12/5/2017	NEF	Proof of Electronic Service	Transaction 6423068 - Approved By: NOREVIEW : 12-05-2017:10:37:18	
12/5/2017	2540	Notice of Entry of Ord	Transaction 6424287 - Approved By: NOREVIEW : 12-05-2017:15:19:04	
12/15/2017	NEF	Proof of Electronic Service	Transaction 6441974 - Approved By: NOREVIEW : 12-15-2017:15:50:13	
12/15/2017	NEF	Proof of Electronic Service	Transaction 6441971 - Approved By: NOREVIEW : 12-15-2017:15:49:50	
12/15/2017	2515	Notice of Appeal Supreme Court	Transaction 6441877 - Approved By: YVILORIA : 12-15-2017:15:49:01	
12/15/2017	1310	Case Appeal Statement	Transaction 6441870 - Approved By: YVILORIA : 12-15-2017:15:49:20	
12/19/2017	NEF	Proof of Electronic Service	Transaction 6444609 - Approved By: NOREVIEW : 12-19-2017:08:52:18	
12/19/2017	1350	Certificate of Clerk	CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 6444602 - Approved By: N	

SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE

Case History - CR92P1048

DEPT. D10

HON. ELLIOTT A. SATTLER

Report Date & Time

12/19/2017

9:01:36AM

Case Description: POST: WILLIAM EDWARD BRANHAM (D10)

Case ID: CR92P1048 Case Type: POST CONVICTION Initial Filing Date: 3/14/2001

Parties

PETR	WILLIAM EDWARD BRANHAM - @177730
APPE	WILLIAM EDWARD BRANHAM - @177730
RESP	STATE OF NEVADA - STATE
PROP	WILLIAM EDWARD BRANHAM - @177730
DA	Christopher J. Hicks, Esq. - 7747
DATY	Gary Howard Hatlestad, Esq. - 1525

Charges

Charge No.	Charge Code	Charge Date	Charge Description
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Plea Information

Charge No.	Plea Code	Plea Date	Plea Description
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Release Information

Custody Status

Hearings

Department	Event Description	Sched. Date & Time	Disposed Date
1			
Event Extra Text:		Disposition:	

Agency Cross Reference

Code	Agency Description	Case Reference I.D.
SC	Supreme Court	SCN 45532

Actions

Action Entry Date	Code	Code Description	Text
1/21/1997	4145	Supreme Court Remittitur	DUPLICATE ORIGINAL
1/21/1997	4127	Supreme Ct Ord Dismiss Appeal	DUPLICATE ORIGINAL
1/21/1997	4111	Supreme Ct Clk's Cert & Judg	DUPLICATE ORIGINAL
11/18/1997	3370	Order ...	
12/12/1997	3565	Pet Post-Conviction Relief	
12/12/1997	1030	Affidavit in Support...	
12/12/1997	4105	Supplemental ...	SUPPLEMENTAL MEMO OF POINTS AND AUTH IN SUPPORT OF PET FOR WRIT OF HABEAS CORPUS

Case Description: POST: WILLIAM EDWARD BRANHAM (D10)			
Case ID:	CR92P1048	Case Type:	POST CONVICTION
		Initial Filing Date:	3/14/2001
12/17/1997	3370	Order ...	
2/2/1998	3897	Return	
2/2/1998	1130	Answer ...	
2/13/1998	3795	Reply...	
3/27/1998	3370	Order ...	
4/14/1998	3370	Order ...	
5/21/1998	2075	Mtn for Extension of Time	
6/3/1998	3370	Order ...	
6/19/1998	2075	Mtn for Extension of Time	
6/19/1998	2275	Mtn to Consolidate	
6/25/1998	3060	Ord Granting Mtn ...	
8/20/1998	1260	Application Produce Prisoner	DUPLICATE ORIGINAL
8/20/1998	3340	Ord to Produce Prisoner	DUPLICATE ORIGINAL
2/23/1999	1750	Findings, Conclusions & Judg	DUPLICATE ORIGINAL
2/23/1999	2540	Notice of Entry of Ord	
2/26/1999	1310	Case Appeal Statement	
2/26/1999	2515	Notice of Appeal Supreme Court	
3/1/1999	1350	Certificate of Clerk	
3/1/1999	1365	Certificate of Transmittal	
4/28/1999	1670	Ex-Parte Mtn...	EX PARTE MOTION FOR ORDER ALLOWING PAYMENT OF ATTORNEYS FEES AND COSTS TO APPOINTE
5/14/1999	2777	Ord Approving ...	ORDER APPROVING FEES OF COURT APPOINTED ATTY
12/14/1999	4125	Supreme Court Order...	
3/15/2000	4145	Supreme Court Remittitur	
3/15/2000	4127	Supreme Ct Ord Dismiss Appeal	
3/15/2000	1355	Certificate of Judgment	
3/14/2001	4190	Transcript - Partial	PARTIAL TRANSCRIPT OF PRECEEDINGS - JURY SELECTION 3/1/93
3/20/2001	4190	Transcript - Partial	PARTIAL TRANSCRIPT OF PROCEEDINGS - PAGE 51 OF TRIAL TESTIMONY OF JOYCE WHITMORE 3/3/9:
2/14/2005	3565	Pet Post-Conviction Relief	
2/14/2005	3373	Other ...	INDEX OF EXHIBITS IN SUPPORT OF PETITION FOR POST CONVICTION
2/14/2005	1670	Ex-Parte Mtn...	FOR APPOINTMENT OF COUNSEL AND REQUEST FOR EVIDENTIARY HEARING
2/14/2005	1030	Affidavit in Support...	OF MOTION TO PROCEED IN FORMA PAUPERIS
2/14/2005	2385	Mtn Proceed Forma Pauperis	
3/8/2005	3862	**Criminal Submit	DOCUMENT TITLE: MOTION TO PROCEED IN FORMA PAUPERIS / POST CONVICTION
3/16/2005	3035	Ord Grant in Forma Pauperis	
6/17/2005	1315	** Case Closed	
6/17/2005	2922	Ord Dismiss Post Conviction	
6/20/2005	2540	Notice of Entry of Ord	
6/27/2005	2515	Notice of Appeal Supreme Court	
6/28/2005	1365	Certificate of Transmittal	

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Case ID:	CR92P1048	Case Type:	POST CONVICTION	Initial Filing Date:	3/14/2001
6/28/2005	1350	Certificate of Clerk			
6/28/2005	1310	Case Appeal Statement			
7/5/2005	1187	**Supreme Court Case No. ...	SUPREME COURT CASE NO. 45532		
7/5/2005	1188	Supreme Court Receipt for Doc	SUPREME COURT CASE NO. 45532		
8/1/2005	4126	Supreme Ct Order Directing...	SUPREME COURT CASE NO. 45532		
10/3/2005	1365	Certificate of Transmittal	RECORD ON APPEAL		
10/3/2005	1350	Certificate of Clerk	RECORD ON APPEAL		
10/10/2005	1187	**Supreme Court Case No. ...	SURPREME COURT CASE NO. 45532		
10/10/2005	4125	Supreme Court Order...	SURPREME COURT CASE NO. 45532		
10/10/2005	1188	Supreme Court Receipt for Doc	SURPREME COURT CASE NO. 45532		
11/14/2005	4134	Supreme Court Order Affirming	SUPREME COURT CASE NO. 45532		
12/8/2005	4111	Supreme Ct Clk's Cert & Judg	SUPREME COURT CASE NO. 45532		
12/8/2005	4145	Supreme Court Remittitur	SUPREME COURT CASE NO. 45532		
12/8/2005	4134	Supreme Court Order Affirming	SUPREME COURT CASE NO. 45532		
10/3/2013	2502	** Notes ...	ENTIRE CASE MAILED TO DEFENDANT - JYOST		

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

WILLIAM EDWARD BRANHAM,

Petitioner,

vs.

Case No. CR92-1048

Dept. No. 10

ISIDRO BACA, WARDEN,

Respondent.

ORDER

Presently before the Court is the MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) ("the Motion") filed by ISIDRO BACA, WARDEN ("the State") on June 1, 2017. The OPPOSITION TO MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) ("the Opposition") was filed by WILLIAM EDWARD BRANHAM ("the Petitioner") on June 16, 2017. The State filed the REPLY TO OPPOSITION TO MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) ("the Reply") on June 26, 2017, and contemporaneously submitted the

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1 matter for the Court's consideration. The Court entered an ORDER TO SET ORAL
2 ARGUMENT on August 17, 2017. The Court heard oral argument on September 20, 2017, at
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5 The Petitioner was convicted of MURDER OF THE FIRST DEGREE in 1993. *See*
6 JUDGMENT OF CONVICTION entered April 14, 1993. He was sentenced to life in the Nevada
7 Department of Corrections without the possibility of parole. The Nevada Supreme Court affirmed
8 the conviction in an ORDER DISMISSING APPEALS entered December 18, 1996. A remittitur
9 was issued on January 6, 1997.
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11 The Petitioner filed a PETITION FOR WRIT OF HABEAS CORPUS (POST
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13 on May 16, 2017, directing the State to respond to the Petition. Thereafter, the State filed the
14 Motion.
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16 NRS 34.726 enumerates the procedural requirements for, *inter alia*, filing a writ of habeas
17 corpus. NRS 34.726(1) provides, "a petition that challenges the validity of a judgment or sentence
18 must be filed within 1 year after entry of judgment of conviction or, if an appeal has been taken
19 from the judgment, within 1 year after the Supreme Court issues its remittitur." The Petition may
20 be untimely filed if "good cause for delay exists." *Id.* Good cause for delay exists if: 1) the delay
21 is not the petitioner's fault; and 2) dismissing the petition will unduly prejudice the petitioner. NRS
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23 defense" prevents the petitioner from timely filing. *Harris v. Warden*, 114 Nev. 956, 959, 964 P.2d
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26 ¹ The Petitioner has filed two prior state post-conviction petitions for writ of habeas corpus. The Supreme Court
27 affirmed the order denying the first petition, and thereafter affirmed the order dismissing the second petition. *See*
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5 merely [when] the errors [alleged in the petition] created a possibility or prejudice, but that they
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14 demonstrate good cause for delay, where a refusal to consider a petitioner’s claim would be a
15 “fundamental miscarriage of justice.” *Pellegrini*, 117 Nev. at 887, 34 P.3d at 537. A fundamental
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17 innocent of the crime,” and “that no reasonable juror would have convicted him absent a
18 constitutional violation.” *Id.* Actual innocence “means factual innocence, not mere legal
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23 but the claim is still subject to timeliness requirements. *Crump v. Warden*, 113 Nev. 293, 304-05,
24 934 P.2d 247, 254 (1997); *State v. Eighth Judicial Dist. Court*, 121 Nev. 225, 235, 112 P.3d 1070,
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1 The Petition is allegedly based on a previously unavailable constitutional claim. The
2 Petition, 8:14. The Petition alleges the new constitutional claim providing the Petitioner grounds
3 for post-conviction habeas corpus relief was established in two recent United States Supreme Court
4 decisions: *Montgomery v. Louisiana*, 136 S. Ct. 718 (2016), and *Welch v. United States*, 136 S. Ct.
5 1257 (2016). The Petition, 8:18-20. Specifically, the Petition argues *Welch* and *Montgomery*
6 mandate the retroactive application of *Byford v. State*, 116 Nev. 215, 994 P.2d 700 (2000), in all
7 cases where a “Kazalyn instruction” was used at trial.² See the Petition, 8:2-6.
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9 The Motion argues the Petitioner cannot overcome the procedural bars because “*Welch* has
10 no application to the instant case, as the change of the law announced in *Byford* had no
11 constitutional component and did not narrow the ‘conduct’ that was prohibited....” The Motion,
12 5:9-12. The Opposition argues state courts must retroactively apply a substantive narrowing of a
13 criminal statute “regardless of how it is characterized.” The Opposition, 2:23-25.
14

15 *Montgomery* and *Welch* each utilized the “*Teague* framework” to analyze the retroactivity
16 of two different rules of constitutional law set forth in prior United States Supreme Court decisions.
17 While there is generally a bar on retroactive application of new rules of criminal procedure, *Teague*
18 and its progeny mandate the retroactive application of new substantive criminal rules and new
19 “watershed rules of criminal procedure” in federal collateral review proceedings. *Teague v. Lane*,
20 489 U.S. 288, 109 S. Ct. 1060 (1989); *Schriro v. Summerlin*, 542 U.S. 348, 352, 124 S. Ct. 2519,
21 2523 (2004); *Saffle v. Parks*, 494 U.S. 484, 110 S. Ct. 1257 (1990). “A rule is substantive rather
22 than procedural if it alters the range of conduct or class of persons that the law punishes.” *Schriro*,
23 542 U.S. at 353. “This includes decisions that narrow the scope of a criminal statute by interpreting
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27 ² *Kazalyn v. State*, 108 Nev. 67, 825 P.2d 578 (1992). A “Kazalyn instruction” is a jury instruction or set of jury
28 instructions which blurs the distinction between “deliberate” and “premeditated.” *Byford*, 116 Nev. at 235, 994 P.2d at
713.

1 its terms, as well as constitutional determinations that place particular conduct or persons covered
2 by the statute beyond the State's power to punish." *Id.* at 351-352. "Procedural rules, in contrast
3 are designed to enhance the accuracy of a conviction or sentence by regulating 'the manner of
4 determining the defendant's culpability.'" *Montgomery*, 136 S. Ct. at 730 (quoting *Schriro*, 542
5 U.S. at 353 (italics in original)).

7 The *Welch* Court considered the retroactive application of *Johnson v. United States*, 135 S.
8 Ct. 2551 (2015). The *Johnson* Court held a federal statutory clause unconstitutional under the void-
9 for-vagueness doctrine. The *Welch* Court reasoned, "decisions that interpret a statute are
10 substantive if and when they meet the normal criteria for a substantive rule..." and held *Johnson*
11 announced a new substantive rule that is retroactive in cases on collateral review. 136 S. Ct. at
12 1267-68.

14 The new law at issue in *Montgomery* was set forth in *Miller v. Alabama*, 567 U.S. 460, 132
15 S. Ct. 2455 (2012). The *Miller* Court held mandatory life without parole sentences for juvenile
16 homicide offenders is a violation of the Eighth Amendment. The *Montgomery* Court considered
17 "whether *Teague*'s two exceptions are binding on the States as a matter of constitutional law." 136
18 S. Ct. at 729. The Court held, "when a new *substantive rule of constitutional law* controls the
19 outcome of a case, the Constitution requires state collateral review courts to give retroactive effect
20 to that rule." *Id.* (emphasis added).

23 In *Nika v. State*, 124 Nev. 1272, 1289, 198 P.3d 839, 851 (2008), the Supreme Court of
24 Nevada held *Byford* does not have retroactive application because it "announced a new rule and
25 that rule was not required as a matter of constitutional law." The *Nika* Court noted the *Byford*
26 Court "indicated that instructions defining these separate words are not required because they are
27 used in the first degree murder statute 'in their ordinary sense'" and "concluded that if a jury is
28

1 instructed on the meaning of one of the terms, then it also must be instructed on the meaning of the
2 other two terms.” *Nika*, 124 Nev. at 1284, 198 P.3d at 847. Thus, the practical effect of the new
3 rule announced in *Byford* is one of procedural significance: the terms “willful,” “premediated,” and
4 “deliberate” need not be separately defined in jury instructions, but if one is defined all must be
5 defined.
6

7 Even assuming *Montgomery* mandates the application of the *Teague* rule on state collateral
8 review proceedings in all cases where there has been a substantive narrowing of a criminal statute,
9 the Petitioner is not entitled to a retroactive application of *Byford*. This is because the new rule
10 announced in *Byford* is not a substantive rule and is therefore not subject to the rule announced in
11 *Montgomery*.
12

13 **It is ORDERED** the State’s MOTION TO DISMISS PETITION FOR WRIT OF HABEAS
14 CORPUS (POST-CONVICTION) is hereby **GRANTED**. The PETITION FOR WRIT OF
15 HABEAS CORPUS (POST CONVICTION) is hereby **DISMISSED**.
16

17 DATED this 5 day of ~~November~~ ^{DECEMBER}, 2017.

18 
19 ELLIOTT A. SATTLER
20 District Judge
21
22
23
24
25
26
27
28

1 **CERTIFICATE OF MAILING**


2 Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court
3 of the State of Nevada, County of Washoe; that on this ____ day of November, 2017, I deposited in
4 the County mailing system for postage and mailing with the United States Postal Service in Reno,
5 Nevada, a true copy of the attached document addressed to:
6
7
8

9 **CERTIFICATE OF ELECTRONIC SERVICE**

10 I hereby certify that I am an employee of the Second Judicial District Court of the State of
11 Nevada, in and for the County of Washoe; that on the 5 day of ~~November~~ ^{DECEMBER}, 2017, I electronically
12 filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of
13 electronic filing to the following:

14 Terrence P. McCarthy, Esq.

15 Jonathan M. Kirshbaum, Esq.
16
17

18 
19 Sheila Mansfield
20 Judicial Assistant
21
22
23
24
25
26
27
28

1 CODE: 2540
2
3
4

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

7 ***

8 WILLIAM EDWARD BRANHAM,
9 Petitioner,

CASE NO: CR92-1048

10 vs.

DEPT. NO.: 10

11 ISIDRO BACA
12 WARDEN,

13 Respondent,
14 _____/

15 **NOTICE OF ENTRY OF ORDER**

16 PLEASE TAKE NOTICE that on the 5th day of December, 2017 the Court entered a
17 decision or order in this matter, a true and correct copy of which is attached hereto.

18 You may appeal to the Supreme Court from the decision or order of the Court. If
19 you wish to appeal, you must file a notice of appeal with the Clerk of this Court within thirty-
20 three (33) days, after the date this notice is mailed to you. This notice was mailed on the
21 5th day of December, 2017.
22

23
24 JACQUELINE BRYANT
Clerk of the Court

25
26 By /s/ Rosa Rodriguez
Deputy Clerk
27
28

1 **CERTIFICATE OF SERVICE**

2 CASE NO. CR92-1048

3 Pursuant to NRCp 5(b), I certify that I am an employee of the Second Judicial
4 District Court of the State of Nevada, County of Washoe; and that on the 5th day of
5 December, 2017, I electronically filed the Notice of Entry of Order with the Clerk of the
6 Court by using the ECF system which will send a notice of electronic filing to:

7 Terrence McCarthy, ESQ. for STATE OF NEVADA

8 Jonathan Kirschbaum, ESQ. for William Edward Branham
9
10
11
12

13 I further certify that on the 5th day of December, 2017, I deposited in the Washoe County
14 mailing system for postage and mailing with the U.S. Postal Service in Reno, Nevada, a
15 true and correct copy of the Notice of Entry of Order, addressed to:

16 William Edward Branham # 39519
17 Northern Nevada Correctional Center
18 P.O Box 7000
19 Carson City, NV 89702

20 Attorney General's Office
21 100 N. Carson Street
22 Carson City, NV 89701-4717
23
24
25
26
27
28

/s/ Rosa Rodriguez
Rosa Rodriguez

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713.

1 its terms, as well as constitutional determinations that place particular conduct or persons covered
2 by the statute beyond the State's power to punish." *Id.* at 351-352. "Procedural rules, in contrast
3 are designed to enhance the accuracy of a conviction or sentence by regulating 'the manner of
4 determining the defendant's culpability.'" *Montgomery*, 136 S. Ct. at 730 (quoting *Schriro*, 542
5 U.S. at 353 (italics in original)).

7 The *Welch* Court considered the retroactive application of *Johnson v. United States*, 135 S.
8 Ct. 2551 (2015). The *Johnson* Court held a federal statutory clause unconstitutional under the void-
9 for-vagueness doctrine. The *Welch* Court reasoned, "decisions that interpret a statute are
10 substantive if and when they meet the normal criteria for a substantive rule..." and held *Johnson*
11 announced a new substantive rule that is retroactive in cases on collateral review. 136 S. Ct. at
12 1267-68.

14 The new law at issue in *Montgomery* was set forth in *Miller v. Alabama*, 567 U.S. 460, 132
15 S. Ct. 2455 (2012). The *Miller* Court held mandatory life without parole sentences for juvenile
16 homicide offenders is a violation of the Eighth Amendment. The *Montgomery* Court considered
17 "whether *Teague*'s two exceptions are binding on the States as a matter of constitutional law." 136
18 S. Ct. at 729. The Court held, "when a new *substantive rule of constitutional law* controls the
19 outcome of a case, the Constitution requires state collateral review courts to give retroactive effect
20 to that rule." *Id.* (emphasis added).

23 In *Nika v. State*, 124 Nev. 1272, 1289, 198 P.3d 839, 851 (2008), the Supreme Court of
24 Nevada held *Byford* does not have retroactive application because it "announced a new rule and
25 that rule was not required as a matter of constitutional law." The *Nika* Court noted the *Byford*
26 Court "indicated that instructions defining these separate words are not required because they are
27 used in the first degree murder statute 'in their ordinary sense'" and "concluded that if a jury is
28

1 instructed on the meaning of one of the terms, then it also must be instructed on the meaning of the
2 other two terms.” *Nika*, 124 Nev. at 1284, 198 P.3d at 847. Thus, the practical effect of the new
3 rule announced in *Byford* is one of procedural significance: the terms “willful,” “premediated,” and
4 “deliberate” need not be separately defined in jury instructions, but if one is defined all must be
5 defined.
6

7 Even assuming *Montgomery* mandates the application of the *Teague* rule on state collateral
8 review proceedings in all cases where there has been a substantive narrowing of a criminal statute,
9 the Petitioner is not entitled to a retroactive application of *Byford*. This is because the new rule
10 announced in *Byford* is not a substantive rule and is therefore not subject to the rule announced in
11 *Montgomery*.
12

13 **It is ORDERED** the State’s MOTION TO DISMISS PETITION FOR WRIT OF HABEAS
14 CORPUS (POST-CONVICTION) is hereby **GRANTED**. The PETITION FOR WRIT OF
15 HABEAS CORPUS (POST CONVICTION) is hereby **DISMISSED**.
16

17 DATED this 5 day of ~~November~~ ^{DECEMBER}, 2017.

18 
19 ELLIOTT A. SATTLER
20 District Judge
21
22
23
24
25
26
27
28

1 **CERTIFICATE OF MAILING**


2 Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court
3 of the State of Nevada, County of Washoe; that on this ____ day of November, 2017, I deposited in
4 the County mailing system for postage and mailing with the United States Postal Service in Reno,
5 Nevada, a true copy of the attached document addressed to:
6
7
8

9 **CERTIFICATE OF ELECTRONIC SERVICE**

10 I hereby certify that I am an employee of the Second Judicial District Court of the State of
11 Nevada, in and for the County of Washoe; that on the 5 day of ~~November~~ ^{DECEMBER}, 2017, I electronically
12 filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of
13 electronic filing to the following:

14 Terrence P. McCarthy, Esq.

15 Jonathan M. Kirshbaum, Esq.
16
17

18 
19 Sheila Mansfield
20 Judicial Assistant
21
22
23
24
25
26
27
28

CRIMINAL PROGRESS SHEET

CR92-1048

STATUS: Custody ☒ NIC ☐
Bail ☐ OR ☐

WILLIAM EDWARD BRANHAM

Bail Amount: _____
Date Inf/Ind filed: 5/26/92
Amended Inf. filed: _____

it Date: 6-11-92

Dept. No: 5 Reporter: S. Kiger

By: _____
Handed Copy ☒
Waived Reading ☒
Requested Time to Plea ☐
Waived PSI ☐

olo ☐ To: _____

Juv. Ret. _____ P & P Ref. 3-10-93 Gene B. Date 6-11-92 Waived 60 Day: Yes ☒ No ☐

Continued To: Aug 17, 1992 10 am For: ~~trial~~ VACATED

July 31, 1992 9 am For: ~~Mot. to Conf~~ VACATED

Aug 21, 1992 @ 10:00 am For: cont'd. Mot. Suppress

Oct. 21, 1992 @ 9:00 am For: Motion to Confirm

Nov. 2, 1992 @ 10:00 am For: trial

March 1, 1993 @ 10:00 am For: ~~trial~~ R. MOLEZZO

Sentencing Date: April 14, 1993 Dept. No. 5 Reporter: _____

Disposition: Sentenced to Life in the NSP without the possibility of parole and restitution in the amount of \$2455.96; \$25.00 AAF

Motions: #5-6-11-92: Mot. for Discovery with Waiver Counsel stipulated to Discovery & Orders signed by the Court.

#5-7-23-92: Motion to dismiss writ H.C. denied

#5-7-23-92: Petition for Writ of H.C. denied

#5-7-31-92 Motion to Confirm trial vacated. Re-set. R. MOLEZZO

#5-2-12-93 Trial date confirmed. M. Terry

DATE, JUDGE

OFFICERS OF

COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

6-11-92

ARRAIGNMENT

HONORABLE

MARK

HANDELSMAN

DEPT. NO. 5

L. Morris

(Clerk)

S. Kiger

(Reporter)

Deputy D.A. Richard Gammick was present for the State. The Defendant was present with counsel, Deputy P.D. Mary Lou Wilson.

7-31-92

9AM

TRUE NAME: Same.

Mot. to

Copy of Inf. handed to Defendant; reading waived.

Confirm

The Defendant waived time in which to enter a plea and entered a plea of Not Guilty; Defendant waived the 60-day rule.

COURT ORDERED: The matter set for trial by jury.

8-17-92

Counsel Gammick moved the Court to set this matter

10am

for a motion to confirm; COURT SO ORDERED.

Jury Trial

Defendant remanded to the custody of the Sheriff.

CR92-1048
STATE VS WILLIAM EDWARD BRANHAM Page
District Court 06/11/1992 12:59 PM
Washoe County
MIN
CHOWMART

DGE
S OF
ESENTAPPEARANCES-HEARING

CONT'D TO

MOTION TO DISMISS WRIT OF HABEAS CORPUS

Deputy D. A. Karl Hall and Richard Gammick were present for the State. The Defendant was present with counsel, Deputy P. D. Mary Lou Wilson. Opening argument presented by counsel Hall. Answering argument presented by counsel Wilson. Closing argument presented by counsel Hall. COURT ORDERED: The motion denied.

W. Pearson
(Reporter)

7-23-92
HONORABLE
MARK
HANDELSMAN
DEPT. NO. 5
L. Morris
(Clerk)
W. Pearson
(Reporter)

PETITION FOR WRIT OF HABEAS CORPUS

The petitioner was present with counsel, Deputy P D. Mary Lou Wilson. The respondent was represented by counsel Deputy D. A. Karl Hall and Richard Gammick. Opening argument presented by counsel Wilson. Answering argument presented by counsel Hall. Closing argument presented by counsel Wilson. COURT ORDERED: The petition denied.

7-23-92
HONORABLE
MARK
HANDELSMAN
DEPT. NO. 5
L. Morris
(Clerk)
W. Pearson
(Reporter)

MOTION TO CONTINUE TRIAL

Deputy D. A. Karl Hall and Richard Gammick were present for the State. The Defendant was present with counsel, Deputy P. D. Mary Lou Wilson. Matter submitted by counsel Wilson on her pleadings; response and objection by counsel Gammick; COURT ORDERED: The motion granted, trial date of 8-17-92 vacated and the matter to be reset. Defendant remanded to the custody of the Sheriff.

CR92-1048
STATE VS WILLIAM EDWARD BRANHAM
District Court
Kashoe County
NVL
DC-9900051859-027
07/23/1992 12:59 PM
MIN
SUBMIT

DATE, JUDGE
OFFICERS OF

PAGE NO. 5

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

2/12/93

MOTION TO CONFIRM TRIAL DATE

HONORABLE

Deputy D.A. Maynard Mc Ree represented the State.

MARK

Defendant was present with counsel, Deputy P.D. Mary

HANDELSMAN

Lou Wilson.

DEPT. NO. 5

Respective counsel addressed the Court.

B. Walker

COURT ORDERED: Trial date confirmed.

(Clerk)

Defendant remanded to the custody of the Sheriff.

M. Terry

(Reporter)

CR92-1048
STATE VS WILLIAM EDWARD BRANHAM
District Court
Washoe County
DC-9900051859-024
02/12/1993 12:57 PM
MIN
CUMWDS/C

DATE, JUDGE
OFFICERS OF
COURT PRESENT

PAGE NO. 1

APPEARANCES-HEARING

CONT'D TO

2/24/93
HONORABLE
MARK
HANDELSMAN
DEPT. NO. 5
B. Walker
(Clerk)
K. Netley
(Reporter)

HEARING - TELEPHONE TESTIMONY

At 2:45 p.m., Court and counsel met in Chambers for the purpose of taking telephone testimony.

Deputy D.A. Karl Hall represented the State.

Defendant was represented by Deputy P.D. Mary Lou Wilson.

A call was placed to Carmen Cruces who was sworn by the Court, examined by counsel Wilson and cross-examined by counsel Hall.

DC-9900051859-023
CR92-1048
STATE VS WILLIAM EDWARD BRANHAM Page
District Court 02/24/1993 12:57 PM
Washoe County
MTN

DATE, JUDGE
OFFICERS OF

PAGE NO. 1

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

2/26/93

PRE-TRIAL MOTIONS

HONORABLE

The Court, counsel and Court personnel met prior to trial for the purpose of hearing pre-trial motions.

MARK

Deputy D.A. Karl Hall represented the State.

HANDELSMAN

Defendant was present with counsel, Deputy P.D. Mary Lou Wilson.

DEPT. NO. 5

B. Walker

(Clerk)

The following motions in limine were presented by the State, argued in support, and argument in response by counsel for the Defendant:

K. Netley

(Reporter)

1. Motion in Limine Re:

Psychiatric/Psychological

COURT ORDERED: Motion granted.

2. Motion in Limine Re:

Character of the Victim

COURT ORDERED: Motion granted.

The following motions in limine were presented by counsel for the Defendant, argued in support, and argument in response by counsel for the State:

1. Motion for invocation of rule of exclusion is granted and will apply to witnesses for both sides.

2. Motion in Limine Re:

Prior Convictions

COURT ORDERED: Motion granted.

3. Motion to Limit Photographic Evidence During Jury Trial.

COURT ORDERED: Matter under advisement.

4. Motion for disclosure of other bad acts and motion in limine for exclusion of said evidence

COURT ORDERED: Matter under advisement.

5. Motion to dismiss

COURT ORDERED: Motion denied.

6. Motion for the renewal of Petition for Writ of Habeas Corpus

COURT ORDERED: Motion denied.

7. Motion to amend the Information in this case

COURT ORDERED: Motion granted.

8. Motion for disclosure of other bad acts

COURT ORDERED: Motion granted.

Court recessed at 5:10 p.m.

Defendant remanded to the custody of the Sheriff.

CR92-1048
STATE VS WILLIAM EDWARD BRANHAM Page
District Court 02/26/1993 12:52 PM
Hoshoe County
MIN
CUNYB007C

DATE, JUDGE
OFFICERS OF
COURT PRESENT

PAGE NO. 2

APPEARANCES-HEARING

CONT'D TO

3/1/93
HONORABLE
MARK
HANDELSMAN
DEPT. NO. 5
B. Walker
(Clerk)
R. Molezzo
(Reporter)

JURY TRIAL

On February 26, 1993, during pre-trial motions, State's Exhibits A through Z, AA through FF, II through QQ, BBB, CCC, GGG and PPP were marked and stipulated into evidence. Defendant's Exhibits 1 through 27 were marked and stipulated into evidence. Deputy D.A. Karl Hall represented the State. Defendant was present with counsel, Deputy P.D. Mary Lou Wilson. Clerk called the roll of the prospective jurors. Court addressed the prospective jurors. After the jury selection process, the following were sworn to try this case:

Bernadine S. Delorme	Robert K. Pechnik
David L. Emmons	Deborah K. Ott
Carole A. Dollarhide	Elizabeth L. Arnold
David M. Evans	Ronald W. Papka
Lesley B. Campbell	Michael W. Pierce
Elizabeth A. Mabry	Janice C. Bowman
Eric J. Swenson - Alternate	
Mary A. Means - Alternate	

Jurors were admonished prior to each recess throughout the entire trial.

Court took noon recess at 1:20 p.m. to reconvene at 2:30 p.m.

Court reconvened at 2:30 p.m. with all parties present.

Information was read aloud by the Clerk on both cases and Jury was advised of the Defendants pleas thereto.

Opening statements were presented by respective counsel.

Amadeos Flores was called by counsel for the State, sworn and testified, cross-examined; re-direct examined.

Charles Edward Lowe was called by counsel for the State, sworn and testified; cross-examined and re-direct examined.

Dr. Joseph Neil O'Donnell was called by counsel for the State, sworn and testified.

State's Exhibit TTT was marked and admitted into evidence.

At 5:00 p.m. Court ordered recess taken and ordered the matter continued until Tuesday, March 2, 1993 at 10:00 a.m.

Jurors were admonished at this time as they were each time throughout the trial when a recess was taken. Defendant remanded to the custody of the Sheriff.

CASE NO. CR92-1048
and CR92-0546

STATE OF NEVADA VS. WILLIAM EDWARD BRANHAM

DATE, JUDGE
OFFICERS OF
COURT PRESENT

PAGE NO. 3

APPEARANCES-HEARING

CONT'D TO

3/2/93
HONORABLE
MARK
HANDELSMAN
DEPT. NO. 5
E. Walker
(Clerk)
R. Molezzo
(Reporter)

CONTINUED JURY TRIAL

Deputy D.A. Karl Hall represented the State.
Defendant was present with counsel, Deputy P.D. Mary
Lou Wilson.

Defendant's Exhibits 28, 29 and 30 were marked and
stipulated into evidence.

Juror #9, Elizabeth L. Arnold, was not present due
to illness and Court replaced her with alternate
juror, Eric J. Swenson.

Dr. John Neil O'Donnell, previously sworn, resumed
the stand for cross-examination; re-direct
examination and re-cross examination.

Court took noon recess at 12:15 p.m. to reconvene at
2:00 p.m.

Court reconvened at 2:00 p.m. with all parties
present.

Rene Romero was called by counsel for the State,
sworn and testified; cross-examined and re-direct
examined.

Maria Fassett was called by counsel for the State,
sworn and testified; cross-examined and re-direct
examined.

Richard Sokolik was called by counsel for the State,
sworn and testified; cross-examined; re-direct
examined and re-cross examined.

Steve Woods was called by counsel for the State,
sworn and testified, cross-examined and re-direct
examined.

Ikie Woodie Sokolik was called by counsel for the
State, sworn and testified; cross-examined and re-
direct examined.

John Bell was called by counsel for the State, sworn
and testified, cross-examined and re-direct
examined.

At 5:10 p.m. Court ordered recess taken and ordered
the matter continued until Wednesday, March 3, 1993
at 10:00 a.m.

Defendant remanded to the custody of the Sheriff.

DATE, JUDGE
OFFICERS OF
COURT PRESENT

PAGE NO. 4

APPEARANCES-HEARING

CONT'D TO

3/3/93
HONORABLE
MARK
HANDELSMAN
DEPT. NO. 5
B. Walker
(Clerk)
R. Molezzo
(Reporter)

CONTINUED JURY TRIAL

Deputy D.A. Karl Hall represented the State.
Defendant was present with counsel, Deputy P.D. Mary Lou Wilson.
Gary Lee Swinehart was called by counsel for the State, sworn and testified, cross-examined and re-direct examined.
State's Exhibit SS was offered and admitted into evidence.
Edward E. Rice was called by counsel for the State, sworn and testified, cross-examined.
Joyce Whitmore was called by counsel for the State, sworn and testified, cross-examined; re-direct examined and re-cross examined.
Court took noon recess at 12:00 p.m. to reconvene at 2:00 p.m.
Court reconvened at 2:00 p.m. with all parties present.
Marilyn Mackay was called by counsel for the State, sworn and testified; cross-examined.
Dudley Poorman was called by counsel for the State, sworn and testified.
Outside the presence of the Jury, counsel for the State re-offered State's Exhibits GG and HH and argued in support, response and objection by counsel for the Defendant.
COURT ORDERED: Motion denied.
Jury returned to Courtroom.
Dudley Poorman, previously sworn, resumed the stand for cross-examination by counsel for the Defendant.
At 5:10 p.m. Court ordered recess taken and ordered the matter continued until Thursday, March 4, 1993 at 10:00 a.m.
Defendant remanded to the custody of the Sheriff.

DATE, JUDGE
OFFICERS OF
COURT PRESENT

PAGE NO. 5

APPEARANCES-HEARING

CONT'D TO

3/4/93
HONORABLE
MARK
HANDELSMAN
DEPT. NO. 5
B. Walker
(Clerk)
R. Molezzo
(Reporter)

CONTINUED JURY TRIAL

Deputy D.A. Karl Hall represented the State.
Defendant was present with counsel, Deputy P.D. Mary
Lou Wilson.

Dudley Poorman, previously sworn, resumed the stand
for re-direct examination by counsel for the State
and re-cross examination.

Jack Crow was called by counsel for the State, sworn
and testified, cross-examined and re-direct
examined.

Charles Lee Mc Runnelis was called by counsel for
the State, sworn and testified, cross-examined; re-
direct examined and re-cross examined.

David Wood was called by counsel for the State,
sworn and testified.

State's Exhibits UU through YY were offered and
admitted into evidence.

State's Exhibit RR, TT and ZZ were offered and
admitted into evidence.

Court took noon recess at 12:00 p.m. to reconvene at
1:45 p.m.

Court reconvened at 1:45 p.m. with all parties
present.

Tracy Hoyt was called by counsel for the State,
sworn and testified, cross-examined and re-direct
examined.

Keith Kossol was called by counsel for the State,
sworn and testified; cross-examined.

Tammy Brunson was called by counsel for the State,
sworn and testified, cross-examined.

Jennifer Seago was called by counsel for the State,
sworn and testified, cross-examined and re-direct
examined.

Shelly Skender was called by counsel for the State,
sworn and testified, cross-examined.

At this time, Court explained to the Jury that
Carmen Cruces was outside the Country due to a
family crisis and the preliminary hearing transcript
and telephone testimony is to be accepted by Jurors
as if she were present and testified at this trial.
State's Exhibits UUU, VVV, WWW, XXX, YYY and ZZZ
were marked and admitted into evidence.

State's Exhibits AAAA through IIII were marked and
admitted into evidence.

State's Exhibit JJJJ was marked for identification.

DATE, JUDGE
OFFICERS OF

PAGE NO. 6

COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

3/4/93

CONTINUED JURY TRIAL

HONORABLE

Floyd Whiting was called by counsel for the State, sworn and testified, cross-examined; re-direct examined and re-cross examined.

MARK

HANDELSMAN

DEPT. NO. 5

State's Exhibit AAA was re-offered and admitted into evidence.

B. Walker

(Clerk)

Dean Marshal Kateley was called by counsel for the State, sworn and testified, cross-examined and re-direct examined.

R. Molezzo

(Reporter)

State's Exhibits KKKK and LLLL were marked and admitted into evidence.

Juanita Draper was called by counsel for the State, sworn and testified.

At 5:00 p.m. Court ordered recess taken and ordered the matter continued until Friday, March 5, 1993 at 10:00 a.m.

Defendant remanded to the custody of the Sheriff.

3/5/93

CONTINUED JURY TRIAL

HONORABLE

Deputy D.A. Karl Hall represented the State.

MARK

Defendant was present with counsel, Deputy P.D. Mary Lou Wilson.

HANDELSMAN

DEPT. NO. 5

Juanita Draper was not present. Outside the presence of the Jury, Betty Draper was called by counsel for the State, sworn and testified and examined by the Court as to Juanita Draper's absence. Deputy Ingleman accompanied Betty Draper to the Pioneer Inn to escort Juanita Draper to Court.

B. Walker

(Clerk)

R. Molezzo

(Reporter)

Court recessed at 10:10 a.m.

At 10:30 a.m., Jury returned to Courtroom.

3/5/93

CONTINUED JURY TRIAL

HONORABLE

Juanita Draper, previously sworn, resumed the stand for cross-examination by counsel for the Defendant and examined by the Court regarding her present state of health.

MARK

HANDELSMAN

DEPT. NO. 5

B. Walker

(Clerk)

R. Molezzo

(Reporter)

Betty Draper, previously sworn outside the presence of the Jury was re-sworn, called by counsel for the State, cross-examined and re-direct examined.

David Phillip Jenkins was called by counsel for the State, sworn and testified.

DATE, JUDGE
OFFICERS OF
COURT PRESENT

PAGE NO. 7

APPEARANCES-HEARING

CONT'D TO

3/5/93
HONORABLE
MARK
HANDELSMAN
DEPT. NO. 5
B. Walker
(Clerk)
R. Molezzo
(Reporter)

CONTINUED JURY TRIAL

Court took noon recess at 12:00 p.m. to reconvene at 2:00 p.m.

Court reconvened at 2:00 p.m. with all parties present.

David Phillip Jenkins, previously sworn, resumed the stand for further direct examination by counsel for the State, cross-examined; re-direct examined and re-cross examined.

State's Exhibit JJJJ was marked and admitted into evidence.

State's Exhibit MMMM was marked, objection noted and admitted into evidence.

Defendant's Exhibit 31 was marked and admitted into evidence.

State's Exhibits DDD, EEE and FFF were admitted into evidence.

State rested.

Dr. Ellen Clark was called by counsel for the Defendant, sworn and testified, cross-examined.

At 5:00 p.m. Court ordered recess taken and ordered the matter continued until Monday, March 8, 1993 at 10:00 a.m.

Defendant remanded to the custody of the Sheriff.

3/8/93
HONORABLE
MARK
HANDELSMAN
DEPT. NO. 5
B. Walker
(Clerk)
R. Molezzo
(Reporter)

CONTINUED JURY TRIAL

Deputy D.A. Karl Hall represented the State.

Defendant was present with counsel, Deputy P.D. Mary Lou Wilson.

Edward Leon Lee was called by counsel for the Defendant, sworn and testified; cross-examined.

Jack Leon Lee was called by counsel for the

Defendant, sworn and testified; cross-examined.

Jerry Tackett was called by counsel for the Defendant, sworn and testified, cross-examined; re-direct examined and re-cross examined.

Bonnie G. Guggenbickler was called by counsel for the Defendant, sworn and testified, cross-examined; re-direct examined and re-cross examined.

Sandra Lee Puckett was called by counsel for the Defendant, sworn and testified; cross-examined.

DATE, JUDGE
OFFICERS OF
COURT PRESENT

PAGE NO. 8

APPEARANCES-HEARING

CONT'D TO

3/8/93

CONTINUED JURY TRIAL

HONORABLE

Deborah A. Linton was called by counsel for the Defendant, sworn and testified, cross-examined; re-direct examined.

MARK

HANDELSMAN

DEPT. NO. 5

Johnnie Wade was called by counsel for the Defendant, sworn and testified, cross-examined and re-direct examined.

B. Walker

(Clerk)

R. Molezzo

(Reporter)

Court took noon recess at 11:45 a.m. to reconvene at 2:00 p.m.

Court reconvened at 2:00 p.m. with all parties present.

Defendant's Exhibits 32, 33, 34 and 35 were marked for identification.

Dr. Joseph Masters was called by counsel for the Defendant, sworn and testified, cross-examined and re-direct examined.

Defendant's Exhibits 32 and 35 were offered and admitted into evidence.

Robert Joseph Stiffler, Jr. was called by counsel for the Defendant, sworn and testified; cross-examined.

Pamela Rene Holland was called by counsel for the Defendant, sworn and testified; cross-examined.

Lester Clifford Stiffler was called by counsel for the Defendant, sworn and testified.

At 4:50 p.m. Court ordered recess taken and ordered the matter continued until Tuesday, March 9, 1993 at 10:00 a.m.

Defendant remanded to the custody of the Sheriff.

3/9/93

CONTINUED JURY TRIAL

HONORABLE

Deputy D.A. Karl Hall represented the State.

MARK

Defendant was present with counsel, Deputy P.D. Mary Lou Wilson.

HANDELSMAN

DEPT. NO. 5

Mark Allan Rode was called by counsel for the

B. Walker

Defendant, sworn and testified, cross-examined and re-direct examined.

(Clerk)

R. Molezzo

(Reporter)

Donald Clarence Partridge, Sr. was called by counsel for the Defendant, sworn and testified.

Reil Cook was called by counsel for the Defendant, sworn and testified; cross-examined and re-direct examined.

Robert M. Howell was called by counsel for the Defendant, sworn and testified.

DATE, JUDGE
OFFICERS OF
COURT PRESENT

PAGE NO. 9

APPEARANCES-HEARING

CONT'D TO

3/9/93
HONORABLE
MARK
HANDELSMAN
DEPT. NO. 5
B. Walker
(Clerk)
R. Molezzo
(Reporter)

CONTINUED JURY TRIAL

Defendant's Exhibit 36 was marked and admitted into evidence.
Defense rested. #
Court took noon recess at 11:00 a.m. to reconvene at 2:00 p.m.
Outside the presence of the Jury, Court and counsel met in Chambers and settled jury instructions 1 through 29 along with 16 verdict forms.
At 2:10 p.m. Court reconvened, all parties and jury present.
Court read the jury instructions aloud.
Opening, answering and closing arguments presented by respective counsel.
Respective counsel agreed to release the Alternate Juror, Mary A. Means.
At 4:10 p.m. the Bailiff was sworn to take charge of the jury during their deliberations and ordered Court recessed to await the call of the Jury.
At 5:30 p.m. the jury returned the following verdicts.

V E R D I C T

We, the jury in the above-entitled matter, find the defendant, WILLIAM EDWARD BRANHAM, GUILTY OF MURDER.

DATED this 9th day of March, 1993.

/s/ Eric Swenson
Foreman

Having found the defendant guilty of Murder, you must answer the following question: Was it Murder of the First Degree or Murder of the Second Degree?

 X Murder of the First Degree

 Murder of the Second Degree

/s/ Eric Swenson
Foreman

CASE NO. CR92-1048
and CR92-0546

STATE OF NEVADA VS. WILLIAM EDWARD BRANHAM

DATE, JUDGE
OFFICERS OF
COURT PRESENT

PAGE NO. 10

APPEARANCES-HEARING

CONT'D TO

3/9/93
HONORABLE
MARK
HANDELSMAN
DEPT. NO. 5
B. Walker
(Clerk)
R. Molezzo
(Reporter)

CONTINUED JURY TRIAL

V E R D I C T

We, the jury in the above-entitled matter, find
the defendant, WILLIAM EDWARD BRANHAM, GUILTY OF
COUNT I: FORGERY.

DATED this 9th day of March, 1993.

/s/ Eric Swenson
Foreman

V E R D I C T

We, the jury in the above-entitled matter, find
the defendant, WILLIAM EDWARD BRANHAM, GUILTY OF
COUNT II: FORGERY.

DATED this 9th day of March, 1993.

/s/ Eric Swenson
Foreman

V E R D I C T

We, the jury in the above-entitled matter, find
the defendant, WILLIAM EDWARD BRANHAM, GUILTY OF
COUNT III: FORGERY.

DATED this 9th day of March, 1993.

/s/ Eric Swenson
Foreman

V E R D I C T

We, the jury in the above-entitled matter, find
the defendant, WILLIAM EDWARD BRANHAM, GUILTY OF
COUNT IV: FORGERY.

DATED this 9th day of March, 1993.

/s/ Eric Swenson
Foreman

V E R D I C T

We, the jury in the above-entitled matter, find
the defendant, WILLIAM EDWARD BRANHAM, GUILTY OF
COUNT V: FORGERY.

DATED this 9th day of March, 1993.

/s/ Eric Swenson
Foreman

CASE NO. CR92-1048
and CR92-0546

STATE OF NEVADA VS. WILLIAM EDWARD BRANHAM

DATE, JUDGE
OFFICERS OF
COURT PRESENT

PAGE NO. 11

APPEARANCES-HEARING

CONT'D TO

3/9/93
HONORABLE
MARK
HANDELSMAN
DEPT. NO. 5
B. Walker
(Clerk)
R. Molezzo
(Reporter)

CONTINUED JURY TRIAL

V E R D I C T

We, the jury in the above-entitled matter, find
the defendant, WILLIAM EDWARD BRANHAM, GUILTY OF
COUNT VI: FORGERY.

4/14/93
9:00 am
Sent.

DATED this 9th day of March, 1993.

/s/ Eric Swenson
Foreman

V E R D I C T

We, the jury in the above-entitled matter, find
the defendant, WILLIAM EDWARD BRANHAM, GUILTY OF
COUNT VII: FORGERY.

DATED this 9th day of March, 1993.

/s/ Eric Swenson
Foreman

Upon the direction of the Court, the Clerk polled
the jury and to the question, "Are these your
verdicts as read?" each juror answered "yes."
The Court thanked and excused the jury for their
service.

COURT ORDERED: Matter continued for entry of
judgment and imposition of sentence.
Defendant remanded to the custody of the Sheriff.

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

CONT'D TO

4/14/93

HONORABLE

MARK

HANDELSMAN

DEPT. NO. 5

B. Walker

(Clerk)

R. Molezzo

(Reporter)

ENTRY OF JUDGMENT AND IMPOSITION OF SENTENCE

Deputy D.A. Karl Hall was present for the State.

The Defendant was present with counsel, Deputy P.D.

Mary Lou Wilson. Joan Ewald was present on behalf
of the Probation Dept.Counsel Wilson presented a motion for a new trial;
response by Counsel Hall.

COURT ORDERED: Motion denied.

Respective counsel addressed the Court. Probation
Officer addressed the Court.Dean M. Kateley, son of the deceased, was sworn and
addressed the Court.COURT ORDERED: Judgment entered; Deft sentenced to
Life in the Nevada State Prison Without The
Possibility Of Parole and payment of restitution in
the amount of Two Thousand Four Hundred Fifty-Five
Dollars and Ninety-Six Cents (\$2,455.96). The
Defendant is ordered to pay the Twenty Five Dollar
(\$25.00) administrative assessment fee.

Defendant remanded to the custody of the Sheriff.

CR92-1048
STATE VS WILLIAM EDWARD BRANHAM 1 Page
District Court 04/14/1993 12:51 PM
Washoe County
MINI
CHUMAPTIC

CR92-1048

STATE OF NEVADA VS. WILLIAM EDWARD BRANHAM

JUDGE
S OF
ESSENT

APPEARANCES-HEARING

CONT'D TO

MOTION TO CONFIRM TRIAL DATE

Deputy D.A. Richard Gammick and Karl Hall represented the State.

Defendant was present with counsel, Deputy P.D. Mary Lou Wilson.

Respective counsel stipulated to vacate the trial date of August 17, 1992.

Respective counsel stipulated to new trial date, Motion to Suppress and Motion To Confirm trial date COURT ORDERED: Matters continued.

Defendant remanded to the custody of the Sheriff.

8/21/92
10:00 am
Mot.
Suppress

10/21/92
9:00 am
Motion
Confirm

11/2/92
10:00 a.m.
Jury Trial

CONTINUED MOTION TO SUPPRESS

Deputy D.A. Richard Gammick and Deputy D.A. Karl Hall represented the State.

Defendant was present with counsel, Deputy P.D. Mary Lou Wilson.

Counsel for the Defendant addressed the Court and moved to retain testimony of Detective Wood, who was not present.

COURT ORDERED: Motion granted.

Counsel for the Defendant moved to invoke the rule of exclusion. SO ORDERED

William Edward Branham, previously sworn, was called by counsel for the Defendant; direct examined by counsel for the State, Richard Gammick; cross-examined; re-direct and re-cross examined.

Counsel for the Defendant moved to strike testimony regarding informational gathering at the Bank.

COURT ORDERED: Motion denied.

Defendant's Exhibits 1, 2 and 3 were marked and admitted into evidence.

Detective David Phillips was called by counsel for the State, Karl Hall, sworn and testified; cross-examined; re-direct and re-cross examined.

COURT ORDERED: Respective counsel to prepare a brief form of closing argument and submit a final argument by written brief.

Defendant remanded to the custody of the Sheriff.

9/4/92
HONORABLE
MARK
HANDELSMAN
DEPT. NO. 5
B. Walker
(Clerk)
K. Netley
(Reporter)

CASE NO. CR92-1048

STATE OF NEVADA VS. WILLIAM EDWARD BRANHAM

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

9/20/17
HONORABLE
ELLIOTT A.
SATTLER
DEPT. NO. 10
M. White
(Clerk)
L. Urmston
(Reporter)

ORAL ARGUMENTS

10:00 a.m. – Court convened.

Petitioner William Branham was present with counsel, Jonathan Kirshbaum, Esq.
Chief Deputy District Attorney Terrence McCarthy was present on behalf of the State.

COURT reviewed the procedural history of the case.

State's counsel presented argument in support of the Motion to Dismiss Petition for Writ
of Habeas Corpus, Post-Conviction, filed June 1, 2017 (Motion to Dismiss).

Counsel Kirshbaum responded; and he further presented argument in opposition of the
Motion to Dismiss.

State's counsel replied; and he further argued in support of the Motion to Dismiss.

COURT ORDERED: Matter taken under advisement.

10:45 a.m. – Court adjourned.

1 **Code 1350**

2
3
4 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
5 **IN AND FOR THE COUNTY OF WASHOE**

6 **WILLIAM EDWARD BRANHAM,**

Case No. CR92-1048

7
8 **Petitioner,**

Dept. No. 10

9 **vs.**

10 **ISIDRO BACA, WARDEN,**

11 **Respondent.**

12 _____ /
13 **CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL**

14 I certify that I am an employee of the Second Judicial District Court of the State of Nevada,
15 County of Washoe; that on the 19th day of December, 2017, I electronically filed the Notice of
16 Appeal in the above entitled matter to the Nevada Supreme Court.

17 I further certify that the transmitted record is a true and correct copy of the original
18 pleadings on file with the Second Judicial District Court.

19 Dated this 19th day of December, 2017

20 Jacqueline Bryant
21 Clerk of the Court

22 By /s/ Yvonne Vilorio
23 Yvonne Vilorio
24 Deputy Clerk
25
26
27
28