

Steven D. Grierson

1 MACK MASON #69060
2 In Propria Personam
3 Post Office Box 208, S.D.C.C.
4 Indian Springs, Nevada 89018

Electronically Filed
Mar 08 2018 09:43 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

5 IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6 IN AND FOR THE COUNTY OF CLARK

7
8
9 The state of Nevada
10 Plaintiff,
11 vs.
12 MACK MASON
13 #309692 Defendant.

Case No. 99C161426
Dept. No. XX
Docket _____

14
15
16 **NOTICE OF APPEAL**

17 NOTICE IS HEREBY GIVEN, That the Petitioner/Defendant,
18 MACK MASON, in and through his proper person, hereby
19 appeals to the Supreme Court of Nevada from the ORDER denying and/or
20 dismissing the

21 Petition denied in the 8th district court Dept. XX

22 _____
23 ruled on the 12 day of 24, 20 17

24
25 Dated this 2 day of 24, 20 17

Respectfully Submitted,

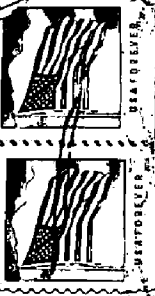
Mack Mason

RECEIVED
MAR 2 2018

CLERK OF THE COURT

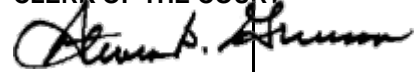
MARK MASOAL #10060
PO BOX 2
INDIAN SPRINGS NEV

89070



Las Vegas NVDC 89199
TUE 27 FEB 2013 PM

8th District Court Clerk
200 Lewis Ave 3rd Floor
LAS VEGAS NEVADA 89101



1 ASTA

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3
4
5
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**

9
10 STATE OF NEVADA,

11 Plaintiff(s),

12 vs.

13 MACK C. MASON,

14 Defendant(s),

Case No: 99C161426

Dept No: XX

15
16
17 **CASE APPEAL STATEMENT**

18 1. Appellant(s): Mack Mason

19 2. Judge: Eric Johnson

20 3. Appellant(s): Mack Mason

21 Counsel:

22 Mack Mason #69060
23 P.O. Box 208
24 Indian Springs, NV 89070

25 4. Respondent: The State of Nevada

26 Counsel:

27 Steven B. Wolfson, District Attorney
28 200 Lewis Ave.
Las Vegas, NV 89101

(702) 671-2700

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Appellant Represented by Appointed Counsel In District Court: Yes

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

9. Date Commenced in District Court: September 1, 1999

10. Brief Description of the Nature of the Action: Criminal

Type of Judgment or Order Being Appealed: Post-Conviction Relief

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 37964, 58517, 71296

12. Child Custody or Visitation: N/A

Dated This 5 day of March 2018.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Mack Mason

Steven D. Grierson

MACK MASON, 69060
Petitioner/In Propria Persona
Post Office Box 208, SDCC
Indian Springs, Nevada 89070-0208

IN THE XX JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF CLARK

The state of Nevada,
Plaintiff,

vs.

MACK MASON,
Defendant.
304692

CASE No. 99-2161426

DEPT. No. XX

DESIGNATION OF RECORD ON APPEAL

TO: NEVADA SUPREME
COURT

The above-named Plaintiff hereby designates the entire record of the above-entitled case, to include all the papers, documents, pleadings, and transcripts thereof, as and for the Record on Appeal.

DATED this 2 day of 24th, 2017.

RESPECTFULLY SUBMITTED BY:

Mack Mason 69060
Plaintiff/In Propria Persona

RECEIVED

MAR 02 2018

CLERK OF THE COURT

CERTIFICATE OF SERVICE BY MAILING

I, MARK MASON, hereby certify, pursuant to NRCP 5(b), that on this 24th
day of Feb, 2017, I mailed a true and correct copy of the foregoing, "Notice of
Appeal"

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

8th District Court
Judge Eric Johnson

CC:FILE

DATED: this 2 day of 24th, 2018.

Mark Mason # 69060
/In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Notice of App.

ea1 does not contain the social security # of anyone
(Title of Document)

filed in District Court Case number 99-C-161436

☒ Does not contain the social security number of any person.

-OR-

☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

(State specific law)

-or-

B. For the administration of a public program or for an application
for a federal or state grant.

Mack Mason
Signature

2-24-18
Date

MACK MASON
Print Name

Notice of Appeal
Title

DEPARTMENT 20
CASE SUMMARY
CASE No. 99C161426

The State of Nevada vs Mack C Mason

§	Location:	Department 20
§	Judicial Officer:	Johnson, Eric
§	Filed on:	09/01/1999
§	Case Number History:	
§	Cross-Reference Case	C161426
§	Number:	
§	Defendant's Scope ID #:	309692
§	Lower Court Case # Root:	99F07347
§	Lower Court Case Number:	99F07347X
§	Supreme Court No.:	58517
		71296

CASE INFORMATION

Offense	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. BURGLARY. WITH A DEADLY WEAPON	F	01/01/1900	Case Flags:	Appealed to Supreme Court Custody Status - Nevada Department of Corrections
2. GRAND LARCENY.	F	01/01/1900		
3. BURGLARY. WITH A DEADLY WEAPON	F	01/01/1900		
4. MURDER WITH A DEADLY WEAPON	F	01/01/1900		
5. KIDNAPPING IN SECOND DEGREE WITH A DEADLY WEAPON	F	01/01/1900		
6. EX-FELON NOT TO POSSESS FIREARM.	F	01/01/1900		

Statistical Closures

01/26/2003	USJR Reporting Statistical Closure
09/09/2002	USJR Reporting Statistical Closure
05/01/2001	USJR Reporting Statistical Closure
07/16/2003	USJR Reporting Statistical Closure

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	99C161426
Court	Department 20
Date Assigned	05/04/2015
Judicial Officer	Johnson, Eric

PARTY INFORMATION

Defendant **Mason, Mack C**

Plaintiff **State of Nevada**

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









DATE

EVENTS & ORDERS OF THE COURT










INDEX

01/01/1900	Plea (Judicial Officer: User, Conversion) 1. BURGLARY. WITH A DEADLY WEAPON Not Guilty PCN: Sequence:
01/01/1900	Plea (Judicial Officer: User, Conversion) 2. GRAND LARCENY. Not Guilty PCN: Sequence:
01/01/1900	Plea (Judicial Officer: User, Conversion)












DEPARTMENT 20
CASE SUMMARY
CASE No. 99C161426

	3. BURGLARY, WITH A DEADLY WEAPON Not Guilty PCN: Sequence:
01/01/1900	Plea (Judicial Officer: User, Conversion) 4. MURDER WITH A DEADLY WEAPON Not Guilty PCN: Sequence:
01/01/1900	Plea (Judicial Officer: User, Conversion) 5. KIDNAPPING IN SECOND DEGREE WITH A DEADLY WEAPON Not Guilty PCN: Sequence:
09/01/1999	 Criminal Bindover
09/03/1999	 Information
09/07/1999	Initial Arraignment (9:00 AM) <i>INITIAL ARRAIGNMENT Court Clerk: SUSAN BURDETTE/sb Reporter/Recorder: CATHY NELSON Heard By: Michael Douglas</i>
09/09/1999	 Order Filed By: Defendant Mason, Mack C <i>Order Appointing Counsel at the Court Appointed Hourly Rate</i>
09/10/1999	 Reporters Transcript <i>Transcript of Hearing Held on August 30, 1999</i>
09/28/1999	 Notice of Intent to Seek Death Penalty
12/17/1999	 Order Filed By: Defendant Mason, Mack C <i>Order Appointing Counsel</i>
02/16/2000	 Motion to Continue Trial
02/17/2000	 Receipt of Copy Filed by: Defendant Mason, Mack C
03/02/2000	Calendar Call (9:00 AM) <i>CALENDAR CALL</i>
03/02/2000	Motion to Continue (9:00 AM) Events: 02/16/2000 Motion to Continue Trial <i>DEFT'S MOTION TO CONTINUE TRIAL Heard By: Kathy Hardcastle</i>
03/02/2000	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 03-02-00 Court Clerk: DOROTHY KELLY Reporter/Recorder: TINA SMITH Heard By: Kathy Hardcastle</i>
03/06/2000	CANCELED Jury Trial (1:30 PM) <i>Vacated</i>



DEPARTMENT 20
CASE SUMMARY
CASE No. 99C161426

03/09/2000	Conversion Hearing Type (9:00 AM) <i>RESET TRIAL DATE Relief Clerk: BILLIE JO CRAIG Reporter/Recorder: TINA SMITH Heard By: Kathy Hardcastle</i>
07/19/2000	 Notice of Expert Witnesses <i>Notice of Expert Witnesses [NRS 174.234 (2)]</i>
07/19/2000	 Notice of Witnesses <i>Notice of Witnesses [NRS 174.234(1)(b)]</i>
07/19/2000	 Reporters Transcript <i>Transcript of Hearing Held on March 2, 2000</i>
07/19/2000	 Reporters Transcript <i>Transcript of Hearing Held on March 9, 2000</i>
08/11/2000	 Notice <i>Notice of Evidence in Support of Aggravating Circumstances</i>
08/11/2000	 Supplemental <i>Supplemental Notice of Expert Witnesses [NRS 174.234 (2)]</i>
08/15/2000	 Motion to Continue Trial <i>Motion to Continue Trial Setting</i>
08/15/2000	 Motion for Discovery Filed By: Defendant Mason, Mack C <i>Motion for Discovery and Evidentiary Hearing Regarding the Manner and Method of Determining in which Murder Cases the Death Penalty will be Sought</i>
08/17/2000	 Opposition to Motion <i>Opposition to Defendant's Motion for Discovery and Evidentiary Hearing Regarding the Manner and Method of Determining in which Murder Cases the Death Penalty will be Sought</i>
08/23/2000	Calendar Call (9:00 AM) <i>CALENDAR CALL</i>
08/23/2000	Motion to Continue (9:00 AM) Events: 08/15/2000 Motion to Continue Trial <i>DEFT'S MOTION TO CONTINUE TRIAL SETTING Heard By: Kathy Hardcastle</i>
08/23/2000	Motion (9:00 AM) <i>DEFT'S MOTION FOR DISCOVERY AND EVIDENTIARY HEARING REGARDING THE MANNER Heard By: Kathy Hardcastle</i>
08/23/2000	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS FOR 8/23/00 Relief Clerk: BILLIE JO CRAIG Reporter/Recorder: CARRIE HANSEN Heard By: Kathy Hardcastle</i>
08/28/2000	CANCELED Jury Trial (10:30 AM) <i>Vacated</i>
08/30/2000	Motion (9:00 AM) <i>DEFT'S MOTION FOR DISCOVERY AND EVIDENTIARY HEARING REGARDING THE MANNER Heard By: Kathy Hardcastle</i>














DEPARTMENT 20
CASE SUMMARY
CASE NO. 99C161426

08/30/2000	Conversion Hearing Type (9:00 AM) <i>RESET TRIAL DATE</i>
08/30/2000	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 08-30-00 Court Clerk: DOROTHY KELLY Reporter/Recorder: TINA SMITH Heard By: Kathy Hardcastle</i>
10/12/2000	 Motion to Compel <i>Motion to Compel Disclosure of Existence and Substance of Expectations, or Actual Receipt of Benefits or Preferential Treatment for Cooperation with Prosecution</i>
10/12/2000	 Motion <i>Motion to Allow Jury Questionnaire</i>
10/12/2000	 Notice of Motion <i>Notice of Motion and Motion for Discovery</i>
10/12/2000	 Notice of Motion <i>Notice of Motion and Motion for Discovery of Potential Penalty Hearing</i>
10/12/2000	 Motion <i>Motion for Disclosure of Pre-Sentence Reports or, in the Alternative, for In-Camera Review</i>
10/12/2000	 Motion to Compel Filed By: Defendant Mason, Mack C <i>Motion to Compel Disclosure of Existence and Substance of Expectations, or Actual Receipt of Benefits or Preferential Treatment for Cooperation with Prosecution</i>
10/13/2000	 Receipt of Copy Filed by: Defendant Mason, Mack C
10/24/2000	 Opposition to Motion <i>Opposition to Motion to Compel Disclosure of Existence and Substance of Expectations, or Actual Receipt of Benefits or Preferential Treatment for Cooperation with Prosecution</i>
10/24/2000	 Opposition to Motion <i>Opposition to Defendant's Motion for Discovery</i>
10/24/2000	 Answer (Criminal) <i>Answer to Defendant's Motion for Discovery of Potential Penalty Hearing Evidence</i>
10/24/2000	 Opposition to Motion Filed By: Defendant Mason, Mack C <i>Opposition to Defendant's Motion to Submit Questionnaire to Prospective Jurors</i>
10/24/2000	 Opposition to Motion Filed By: Defendant Mason, Mack C <i>Opposition to Defendant's Motion for Disclosure of Pre-Sentence Reports or, in the Alternative for In-Camera Review</i>
10/24/2000	 Receipt of Copy
10/25/2000	Motion to Compel (9:00 AM) Events: 10/12/2000 Motion to Compel

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CASE No. 99C161426











	<i>DEFT'S MOTION TO COMPEL DISCLOSURE OF EXISTENCE AND SUBSTANCE OF EXPECTATIONS, Heard By: Kathy Hardcastle</i>
10/25/2000	Motion (9:00 AM) Events: 10/12/2000 Motion <i>DEFT'S MOTION TO ALLOW JURY QUESTIONNAIRE</i>
10/25/2000	Motion for Discovery (9:00 AM) Events: 10/12/2000 Notice of Motion <i>DEFT'S MOTION FOR DISCOVERY Heard By: Kathy Hardcastle</i>
10/25/2000	Motion for Discovery (9:00 AM) Events: 10/12/2000 Notice of Motion <i>DEFT'S MOTION FOR DISCOVERY OF POTENTIALPENALTY HEARING EVIDENCE Heard By: Kathy Hardcastle</i>
10/25/2000	Motion (9:00 AM) Events: 10/12/2000 Motion <i>DEFT'S MOTION FOR DISCLOSURE OF PRE-SENTENCE REPORTS OR FOR IN-CAMERA RE Heard By: Kathy Hardcastle</i>
10/25/2000	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 10-25-00 Court Clerk: DOROTHY KELLY Reporter/Recorder: TINA SMITH Heard By: Kathy Hardcastle</i>
11/01/2000	Motion to Compel (9:00 AM) <i>DEFT'S MOTION TO COMPEL DISCLOSURE OF EXISTENCE AND SUBSTANCE OF EXPECTATIONS, Heard By: Kathy Hardcastle</i>
11/01/2000	Motion (9:00 AM) <i>DEFT'S MOTION TO ALLOW JURY QUESTIONNAIRE</i>
11/01/2000	Motion for Discovery (9:00 AM) <i>DEFT'S MOTION FOR DISCOVERY Heard By: Kathy Hardcastle</i>
11/01/2000	Motion for Discovery (9:00 AM) <i>DEFT'S MOTION FOR DISCOVERY OF POTENTIALPENALTY HEARING EVIDENCE Heard By: Kathy Hardcastle</i>
11/01/2000	Motion (9:00 AM) <i>DEFT'S MOTION FOR DISCLOSURE OF PRE-SENTENCE REPORTS OR FOR IN-CAMERA RE Heard By: Kathy Hardcastle</i>
11/01/2000	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS FOR 11/1/00 Relief Clerk: BILLIE JO CRAIG Reporter/Recorder: JAMES HELLESO Heard By: Kathy Hardcastle</i>
11/07/2000	 Notice of Witnesses Party: Defendant Mason, Mack C
11/07/2000	 Order Filed By: Defendant Mason, Mack C <i>Order to Produce Records</i>
11/08/2000	Calendar Call (9:00 AM) <i>CALENDAR CALL Court Clerk: DOROTHY KELLY Reporter/Recorder: TINA SMITH Heard By: Kathy Hardcastle</i>
11/13/2000	CANCELED Jury Trial (10:30 AM) <i>Vacated</i>

DEPARTMENT 20
CASE SUMMARY
CASE No. 99C161426











01/29/2001	 Order
01/29/2001	 Certificate
01/29/2001	 Request for Attendance of Out-Of-State Witness <i>Request for Attendance of Out-of-State Witness Patrick Braxton</i>
02/07/2001	Calendar Call (9:00 AM) <i>CALENDAR CALL Relief Clerk: BILLIE JO CRAIG Reporter/Recorder: LISA MASKOWSKI Heard By: Sally Loehrer</i>
02/07/2001	 Supplemental Witness List <i>Supplemental Notice of Witnesses [NRS 174.234(1)(b)]</i>
02/08/2001	 Reporters Transcript <i>Transcript of Hearing Held on February 7, 2001</i>
02/12/2001	CANCELED Jury Trial (10:30 AM) <i>Vacated</i>
02/12/2001	 Order for Production of Inmate <i>Order for Production of Inmate Cynthia Coleman, BAC #66882</i>
02/13/2001	 Supplemental <i>Supplemental Notice of Witnesses [NRS 174.234(1)(b)]</i>
02/14/2001	Jury Trial (10:30 AM) <i>TRIAL BY JURY Court Clerk: DOROTHY KELLY Heard By: Hardcastle, Kathy</i>
02/15/2001	Jury Trial (9:00 AM) <i>TRIAL BY JURY Court Clerk: DOROTHY KELLY Reporter/Recorder: TINA SMITH Heard By: Hardcastle, Kathy</i>
02/15/2001	 Jury List
02/15/2001	 Reporters Transcript <i>Transcript of Hearing Held on February 14, 2001</i>
02/16/2001	Jury Trial (1:30 PM) <i>TRIAL BY JURY Relief Clerk: GEORGETTE BYRD/GB Reporter/Recorder: TINA SMITH Heard By: Hardcastle, Kathy</i>
02/16/2001	 Ex Parte Order <i>Filed By: Defendant Mason, Mack C Ex Parte Order to Transport Inmate Witness</i>
02/16/2001	 Ex Parte Application <i>Ex Parte Application for Order Requiring Material Witness to Post Bail</i>
02/16/2001	 Order <i>Order Requiring Material Witness to Post Bail or be Committed to Custody</i>
02/16/2001	 Reporters Transcript

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CASE NO. 99C161426











Transcript of Hearing Held on February 15, 2001

02/20/2001	Jury Trial (10:30 AM) <i>TRIAL BY JURY Court Clerk: DOROTHY KELLY Reporter/Recorder: TINA SMITH Heard By: Hardcastle, Kathy</i>
02/20/2001	 Order <i>Order Quashing Material Witness Warrant</i>
02/20/2001	 Supplemental Witness List Filed by: Defendant Mason, Mack C <i>Supplemental Notice of Witnesses</i>
02/20/2001	 Receipt of Copy Filed by: Defendant Mason, Mack C <i>Receipt of Copy of Two Certified Orders to Transport Inmate Witness</i>
02/20/2001	 Receipt of Copy Filed by: Defendant Mason, Mack C
02/20/2001	 Ex Parte Order Filed By: Defendant Mason, Mack C <i>Ex Parte Order to Transport Inmate Witness</i>
02/20/2001	 Reporters Transcript <i>Transcript of Hearing Held on February 16, 2001</i>
02/21/2001	Jury Trial (9:30 AM) <i>TRIAL BY JURY Court Clerk: DOROTHY KELLY Reporter/Recorder: TINA SMITH Heard By: Hardcastle, Kathy</i>
02/21/2001	 Reporters Transcript <i>Transcript of Hearing Held on February 20, 2001</i>
02/22/2001	Jury Trial (10:00 AM) <i>TRIAL BY JURY Court Clerk: DOROTHY KELLY Reporter/Recorder: TINA SMITH Heard By: Hardcastle, Kathy</i>
02/22/2001	 Reporters Transcript <i>Transcript of Hearing Held on February 21, 2001</i>
02/22/2001	 Proposed Jury Instructions Not Used At Trial
02/23/2001	Jury Trial (10:00 AM) <i>TRIAL BY JURY Court Clerk: DOROTHY KELLY Heard By: Hardcastle, Kathy</i>
02/26/2001	Jury Trial (1:45 PM) <i>TRIAL BY JURY Relief Clerk: GEORGETTE BYRD/GB Reporter/Recorder: TINA SMITH Heard By: Hardcastle, Kathy</i>
02/26/2001	 Reporters Transcript <i>Transcript of Hearing Held on February 22, 2001</i>
02/27/2001	Jury Trial (1:45 PM) <i>TRIAL BY JURY Court Clerk: DOROTHY KELLY Reporter/Recorder: TINA SMITH Heard By: Kathy Hardcastle</i>

DEPARTMENT 20
CASE SUMMARY
CASE No. 99C161426

02/27/2001	 Instructions to the Jury
02/27/2001	 Verdict
02/27/2001	Disposition (Judicial Officer: User, Conversion) 2. GRAND LARCENY. Not Guilty PCN: Sequence:
03/01/2001	 Motion in Limine <i>Motion in Limine to Limit Penalty Hearing Evidence to the Notice of Evidence in Aggravation</i>
03/01/2001	 Proposed Jury Instructions Not Used At Trial
03/01/2001	 Opposition to Motion in Limine <i>Opposition to Defendant's Motion in Limine to Limit Penalty Hearing Evidence to the Notice of Evidence in Aggravation</i>
03/01/2001	 Order Shortening Time Filed By: Defendant Mason, Mack C <i>Order Shortening Time for Motion in Limine to Limit Penalty Hearing Evidence to the Notice of Evidence in Aggravation</i>
03/01/2001	 Receipt of Copy Filed by: Defendant Mason, Mack C
03/01/2001	 Proposed Verdict Forms Not Used at Trial
03/01/2001	 Motion in Limine Filed By: Defendant Mason, Mack C <i>Motion in Limine to Limit Penalty Hearing Evidence to the Notice of Evidence in Aggravation</i>
03/05/2001	All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS 03-05-01 Court Clerk: DOROTHY KELLY Reporter/Recorder: TINA SMITH Heard By: Kathy Hardcastle</i>
03/05/2001	Penalty Hearing (10:30 AM) <i>PENALTY HEARING Heard By: Kathy Hardcastle</i>
03/05/2001	Motion in Limine (10:30 AM) Events: 03/01/2001 Motion in Limine <i>MASON'S MOTION IN LIMINE TO LIMIT PENALTY HEARING EVIDENCE TO THE NOTICE O</i>
03/06/2001	Penalty Hearing (10:00 AM) <i>PENALTY HEARING Court Clerk: DOROTHY KELLY Reporter/Recorder: TINA SMITH Heard By: Kathy Hardcastle</i>
03/06/2001	 Instructions to the Jury
03/06/2001	 Special Verdict Form <i>Special Verdict</i>

DEPARTMENT 20
CASE SUMMARY
CASE No. 99C161426












03/06/2001	 Special Verdict Form <i>Special Verdict</i>
03/06/2001	 Verdict
03/06/2001	Disposition (Judicial Officer: User, Conversion) 4. MURDER WITH A DEADLY WEAPON Guilty PCN: Sequence:
03/06/2001	Disposition (Judicial Officer: User, Conversion)
03/06/2001	Sentence (Judicial Officer: User, Conversion) 4. MURDER WITH A DEADLY WEAPON Adult Adjudication Converted Disposition: Sentence# 0001: LIFE WITHOUT POSSIBILITY OF PAROLE Cons/Conc: Concurrent w/Charge Item: 0001 and Sentence#: 0001 Converted Disposition: Sentence# 0002: PROBATION WITH CONDITIONS Cons/Conc: Concurrent w/Charge Item: 0003 and Sentence#: 0001
03/08/2001	 Proposed Verdict Forms Not Used at Trial
03/19/2001	 Order Filed By: Defendant Mason, Mack C
03/19/2001	 Reporters Transcript <i>Transcript of Hearing Held on March 5, 2001</i>
03/19/2001	 Reporters Transcript <i>Transcript of Hearing Held on March 6, 2001</i>
03/19/2001	 Reporters Transcript <i>Transcript of Hearing Held on February 26, 2001</i>
03/19/2001	 Reporters Transcript <i>Transcript of Hearing Held on February 27, 2001</i>
04/18/2001	 Ex Parte Motion Filed By: Defendant Mason, Mack C <i>Ex Parte Motion Appointing Investigator and for Excess Fees</i>
04/19/2001	 PSI <i>Pre-Sentence Investigation Report (Unfiled) Confidential</i>
04/30/2001	Sentencing (9:00 AM) <i>SENTENCING Court Clerk: DOROTHY KELLY Reporter/Recorder: TINA SMITH Heard By: Kathy Hardcastle</i>
04/30/2001	Disposition (Judicial Officer: User, Conversion)

DEPARTMENT 20
CASE SUMMARY
CASE No. 99C161426

	<div>1. BURGLARY. WITH A DEADLY WEAPON Guilty PCN: Sequence:</div>
04/30/2001	Disposition (Judicial Officer: User, Conversion)
04/30/2001	Disposition (Judicial Officer: User, Conversion) <div>3. BURGLARY. WITH A DEADLY WEAPON Guilty PCN: Sequence:</div>
04/30/2001	Disposition (Judicial Officer: User, Conversion)
04/30/2001	Disposition (Judicial Officer: User, Conversion) <div>5. KIDNAPPING IN SECOND DEGREE WITH A DEADLY WEAPON Guilty PCN: Sequence:</div>
04/30/2001	Disposition (Judicial Officer: User, Conversion)
04/30/2001	Disposition (Judicial Officer: User, Conversion) <div>6. EX-FELON NOT TO POSSESS FIREARM. Dismissed PCN: Sequence:</div>
04/30/2001	Sentence (Judicial Officer: User, Conversion) <div>1. BURGLARY. WITH A DEADLY WEAPON Adult Adjudication Converted Disposition: Sentence# 0001: Minimum 40 Months to Maximum 180 Months Placement: NSP Converted Disposition: Sentence# 0002: CREDIT FOR TIME SERVED Minimum 719 Days to Maximum 719 Days Converted Disposition: Sentence# 0003: DNA FEE/GENETIC MARKERS ANALYSIS Amount: \$250.00 Converted Disposition: Sentence# 0004: RESTITUTION Amount: \$8519.00 Converted Disposition: Sentence# 0005: ADMINISTRATION FEE Amount: \$25.00</div>
04/30/2001	Sentence (Judicial Officer: User, Conversion) <div>3. BURGLARY. WITH A DEADLY WEAPON Adult Adjudication Converted Disposition: Sentence# 0001: Minimum 40 Months to Maximum 180 Months Placement: NSP Cons/Conc: Concurrent w/Charge Item: 0001 and Sentence#: 0001</div>
04/30/2001	Sentence (Judicial Officer: User, Conversion) <div>5. KIDNAPPING IN SECOND DEGREE WITH A DEADLY WEAPON Adult Adjudication</div>

DEPARTMENT 20
CASE SUMMARY
CASE No. 99C161426

Converted Disposition:
Sentence# 0001:
Minimum 40 Months to Maximum 180 Months
Placement: NSP
Cons/Conc: Consecutive
w/Charge Item: 0004
and Sentence#: 0001
Converted Disposition:
Sentence# 0002:
Minimum 40 Months to Maximum 180 Months
Placement: NSP
Cons/Conc: Consecutive
w/Charge Item: 0005
and Sentence#: 0001













05/01/2001	 Ex Parte Filed By: Defendant Mason, Mack C <i>Ex Parte Nunc Pro Tunc Order Appointing Investigator and for Excess Fees</i>
05/02/2001	 Notice of Motion <i>Notice of Motion and Motion for Return of Evidence</i>
05/09/2001	 Judgment of Conviction <i>Judgment of Conviction (Jury Trial)</i>
05/14/2001	Motion (9:00 AM) Events: 05/02/2001 Notice of Motion <i>STATE'S MOTION FOR RETURN OF EVIDENCE Court Clerk: DOROTHY KELLY Reporter/Recorder: TINA SMITH Heard By: Kathy Hardcastle</i>
05/17/2001	 Order Filed By: Defendant Mason, Mack C <i>Order Appointing Counsel</i>
05/21/2001	 Order Granting Motion <i>Order Granting State's Motion for Return of Evidence</i>
05/23/2001	 Stipulation and Order Filed by: Defendant Mason, Mack C <i>Stipulation and Order for Payment of Excess Attorneys Fees and Expenses</i>
05/24/2001	 Receipt <i>Receipt of Exhibits</i>
05/25/2001	 Case Appeal Statement Filed By: Defendant Mason, Mack C
05/25/2001	 Notice of Appeal (criminal) Party: Defendant Mason, Mack C <i>Notice of Appeal</i>
09/05/2002	 Petition for Writ of Habeas Corpus Filed by: Defendant Mason, Mack C <i>Petition for Writ of Habeas Corpus (Post-Conviction) and Appointment of Counsel</i>
09/10/2002	 Order for Petition for Writ of Habeas Corpus

DEPARTMENT 20
CASE SUMMARY
CASE NO. 99C161426















Order Re Petition for Writ of Habeas Corpus

09/16/2002	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed</i>
09/24/2002	 Stipulation and Order <i>Stipulation and Order for Payment of Excess Attorney Fees and Expenses</i>
09/25/2002	 Request <i>Petitioner's Request for Voluntary Dismissal of his Pro-Se Petition for Writ of Habes Corpus Post Conviction Relief Pursuant to NRS 34.820 to NRCP. Rule 41</i>
10/07/2002	Request (9:00 AM) Events: 09/25/2002 Request <i>DEFT'S PRO PER REQUEST VOLUNTARY DISMISSAL/32 Court Clerk: Carole D'Aloia Reporter/Recorder: Tina Smith Heard By: Kathy Hardcastle</i>
10/15/2002	 Order Granting <i>Order Granting Petitioner's Request for Voluntary Dismissal of Pro-Se Petition for Writ of Habeas Corpus Post Conviction Relief</i>
11/04/2002	CANCELED Petition for Writ of Habeas Corpus (9:00 AM) <i>Vacated</i>
01/23/2003	 Petition for Writ of Habeas Corpus <i>Petition for Writ of Habeas Corpus (Post-Conviction) and Appointment of Counsel</i>
01/27/2003	 Order for Petition for Writ of Habeas Corpus <i>Order Re Petition for Writ of Habeas Corpus</i>
03/10/2003	Petition for Writ of Habeas Corpus (9:00 AM) Events: 01/23/2003 Petition for Writ of Habeas Corpus <i>DEFT'S PRO PER PTN FOR WRIT OF HABEAS CORPUS AND APPOINTMENT OF COUNSEL/33 Court Clerk: Dorothy Kelly Reporter/Recorder: Carrie Hansen Heard By: Hardcastle, Kathy</i>
03/12/2003	Petition for Writ of Habeas Corpus (9:00 AM) <i>DEFT'S PRO PER PTN FOR WRIT OF HABEAS CORPUS AND APPOINTMENT OF COUNSEL/33 Court Clerk: Dorothy Kelly Reporter/Recorder: Carrie Hansen Heard By: Hardcastle, Kathy</i>
03/13/2003	 Notice of Withdrawal Filed By: Defendant Mason, Mack C <i>Notice of Withdrawal as Attorney of Record</i>
03/31/2003	 Motion <i>Motion to Secure</i>
04/14/2003	Motion (9:00 AM) Events: 03/31/2003 Motion <i>DEFT'S PRO PER MTN TO SECURE/34 Relief Clerk: Billie Jo Craig Reporter/Recorder: Carrie Hansen Heard By: Kathy Hardcastle</i>
05/02/2003	 Response <i>State's Response to Defendant's Petition for Writ of Habeas Corpus</i>
















DEPARTMENT 20
CASE SUMMARY
CASE No. 99C161426

05/08/2003	 Motion <i>Motion for an Enlargement of Time</i>
05/13/2003	 Response <i>State's Response to Defendant's Motion for an Enlargement of Time</i>
05/14/2003	Petition for Writ of Habeas Corpus (9:00 AM) <i>DEFT'S PRO PER PTN FOR WRIT OF HABEAS CORPUS AND APPOINTMENT OF COUNSEL/33 Court Clerk: Dorothy Kelly Reporter/Recorder: Carrie Hansen Heard By: Kathy Hardcastle</i>
06/02/2003	Motion (9:00 AM) Events: 05/08/2003 Motion <i>DEFT'S PRO PER MTN FOR AN ENLARGEMENT OF TIME/35 Court Clerk: Dorothy Kelly Reporter/Recorder: Deborah VanBlaricom Heard By: Kathy Hardcastle</i>
06/04/2003	 Findings of Fact, Conclusions of Law and Order
06/06/2003	 Order Denying Motion <i>Order Denying Defendant's Motion for Enlargement of Time</i>
06/11/2003	 Motion <i>Motion for Leave to File an Amended Petition for Writ of Habeas Corpus (Post-Conviction)</i>
06/16/2003	Further Proceedings (9:00 AM) <i>FURTHER PROCEEDINGS Court Clerk: Dorothy Kelly Reporter/Recorder: Carrie Hansen Heard By: Kathy Hardcastle</i>
06/23/2003	CANCELED Motion (9:00 AM) Events: 06/11/2003 Motion <i>Vacated</i>
07/16/2003	 Notice of Entry of Decision and Order
08/11/2003	 Brief Filed By: Defendant Mason, Mack C <i>Appellant's Brief</i>
09/21/2004	 Reporters Transcript <i>Transcript of Hearing Held on May 14, 2003</i>
09/21/2004	 Reporters Transcript <i>Transcript of Hearing Held on June 2, 2003</i>
10/01/2004	 Reporters Transcript <i>Transcript of Hearing Held on April 30, 2001</i>
01/31/2011	Case Reassigned to Department 20 <i>Case reassigned from Judge Kathy Hardcastle</i>
01/31/2011	 Petition for Writ of Habeas Corpus Filed by: Defendant Mason, Mack C <i>Petition for Writ of Habeas Corpus (Post-Conviction)</i>
01/31/2011	 Certificate












DEPARTMENT 20
CASE SUMMARY
CASE NO. 99C161426

	Filed By: Defendant Mason, Mack C <i>Financial Certificate (Sealed)</i>
01/31/2011	 Motion for Leave to Proceed in Forma Pauperis Filed By: Defendant Mason, Mack C <i>Motion to Proceed In Forma Pauperis (Sealed)</i>
01/31/2011	 Motion Filed By: Defendant Mason, Mack C <i>Motion for Leave to File a Longer than Normal Petition for Writ of Habeas Corpus (Post-Conviction Relief)</i>
01/31/2011	 Affidavit in Support Filed By: Defendant Mason, Mack C <i>Affidavit in Support of Petitioner's Ineffective Assistance of Counsel Claims</i>
01/31/2011	 Transcript of Proceedings Party: Defendant Mason, Mack C <i>Excerpts of Trial Transcripts</i>
02/10/2011	 Order for Petition for Writ of Habeas Corpus
02/28/2011	 Response <i>State's Response and Motion to Dismiss Defendant's Petition for Writ of Habeas Corpus (Post-Conviction)</i>
04/19/2011	 Petition for Writ of Habeas Corpus (9:00 AM) (Judicial Officer: Tao, Jerome T.) 04/19/2011, 04/28/2011 <i>Post-Conviction Relief</i>
04/20/2011	 Opposition to Motion to Dismiss Filed By: Defendant Mason, Mack C <i>Opposition to Respondent's Motion to Dismiss</i>
05/13/2011	 Order Denying Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Petition for Writ of Habeas Corpus (Post-Conviction)</i>
05/31/2011	 Petition Filed by: Defendant Mason, Mack C <i>Petition for Rehearing</i>
06/01/2011	 Notice of Appeal (criminal) Party: Defendant Mason, Mack C <i>Notice of Appeal</i>
06/06/2011	 Notice of Entry of Decision and Order
06/07/2011	 Case Appeal Statement
06/07/2011	 Case Appeal Statement Filed By: Defendant Mason, Mack C

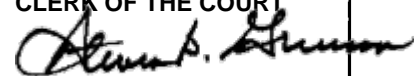
DEPARTMENT 20
CASE SUMMARY
CASE NO. 99C161426

12/19/2011	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed</i>
05/04/2015	Case Reassigned to Department 20 <i>Case reassigned from Judge Jerome Tao Dept 20</i>
06/09/2016	 Motion Filed By: Defendant Mason, Mack C
06/28/2016	 Response Filed by: Plaintiff State of Nevada <i>State's Response and Motion to Dismiss Defendant's Pro Per Motion Alleging Actual Innocence</i>
07/05/2016	 Motion (8:30 AM) (Judicial Officer: Johnson, Eric) <i>Defendant's Pro Per Motion</i>
09/14/2016	 Notice of Appeal (criminal) Party: Defendant Mason, Mack C <i>Notice of Appeal</i>
09/14/2016	 Designation of Record on Appeal Filed By: Defendant Mason, Mack C
09/15/2016	 Case Appeal Statement
09/19/2016	 Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff State of Nevada
09/19/2016	 Certificate of Service Filed by: Plaintiff State of Nevada
09/22/2016	 Notice of Entry <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
11/15/2016	 Petition for Writ of Habeas Corpus Filed by: Defendant Mason, Mack C <i>Petition for Writ of Habeas Corpus (Post-Conviction)</i>
11/15/2016	 Memorandum of Points and Authorities Filed By: Defendant Mason, Mack C
12/07/2016	 Order for Petition for Writ of Habeas Corpus
01/05/2017	 Opposition <i>State's Opposition to Defendant's Pro Per Petition for Writ of Habeas Corpus and Motion to Dismiss</i>
01/17/2017	 Motion Filed By: Defendant Mason, Mack C <i>Motion And Order For Transportation Of Inmate For Court Appearance Or, In The Alternative, For Appearance By Telephone Or Video Conference</i>

DEPARTMENT 20
CASE SUMMARY
CASE NO. 99C161426

02/02/2017	 Minute Order (3:00 PM) (Judicial Officer: Johnson, Eric)
02/07/2017	CANCELED Motion for Order (8:30 AM) (Judicial Officer: Johnson, Eric) <i>Vacated - per Judge</i> <i>Defendant's Pro Per Motion And Order For Transportation Of Inmate For Court Appearance Or, In The Alternative, For Appearance By Telephone Or Video Conference</i>
02/08/2017	 Minute Order (3:00 PM) (Judicial Officer: Johnson, Eric)
02/14/2017	 Response Filed by: Defendant Mason, Mack C <i>Response To State's Opposition To Petitioner's Petition For A Writ OF Habeas Corpus And Motion In Support OF Habeas Corpus Relief</i>
03/29/2017	 Minute Order (7:30 AM) (Judicial Officer: Johnson, Eric)
04/25/2017	 Petition for Writ of Habeas Corpus (8:30 AM) (Judicial Officer: Johnson, Eric) 04/25/2017, 10/24/2017
06/20/2017	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed</i>
01/22/2018	 Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff State of Nevada
01/31/2018	 Notice of Entry <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
03/02/2018	 Notice of Appeal (criminal) Party: Defendant Mason, Mack C <i>Notice of Appeal</i>
03/02/2018	 Designation of Record on Appeal Filed By: Defendant Mason, Mack C <i>Designation of Record on Appeal</i>
03/05/2018	 Case Appeal Statement <i>Case Appeal Statement</i>

DATE	FINANCIAL INFORMATION
Defendant Mason, Mack C	
Total Charges	275.00
Total Payments and Credits	2.30
Balance Due as of 3/5/2018	272.70



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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,
Plaintiff,

-vs-

MACK MASON, aka,
Mack C. Mason, #309692

Defendant.

CASE NO: 99C161426

DEPT NO: XX

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

DATE OF HEARING: OCTOBER 24, 2017
TIME OF HEARING: 8:30 AM

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

FINDINGS OF FACT, CONCLUSIONS OF LAW

PROCEDURAL BACKGROUND

On September 3, 1999, the State of Nevada charged MACK MASON, aka Mack C. Mason (hereinafter "Defendant") by way of Information with the following crimes: COUNT

1 1 – Burglary While in Possession of a Firearm (Felony – NRS 205.060, 193.165); COUNT 2
2 – Grand Larceny of a Firearm (Felony – NRS 205.226); COUNT 3 – Burglary While in
3 Possession of a Firearm (Felony – NRS 205.060, 193.165); COUNT 4 – Murder With Use of
4 a Deadly Weapon (Felony – NRS 200.010, 200.030, 193.165); COUNT 5 – Second Degree
5 Kidnapping With Use of a Deadly Weapon (Felony – NRS 200.310, 200.330, 193.165);
6 COUNT 6 – Possession of a Firearm by Ex-Felon (Felony – NRS 202.360). Defendant's jury
7 trial started on February 14, 2001, and finished on February 22, 2001. On February 27, 2001,
8 the jury returned guilty verdicts on COUNTS 1, 3, 4 & 5. The penalty phase of Defendant's
9 trial commenced on March 5, 2001.

10 On April 4, 2001, Defendant was sentenced to the following: COUNT 1 – a maximum
11 term of one hundred eighty (180) months in the Nevada Department of Corrections ("NDC")
12 with a minimum parole eligibility of forty (40) months and ordered to submit to a test to
13 determine genetic markers; COUNT 3 – maximum term of one hundred eighty (180) months
14 with a minimum of forty (40) months, concurrent with COUNT 1; COUNT 4 – Life without
15 the possibility of parole plus an equal and consecutive term of Life without the possibility of
16 parole for use of a deadly weapon, concurrent with COUNTS 1 & 3; COUNT 5 – maximum
17 of one hundred eighty (180) months with a minimum of forty (40) months with a consecutive
18 and equal term for use of a deadly weapon, consecutive to COUNT 4. Defendant was also
19 ordered to pay a \$25.00 Administrative Assessment Fee, a \$250.00 DNA Analysis Fee, and
20 \$8,519.00 in restitution. Defendant was given seven hundred nineteen (719) days credit for
21 time served.

22 On May 25, 2001, Defendant appealed his conviction to the Nevada Supreme Court.
23 On August 9, 2002, the Court affirmed Defendant's conviction, with remittitur issuing on
24 September 3, 2002.

25 On September 5, 2002, Defendant filed a Petition for Writ of Habeas Corpus (Post
26 Conviction). On September 25, 2002, Defendant filed a motion to voluntarily dismiss his
27 petition based on new information. That motion was granted on October 15, 2002.
28

1 Defendant then filed a new Petition for Writ of Habeas Corpus on January 23, 2003.
2 The State filed its response on May 2, 2003. On May 14, 2003, the Court denied Defendant's
3 petition on the merits, with a written order issuing on June 4, 2003. This petition and order
4 included claims of ineffective assistance of counsel, and counsel was deemed not to have been
5 ineffective. Defendant did not appeal denial of this second petition.

6 On January 31, 2011, Defendant filed a third Petition for Writ of Habeas Corpus. The
7 State filed its response on February 28, 2011. On April 28, 2011, the Court denied Defendant's
8 petition, with a written order issuing on May 13, 2011. On June 1, 2011 the Defendant filed a
9 Notice of Appeal regarding the dismissal of his Petition. On December 19, 2011, the Nevada
10 Supreme Court issued a written order affirming the dismissal of Defendant's petition on the
11 merits.

12 On June 9, 2016 Defendant filed yet another motion, without title, alleging ineffective
13 assistance of counsel and actual innocence as well as Constitutional violations of his 6th and
14 14th Amendment rights. The State filed a response to this motion on June 28, 2016. On July
15 5, 2015 the Court denied Defendant's motion, with a written order issuing on September 19,
16 2016. On September 14, 2016, Defendant filed a Notice of Appeal of this denial.

17 On November 15, 2016, Defendant filed a fourth Petition for Writ of Habeas Corpus.
18 The State's Opposition to Defendant's Post-Conviction Writ of Habeas Corpus and Motion to
19 Dismiss was filed on January 5, 2017. On June 20, 2017, the Nevada Supreme Court Clerk's
20 Certificate was filed affirming Defendant's judgment. On October 24, 2017, the Court denied
21 Defendant's Petition as follows.

22 ANALYSIS

23 **I. Defendant's Petition is Time-Barred Under NRS 34.726**

24 NRS 34.726 imposes a one-year time period for filing a post-conviction petition for a
25 writ of habeas corpus. Dickerson v. State, 114 Nev. 1084, 1086, 967 P.2d 1132, 1133 (1998).
26 The statutory one-year period begins to run from issuance of remittitur from a timely direct
27 appeal to the Nevada Supreme Court, or from the filing of the trial court's Judgment of
28 Conviction. Id. at 1087; NRS 34.726.

1 The pertinent provision of NRS 34.726 provides:

2 (1) Unless there is good cause shown for delay, a petition that
3 challenges the validity of a judgment or sentence must be filed
4 within 1 year after entry of the judgment of conviction or, if an
5 appeal has been taken from the judgment, within 1 year after the
6 Supreme Court issues its Remittitur. For the purposes of this
7 subsection, good cause for delay exists if the petitioner
8 demonstrates to the satisfaction of the court:

9 (a) That the delay is not the fault of the petitioner; and
10 (b) That dismissal of the petition as untimely will
11 unduly prejudice the petitioner.
12

13 The one-year time bar is strictly construed. In Gonzales v. State, 118 Nev. 590, 53 P.3d
14 901 (2002), the Nevada Supreme Court rejected a habeas petition that was filed two days late
15 pursuant to the “clear and unambiguous” provisions of NRS 34.726(1). Further, the Nevada
16 Supreme Court has held that the district court has a duty to consider whether a defendant’s
17 post-conviction petition claims are procedurally barred. State v. Eighth Judicial District Court,
18 121 Nev. 225, 112 P.3d 1070 (2005). The Court found that “[a]pplication of the statutory
19 procedural default rules to post-conviction habeas petitions is mandatory,” noting:

20 Habeas corpus petitions that are filed many years after conviction
21 are an unreasonable burden on the criminal justice system. The
22 necessity for a workable system dictates that there must exist a
23 time when a criminal conviction is final. Id. at 231, 112 P.3d at
24 1074.

25 Additionally, the Court noted that procedural bars “cannot be ignored [by the district
26 court] when properly raised by the State.” Id. at 233, 112 P.3d at 1075. The Nevada Supreme
27 Court has granted no discretion to the district courts regarding whether to apply the statutory
28 procedural bars, the rules must be applied.

Here, Remittitur issued for Defendant’s direct appeal on September 3, 2002. Thus,
Defendant had until September 3, 2003 to file his petition for post-conviction relief. Defendant
did not file the instant petition until November 16, 2016, approximately 14 years after the
Nevada Supreme Court issued its remittitur. Therefore, this court finds that Defendant’s
petition is time barred under NRS 34.726 and subject to mandatory dismissal.

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1 **II. Defendant's Petition is Successive and Thus Barred Under NRS 34.810(2)**

2 The instant petition is Defendant's fourth post-conviction petition for a writ of habeas
3 corpus (including a petition voluntarily dismissed at his own request). His most recent prior
4 petition was filed on January 31, 2011, and was denied on the merits in a written order filed
5 on June 4, 2003. NRS 34.810(2) provides:

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

10 In Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994), the Nevada Supreme Court
11 stated: "Without such limitations on the availability of post-conviction remedies, prisoners
12 could petition for relief in perpetuity and thus abuse post-conviction remedies." Id. at 358,
13 871 P.2d at 950. "In addition, meritless, successive and untimely petitions clog the court
14 system and undermine the finality of convictions." Id. The Nevada Supreme Court recognizes
15 that "[u]nlike initial petitions which certainly require a careful review of the record, successive
16 petitions may be dismissed based solely on the face of the petition." Ford v. Warden, 111 Nev.
17 872, 882, 901 P.2d 123, 129 (1995). In other words, if the claim or allegation was previously
18 available with reasonable diligence, it is an abuse of the writ to wait to assert it in a later
19 petition. McClesky v. Zant, 499 U.S. 467, 497-498 (1991). Second or successive petitions
20 will only be decided on the merits if the petitioner can show good cause and prejudice. NRS
21 34.810(3); Lozada, 110 Nev. at 358, 871 P.2d at 950.

22 Defendant's repeated filings of petitions creates the very issue that the Nevada Supreme
23 Court addressed in Lozada. Each of Defendant's prior petitions has been deemed untimely
24 and successive, yet Defendant's continual filing of petitions serves only to "clog the court
25 system and undermine the finality" of his conviction. Therefore, this court finds that
26 Defendant's instant petition must be dismissed as successive.

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1 **III. Defendant has Failed to Demonstrate Good Cause to Justify Consideration of His**
2 **Untimely and Successive Petition**

3 Defendant may overcome the two aforementioned procedural bars if he can show good
4 cause and prejudice. NRS 34.726(1) allows a defendant to avoid the time bar if “good cause
5 for delay exists.” Also, a petitioner may have a successive petition considered if he can
6 demonstrate: (1) good cause for failure to present the claim or for presenting the claim again,
7 and (2) actual prejudice. NRS 34.810(3). “To establish good cause, appellants must show that
8 an impediment external to the defense prevented their compliance with the applicable
9 procedural rule. A qualifying impediment might be shown where the factual or legal basis for
10 a claim was not reasonably available at the time of default.” Clem v. State, 119 Nev. 615,
11 621, 81 P.3d 521, 525 (2003); *see also* Hathaway v. State, 119 Nev. 248, 251, 71 P.3d 503,
12 506 (2003) (“In order to demonstrate good cause, a petitioner must show that an impediment
13 external to the defense prevented him or her from complying with the state procedural default
14 rules.”). Such an external impediment could be “that the factual or legal basis for a claim was
15 not reasonably available to counsel, or that ‘some interference by officials’ made compliance
16 impracticable.” *Id.* (*quoting* Murray v. Carrier, 477 U.S. 478, 488, 106 S.Ct. 2639, 2645
17 (1986)); *see also* Gonzalez, 118 Nev. at 595, 53 P.3d at 904 (citing Harris v. Warden, 114 Nev.
18 956, 959-60 n.4, 964 P.2d 785 n.4 (1998)).

19 The Nevada Supreme Court has clarified that, “appellants cannot attempt to
20 manufacture good cause[.]” Clem, 119 Nev. at 621, 81 P.3d at 526. The Court explained that
21 in order to establish prejudice, the defendant must show “not merely that the errors of [the
22 proceedings] created possibility of prejudice, but that they worked to his actual and substantial
23 disadvantage, in affecting the state proceedings with error of constitutional dimensions.”
24 Hogan v. Warden, 109 Nev. 952, 960, 860 P.2d 710, 716 (1993). To find good cause there
25 must be a “substantial reason; one that affords a legal excuse.” Hathaway, 119 Nev. at 251,
26 71 P.3d at 506; (*quoting* Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)).
27 Excuses such as the lack of assistance of counsel when preparing a petition as well as the
28 failure of trial counsel to forward a copy of the file to a petitioner have been found not to

1 constitute good cause. *See Phelps v. Dir. Nev. Dep't of Prisons*, 104 Nev. 656, 660, 764 P.2d
2 1303, 1306 (1988), superseded by statute on other grounds as recognized in *Nika v. State*, 120
3 Nev. 600, 607, 97 P.3d 1140, 1145 (2004); *Hood v. State*, 111 Nev. 335, 890 P.2d 797 (1995).
4 Defendant asserts no arguments to attempt to excuse his procedural default. Defendant has
5 attempted, on numerous occasions, to secure relief from his sentence and conviction. The
6 instant petition claims ineffective assistance of counsel (both trial and appellate - each prior
7 claims) based on improper joinder of charges - an issue which could have been presented in
8 any of the three possibilities authorized by NRS 34.810(1)(b)(1)-(3). The improper joinder
9 issue was apparent at trial and could have been raised on direct appeal or in a prior petition.
10 Defendant does not allege, and there are not, any new facts relevant to his case. His complaint
11 is a pure issue of law, and one which could have been raised previously. His failure to do so
12 requires that the instant petition be deemed successive and dismissed. Additionally, even if
13 this Court was persuaded that an impediment external to the defense prevented Defendant from
14 asserting the instant claims, his petition is still time-barred because he failed to assert them
15 within a reasonable time, *See Hathaway*, 119 Nev. at 252-53, 71 P.3d at 506, or no later than
16 NRS 34.726's one-year time period.

17 It is also not an excuse to state law procedural default if Defendant were now returning
18 to state court to exhaust his remedies after dismissal of his federal habeas petition. Raising
19 claims in an untimely and successive petition for purposes of exhaustion is not good cause.
20 *See Lozada*, 110 Nev. at 353, 871 P.2d at 946. The practice of federal district courts is to
21 dismiss without prejudice habeas petitions asserting claims unexhausted in state court; that
22 does not, however, mean the claims are not defaulted under state law. *See Teniente v.*
23 *Wyoming Atty. Gen.*, 2011 WL 14467 (10th Cir. 2011) ("Generally, federal courts 'should
24 dismiss unexhausted claims without prejudice so that the petitioner can pursue available state-
25 court remedies.' However, if the state court in which petitioner must exhaust his claims 'would
26 now find those claims procedurally barred, there is a procedural default for the purposes of
27 federal habeas review.'") (citations omitted); *see also Shumway v. Payne*, 223 F.3d 982, 988-
28

1 989 (9th Cir. 2000). This Court finds that dismissal of Defendant's petition is mandatory
2 pursuant to State v. Eighth Judicial District Court, *supra*.

3 **IV. The State Pleads Laches Under NRS 34.800.**

4 NRS 34.800 creates a rebuttable presumption of prejudice to the State if "[a] period
5 exceeding five years [elapses] between the filing of a judgment of conviction, an order
6 imposing a sentence of imprisonment or a decision on direct appeal of a judgment of
7 conviction and the filing of a petition challenging the validity of a judgment of conviction..."
8 The Nevada Supreme Court observed in Groesbeck v. Warden, 100 Nev. 259, 679 P.2d 1268
9 (1984), that "petitions [] filed many years after conviction are an unreasonable burden on the
10 criminal justice system. The necessity for a workable system dictates that there must exist a
11 time when a criminal conviction is final." To invoke the presumption, the statute requires the
12 State to plead laches in its motion to dismiss the petition. NRS 34.800(2).

13 The State affirmatively plead laches in this case. Remittitur in Defendant's direct
14 appeal was entered on September 3, 2002. Approximately 14 years later, Defendant filed the
15 instant petition. Defendant's delay exceeds the statute's presumptively prejudicial time period.
16 The State would be unreasonably burdened to identify witnesses and evidence in order to
17 refute Defendant's allegations. Therefore, this Court finds that Defendant has failed to rebut
18 the presumption of prejudice and thus this petition is barred pursuant to statutory laches.

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1 ORDER

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

4 DATED this 18 day of ^{January} ~~November~~, 2017.

5
6 
DISTRICT JUDGE JTT

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

10 BY  (for)
11 STEVEN S. OWENS
12 Chief Deputy District Attorney
13 Nevada Bar #004352

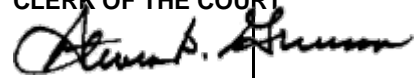
14 CERTIFICATE OF SERVICE

15 I certify that on the 13th day of November, 2017, I mailed a copy of the foregoing
16 proposed Findings of Fact, Conclusions of Law, and Order to:

17 Mack Mason # 69060
18 Southern Desert Correctional Center
19 P.O. Box 208
20 Indian Springs, Nevada 89070-0208

21
22 BY /s/ Stephanie Johnson
23 Secretary for the District Attorney's Office
24
25
26
27

28 99F07347X/AL/saj/MVU



NEO

**DISTRICT COURT
CLARK COUNTY, NEVADA**

MACK C MASON,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent,

Case No: 99C161426

Dept No: XX

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

PLEASE TAKE NOTICE that on January 22, 2018, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on January 31, 2018.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

CERTIFICATE OF E-SERVICE / MAILING

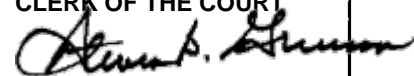
I hereby certify that on this 31 day of January 2018, I served a copy of this Notice of Entry on the following:

☒ By e-mail:
Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

☒ The United States mail addressed as follows:
Mack C Mason # 69060
P.O. Box 208
Indian Springs, NV 89070

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk



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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,
Plaintiff,

-vs-

MACK MASON, aka,
Mack C. Mason, #309692

Defendant.

CASE NO: 99C161426

DEPT NO: XX

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

DATE OF HEARING: OCTOBER 24, 2017
TIME OF HEARING: 8:30 AM

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

FINDINGS OF FACT, CONCLUSIONS OF LAW

PROCEDURAL BACKGROUND

On September 3, 1999, the State of Nevada charged MACK MASON, aka Mack C. Mason (hereinafter "Defendant") by way of Information with the following crimes: COUNT

1 1 – Burglary While in Possession of a Firearm (Felony – NRS 205.060, 193.165); COUNT 2
2 – Grand Larceny of a Firearm (Felony – NRS 205.226); COUNT 3 – Burglary While in
3 Possession of a Firearm (Felony – NRS 205.060, 193.165); COUNT 4 – Murder With Use of
4 a Deadly Weapon (Felony – NRS 200.010, 200.030, 193.165); COUNT 5 – Second Degree
5 Kidnapping With Use of a Deadly Weapon (Felony – NRS 200.310, 200.330, 193.165);
6 COUNT 6 – Possession of a Firearm by Ex-Felon (Felony – NRS 202.360). Defendant's jury
7 trial started on February 14, 2001, and finished on February 22, 2001. On February 27, 2001,
8 the jury returned guilty verdicts on COUNTS 1, 3, 4 & 5. The penalty phase of Defendant's
9 trial commenced on March 5, 2001.

10 On April 4, 2001, Defendant was sentenced to the following: COUNT 1 – a maximum
11 term of one hundred eighty (180) months in the Nevada Department of Corrections ("NDC")
12 with a minimum parole eligibility of forty (40) months and ordered to submit to a test to
13 determine genetic markers; COUNT 3 – maximum term of one hundred eighty (180) months
14 with a minimum of forty (40) months, concurrent with COUNT 1; COUNT 4 – Life without
15 the possibility of parole plus an equal and consecutive term of Life without the possibility of
16 parole for use of a deadly weapon, concurrent with COUNTS 1 & 3; COUNT 5 – maximum
17 of one hundred eighty (180) months with a minimum of forty (40) months with a consecutive
18 and equal term for use of a deadly weapon, consecutive to COUNT 4. Defendant was also
19 ordered to pay a \$25.00 Administrative Assessment Fee, a \$250.00 DNA Analysis Fee, and
20 \$8,519.00 in restitution. Defendant was given seven hundred nineteen (719) days credit for
21 time served.

22 On May 25, 2001, Defendant appealed his conviction to the Nevada Supreme Court.
23 On August 9, 2002, the Court affirmed Defendant's conviction, with remittitur issuing on
24 September 3, 2002.

25 On September 5, 2002, Defendant filed a Petition for Writ of Habeas Corpus (Post
26 Conviction). On September 25, 2002, Defendant filed a motion to voluntarily dismiss his
27 petition based on new information. That motion was granted on October 15, 2002.

1 Defendant then filed a new Petition for Writ of Habeas Corpus on January 23, 2003.
2 The State filed its response on May 2, 2003. On May 14, 2003, the Court denied Defendant's
3 petition on the merits, with a written order issuing on June 4, 2003. This petition and order
4 included claims of ineffective assistance of counsel, and counsel was deemed not to have been
5 ineffective. Defendant did not appeal denial of this second petition.

6 On January 31, 2011, Defendant filed a third Petition for Writ of Habeas Corpus. The
7 State filed its response on February 28, 2011. On April 28, 2011, the Court denied Defendant's
8 petition, with a written order issuing on May 13, 2011. On June 1, 2011 the Defendant filed a
9 Notice of Appeal regarding the dismissal of his Petition. On December 19, 2011, the Nevada
10 Supreme Court issued a written order affirming the dismissal of Defendant's petition on the
11 merits.

12 On June 9, 2016 Defendant filed yet another motion, without title, alleging ineffective
13 assistance of counsel and actual innocence as well as Constitutional violations of his 6th and
14 14th Amendment rights. The State filed a response to this motion on June 28, 2016. On July
15 5, 2015 the Court denied Defendant's motion, with a written order issuing on September 19,
16 2016. On September 14, 2016, Defendant filed a Notice of Appeal of this denial.

17 On November 15, 2016, Defendant filed a fourth Petition for Writ of Habeas Corpus.
18 The State's Opposition to Defendant's Post-Conviction Writ of Habeas Corpus and Motion to
19 Dismiss was filed on January 5, 2017. On June 20, 2017, the Nevada Supreme Court Clerk's
20 Certificate was filed affirming Defendant's judgment. On October 24, 2017, the Court denied
21 Defendant's Petition as follows.

22 ANALYSIS

23 **I. Defendant's Petition is Time-Barred Under NRS 34.726**

24 NRS 34.726 imposes a one-year time period for filing a post-conviction petition for a
25 writ of habeas corpus. Dickerson v. State, 114 Nev. 1084, 1086, 967 P.2d 1132, 1133 (1998).
26 The statutory one-year period begins to run from issuance of remittitur from a timely direct
27 appeal to the Nevada Supreme Court, or from the filing of the trial court's Judgment of
28 Conviction. Id. at 1087; NRS 34.726.

1 The pertinent provision of NRS 34.726 provides:

2 (1) Unless there is good cause shown for delay, a petition that
3 challenges the validity of a judgment or sentence must be filed
4 within 1 year after entry of the judgment of conviction or, if an
5 appeal has been taken from the judgment, within 1 year after the
6 Supreme Court issues its Remittitur. For the purposes of this
7 subsection, good cause for delay exists if the petitioner
8 demonstrates to the satisfaction of the court:

9 (a) That the delay is not the fault of the petitioner; and
10 (b) That dismissal of the petition as untimely will
11 unduly prejudice the petitioner.
12

13 The one-year time bar is strictly construed. In Gonzales v. State, 118 Nev. 590, 53 P.3d
14 901 (2002), the Nevada Supreme Court rejected a habeas petition that was filed two days late
15 pursuant to the “clear and unambiguous” provisions of NRS 34.726(1). Further, the Nevada
16 Supreme Court has held that the district court has a duty to consider whether a defendant’s
17 post-conviction petition claims are procedurally barred. State v. Eighth Judicial District Court,
18 121 Nev. 225, 112 P.3d 1070 (2005). The Court found that “[a]pplication of the statutory
19 procedural default rules to post-conviction habeas petitions is mandatory,” noting:

20 Habeas corpus petitions that are filed many years after conviction
21 are an unreasonable burden on the criminal justice system. The
22 necessity for a workable system dictates that there must exist a
23 time when a criminal conviction is final. Id. at 231, 112 P.3d at
24 1074.

25 Additionally, the Court noted that procedural bars “cannot be ignored [by the district
26 court] when properly raised by the State.” Id. at 233, 112 P.3d at 1075. The Nevada Supreme
27 Court has granted no discretion to the district courts regarding whether to apply the statutory
28 procedural bars, the rules must be applied.

Here, Remittitur issued for Defendant’s direct appeal on September 3, 2002. Thus,
Defendant had until September 3, 2003 to file his petition for post-conviction relief. Defendant
did not file the instant petition until November 16, 2016, approximately 14 years after the
Nevada Supreme Court issued its remittitur. Therefore, this court finds that Defendant’s
petition is time barred under NRS 34.726 and subject to mandatory dismissal.

///

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1 **II. Defendant's Petition is Successive and Thus Barred Under NRS 34.810(2)**

2 The instant petition is Defendant's fourth post-conviction petition for a writ of habeas
3 corpus (including a petition voluntarily dismissed at his own request). His most recent prior
4 petition was filed on January 31, 2011, and was denied on the merits in a written order filed
5 on June 4, 2003. NRS 34.810(2) provides:

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

10 In Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994), the Nevada Supreme Court
11 stated: "Without such limitations on the availability of post-conviction remedies, prisoners
12 could petition for relief in perpetuity and thus abuse post-conviction remedies." Id. at 358,
13 871 P.2d at 950. "In addition, meritless, successive and untimely petitions clog the court
14 system and undermine the finality of convictions." Id. The Nevada Supreme Court recognizes
15 that "[u]nlike initial petitions which certainly require a careful review of the record, successive
16 petitions may be dismissed based solely on the face of the petition." Ford v. Warden, 111 Nev.
17 872, 882, 901 P.2d 123, 129 (1995). In other words, if the claim or allegation was previously
18 available with reasonable diligence, it is an abuse of the writ to wait to assert it in a later
19 petition. McClesky v. Zant, 499 U.S. 467, 497-498 (1991). Second or successive petitions
20 will only be decided on the merits if the petitioner can show good cause and prejudice. NRS
21 34.810(3); Lozada, 110 Nev. at 358, 871 P.2d at 950.

22 Defendant's repeated filings of petitions creates the very issue that the Nevada Supreme
23 Court addressed in Lozada. Each of Defendant's prior petitions has been deemed untimely
24 and successive, yet Defendant's continual filing of petitions serves only to "clog the court
25 system and undermine the finality" of his conviction. Therefore, this court finds that
26 Defendant's instant petition must be dismissed as successive.

27 ///

28 ///

1 **III. Defendant has Failed to Demonstrate Good Cause to Justify Consideration of His**
2 **Untimely and Successive Petition**

3 Defendant may overcome the two aforementioned procedural bars if he can show good
4 cause and prejudice. NRS 34.726(1) allows a defendant to avoid the time bar if “good cause
5 for delay exists.” Also, a petitioner may have a successive petition considered if he can
6 demonstrate: (1) good cause for failure to present the claim or for presenting the claim again,
7 and (2) actual prejudice. NRS 34.810(3). “To establish good cause, appellants must show that
8 an impediment external to the defense prevented their compliance with the applicable
9 procedural rule. A qualifying impediment might be shown where the factual or legal basis for
10 a claim was not reasonably available at the time of default.” Clem v. State, 119 Nev. 615,
11 621, 81 P.3d 521, 525 (2003); *see also* Hathaway v. State, 119 Nev. 248, 251, 71 P.3d 503,
12 506 (2003) (“In order to demonstrate good cause, a petitioner must show that an impediment
13 external to the defense prevented him or her from complying with the state procedural default
14 rules.”). Such an external impediment could be “that the factual or legal basis for a claim was
15 not reasonably available to counsel, or that ‘some interference by officials’ made compliance
16 impracticable.” *Id.* (*quoting* Murray v. Carrier, 477 U.S. 478, 488, 106 S.Ct. 2639, 2645
17 (1986)); *see also* Gonzalez, 118 Nev. at 595, 53 P.3d at 904 (citing Harris v. Warden, 114 Nev.
18 956, 959-60 n.4, 964 P.2d 785 n.4 (1998)).

19 The Nevada Supreme Court has clarified that, “appellants cannot attempt to
20 manufacture good cause[.]” Clem, 119 Nev. at 621, 81 P.3d at 526. The Court explained that
21 in order to establish prejudice, the defendant must show “not merely that the errors of [the
22 proceedings] created possibility of prejudice, but that they worked to his actual and substantial
23 disadvantage, in affecting the state proceedings with error of constitutional dimensions.”
24 Hogan v. Warden, 109 Nev. 952, 960, 860 P.2d 710, 716 (1993). To find good cause there
25 must be a “substantial reason; one that affords a legal excuse.” Hathaway, 119 Nev. at 251,
26 71 P.3d at 506; (*quoting* Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)).
27 Excuses such as the lack of assistance of counsel when preparing a petition as well as the
28 failure of trial counsel to forward a copy of the file to a petitioner have been found not to

1 constitute good cause. *See Phelps v. Dir. Nev. Dep't of Prisons*, 104 Nev. 656, 660, 764 P.2d
2 1303, 1306 (1988), superseded by statute on other grounds as recognized in *Nika v. State*, 120
3 Nev. 600, 607, 97 P.3d 1140, 1145 (2004); *Hood v. State*, 111 Nev. 335, 890 P.2d 797 (1995).
4 Defendant asserts no arguments to attempt to excuse his procedural default. Defendant has
5 attempted, on numerous occasions, to secure relief from his sentence and conviction. The
6 instant petition claims ineffective assistance of counsel (both trial and appellate - each prior
7 claims) based on improper joinder of charges - an issue which could have been presented in
8 any of the three possibilities authorized by NRS 34.810(1)(b)(1)-(3). The improper joinder
9 issue was apparent at trial and could have been raised on direct appeal or in a prior petition.
10 Defendant does not allege, and there are not, any new facts relevant to his case. His complaint
11 is a pure issue of law, and one which could have been raised previously. His failure to do so
12 requires that the instant petition be deemed successive and dismissed. Additionally, even if
13 this Court was persuaded that an impediment external to the defense prevented Defendant from
14 asserting the instant claims, his petition is still time-barred because he failed to assert them
15 within a reasonable time, *See Hathaway*, 119 Nev. at 252-53, 71 P.3d at 506, or no later than
16 NRS 34.726's one-year time period.

17 It is also not an excuse to state law procedural default if Defendant were now returning
18 to state court to exhaust his remedies after dismissal of his federal habeas petition. Raising
19 claims in an untimely and successive petition for purposes of exhaustion is not good cause.
20 *See Lozada*, 110 Nev. at 353, 871 P.2d at 946. The practice of federal district courts is to
21 dismiss without prejudice habeas petitions asserting claims unexhausted in state court; that
22 does not, however, mean the claims are not defaulted under state law. *See Teniente v.*
23 *Wyoming Atty. Gen.*, 2011 WL 14467 (10th Cir. 2011) ("Generally, federal courts 'should
24 dismiss unexhausted claims without prejudice so that the petitioner can pursue available state-
25 court remedies.' However, if the state court in which petitioner must exhaust his claims 'would
26 now find those claims procedurally barred, there is a procedural default for the purposes of
27 federal habeas review.'") (citations omitted); *see also Shumway v. Payne*, 223 F.3d 982, 988-
28

1 989 (9th Cir. 2000). This Court finds that dismissal of Defendant's petition is mandatory
2 pursuant to State v. Eighth Judicial District Court, *supra*.

3 **IV. The State Pleads Laches Under NRS 34.800.**

4 NRS 34.800 creates a rebuttable presumption of prejudice to the State if "[a] period
5 exceeding five years [elapses] between the filing of a judgment of conviction, an order
6 imposing a sentence of imprisonment or a decision on direct appeal of a judgment of
7 conviction and the filing of a petition challenging the validity of a judgment of conviction..."
8 The Nevada Supreme Court observed in Groesbeck v. Warden, 100 Nev. 259, 679 P.2d 1268
9 (1984), that "petitions [] filed many years after conviction are an unreasonable burden on the
10 criminal justice system. The necessity for a workable system dictates that there must exist a
11 time when a criminal conviction is final." To invoke the presumption, the statute requires the
12 State to plead laches in its motion to dismiss the petition. NRS 34.800(2).

13 The State affirmatively plead laches in this case. Remittitur in Defendant's direct
14 appeal was entered on September 3, 2002. Approximately 14 years later, Defendant filed the
15 instant petition. Defendant's delay exceeds the statute's presumptively prejudicial time period.
16 The State would be unreasonably burdened to identify witnesses and evidence in order to
17 refute Defendant's allegations. Therefore, this Court finds that Defendant has failed to rebut
18 the presumption of prejudice and thus this petition is barred pursuant to statutory laches.

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1 **ORDER**

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

4 DATED this 18 day of ^{January} ~~November~~, 2017.

5
6 
DISTRICT JUDGE JTT

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

10 BY  (for)
11 STEVEN S. OWENS
12 Chief Deputy District Attorney
13 Nevada Bar #004352

14 **CERTIFICATE OF SERVICE**

15 I certify that on the 13th day of November, 2017, I mailed a copy of the foregoing
16 proposed Findings of Fact, Conclusions of Law, and Order to:

17 Mack Mason # 69060
18 Southern Desert Correctional Center
19 P.O. Box 208
20 Indian Springs, Nevada 89070-0208

21
22 BY /s/ Stephanie Johnson
23 Secretary for the District Attorney's Office
24
25
26
27

28 99F07347X/AL/saj/MVU

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 07, 1999

99C161426

The State of Nevada vs Mack C Mason

September 07, 1999

9:00 AM

Initial Arraignment

**INITIAL
ARRAIGNMENT**
**Court Clerk: SUSAN
BURDETTE/sb**
**Reporter/Recorder:
CATHY NELSON**
**Heard By: Michael
Douglas**

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Mason, Mack C
 O'Neale, Lawrence J.
 Schieck, David M.

Defendant
 Attorney
 Attorney

JOURNAL ENTRIES

- Stanley Walton, Esq., present for Mr. Langford on behalf of Deft. DEFENDANT MASON ARRAIGNED AND PLED NOT GUILTY. Mr. Schieck stated Deft. recognizes the work that needs to be done and waives the 60-day rule. COURT ORDERED, matter set for TRIAL. Upon Court's inquiry, Mr. O'Neale stated Count VI will be severed and reconsidered at trial. Mr. Schieck stated that Mr. Langford and he were appointed at the Justice Court level and requested that they be appointed, and COURT SO ORDERED.

CUSTODY

03-02-00 9:00 AM CALENDAR CALL

03-06-00 1:30 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 02, 2000**

99C161426

The State of Nevada vs Mack C Mason

March 02, 2000**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS 03-02-00
Court Clerk:
DOROTHY KELLY
Reporter/Recorder:
TINA SMITH Heard
By: Kathy Hardcastle**

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

Langford, Robert L.

Attorney

Mason, Mack C

Defendant

O'Neale, Lawrence J.

Attorney

Schieck, David M.

Attorney

JOURNAL ENTRIES**- DEFT'S MOTION TO CONTINUE TRIAL...CALENDAR CALL**

Mr. Schieck requested a one-week continuance for a status check to see when this trial can go forward. State concurred. COURT ORDERED, Trial date VACATED; matter CONTINUED. Court stated there will be a FIRM trial setting.

CUSTODY**03-09-00 9:00 A.M. RESET TRIAL DATE**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 09, 2000**

99C161426

The State of Nevada vs Mack C Mason

March 09, 2000**9:00 AM****Conversion Hearing Type****RESET TRIAL DATE****Relief Clerk: BILLIE****JO CRAIG****Reporter/Recorder:****TINA SMITH Heard****By: Kathy Hardcastle****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Hehn, William A.

Attorney

Langford, Robert L.

Attorney

Mason, Mack C

Defendant

Schieck, David M.

Attorney

JOURNAL ENTRIES

- COURT ORDERED, matter set for trial. Court advised this is a FIRM SETTING.

CUSTODY

8/23/00 9:00 AM CALENDAR CALL

8/28/00 10:30 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 23, 2000**

99C161426

The State of Nevada vs Mack C Mason

August 23, 2000**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS FOR
8/23/00 Relief Clerk:
BILLIE JO CRAIG
Reporter/Recorder:
CARRIE HANSEN
Heard By: Kathy
Hardcastle**

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

Langford, Robert L.

Attorney

Mason, Mack C

Defendant

Weckerly, Pamela C.

Attorney

JOURNAL ENTRIES

- DEFENDANT'S MOTION FOR DISCOVERY AND EVIDENTIARY HEARING...DEFENDANT'S
MOTION TO CONTINUE TRIAL SETTING...CALENDAR CALL

Court noted it met with counsel previously in chambers and the State had no objection to a
continuance. COURT ORDERED, matter SET for Reset Trial Date and CONTINUED Defendant's
Motion for Discovery and Evidentiary Hearing.

CUSTODY

8/30/00 9:00 AM RESET TRIAL DATE...DEFENDANT'S MOTION FOR DISCOVERY AND
EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 30, 2000

99C161426

The State of Nevada vs Mack C Mason

August 30, 2000

9:00 AM

All Pending Motions

**ALL PENDING
MOTIONS 08-30-00
Court Clerk:
DOROTHY KELLY
Reporter/Recorder:
TINA SMITH Heard
By: Kathy Hardcastle**

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Langford, Robert L.

Attorney

Mason, Mack C

Defendant

Schieck, David M.

Attorney

Weckerly, Pamela C.

Attorney

JOURNAL ENTRIES

- DEFT'S MOTION FOR DISCOVERY AND EVIDENTIARY HEARING...RESET TRIAL DATE
Court stated it reviewed the motion and does not find a basis to grant the evidentiary hearing; the standards have been met regarding the decision to seek the death penalty. COURT ORDERED, Deft's Motion for Evidentiary Hearing is DENIED. COURT FURTHER ORDERED, matter set for trial, scheduled for one (1) week.

CUSTODY

11-08-00 9:00 A.M. CALENDAR CALL

11-13-00 10:30 A.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 25, 2000

99C161426

The State of Nevada vs Mack C Mason

October 25, 2000

9:00 AM

All Pending Motions

**ALL PENDING
MOTIONS 10-25-00
Court Clerk:
DOROTHY KELLY
Reporter/Recorder:
TINA SMITH Heard
By: Kathy Hardcastle**

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

Langford, Robert L.

Attorney

Mason, Mack C

Defendant

Schieck, David M.

Attorney

Villegas, Victoria A.

Attorney

JOURNAL ENTRIES

- DEFT'S MOTION FOR DISCLOSURE OF PRE-SENTENCE REPORTS OR, IN THE ALTERNATIVE, FOR IN-CAMERA REVIEW...DEFT'S MOTION FOR DISCOVERY OF POTENTIAL PENALTY HEARING EVIDENCE...DEFT'S MOTION FOR DISCOVERY...DEFT'S MOTION TO ALLOW JURY QUESTIONNAIRE...DEFT'S MOTION TO COMPEL DISCLOSURE OF EXISTENCE OF SUBSTANCE OF EXPECTATIONS, OR ACTUAL RECEIPT OF BENEFITS OR PREFERENTIAL TREATMENT FOR COOPERATION WITH PROSECUTION

Mr. Schieck stated this is Deputy District Attorney, O'Neale's, case; he is in another Department today. He requested a continuance for his presence; COURT, SO ORDERED. Mr. Schieck advised Court he is proceeding forward with discovery.

CUSTODY

11-01-00 9:00 A.M. DEFT'S MOTIONS AS LISTED ABOVE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 01, 2000

99C161426

The State of Nevada vs Mack C Mason

November 01, 2000

9:00 AM

All Pending Motions

**ALL PENDING
MOTIONS FOR
11/1/00 Relief Clerk:
BILLIE JO CRAIG
Reporter/Recorder:
JAMES HELLESO
Heard By: Kathy
Hardcastle**

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Langford, Robert L.

Attorney

Mason, Mack C

Defendant

O'Neale, Lawrence J.

Attorney

Schieck, David M.

Attorney

JOURNAL ENTRIES

- DEFENDANT'S MOTION TO ALLOW JURY QUESTIONNAIRE...DEFENDANT'S MOTION FOR DISCLOSURE OF PRE-SENTENCE REPORTS OR FOR IN-CAMERA REVIEW...DEFENDANT'S MOTION TO COMPEL DISCLOSURE OF EXISTENCE AND SUBSTANCE OF EXPECTATIONS, OR ACTUAL RECEIPT OF BENEFITS OR PREFERENTIAL TREATMENT FOR COOPERATION WITH PROSECUTION...DEFENDANT'S MOTION FOR DISCOVERY...DEFENDANT'S MOTION FOR DISCOVERY OF POTENTIAL PENALTY HEARING EVIDENCE

As to Deft.'s Motion to Allow Jury Questionnaire, Court advised it had not reviewed it yet but usually no problems and counsel can meet in Chambers for final approval. As to the In-Camera Review, counsel to provide documents as soon as possible for review. As to Motion to Compel, COURT ORDERED, Motion DENIED. As to Motion for Discovery, defense counsel advised there

was one issue. Counsel to prepare an Order and Stipulation to the Court for signature. As to Motion for Discovery of Potential Penalty Hearing Evidence, COURT ORDERED, Motion GRANTED. COURT ORDERED, Trial Date STANDS. Counsel advised 4 days for Trial the week of 11/13/00 and 2 days for the Penalty Phase the week of 11/20/00.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****November 08, 2000**

99C161426

The State of Nevada vs Mack C Mason

November 08, 2000**9:00 AM****Calendar Call****CALENDAR CALL****Court Clerk:****DOROTHY KELLY****Reporter/Recorder:****TINA SMITH Heard****By: Kathy Hardcastle****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Mason, Mack C

Defendant

Schieck, David M.

Attorney

Weckerly, Pamela C.

Attorney

JOURNAL ENTRIES

- Court noted there was discussion in Chambers; the trial counsel is in another trial. Court noted it is the Court's motion to continue the trial and ORDERED, Trial date VACATED and RESET. Court stated this case will be given priority on the stack.

CUSTODY

02-07-01 9:00 A.M. CALENDAR CALL

02-12-01 10:30 A.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 07, 2001**

99C161426

The State of Nevada vs Mack C Mason

February 07, 2001**9:00 AM****Calendar Call****CALENDAR CALL
Relief Clerk: BILLIE
JO CRAIG
Reporter/Recorder:
LISA MASKOWSKI
Heard By: Sally
Loehrer****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Mason, Mack C

Defendant

O'Neale, Lawrence J.

Attorney

Schieck, David M.

Attorney

Weckerly, Pamela C.

Attorney

JOURNAL ENTRIES

- Colloquy regarding Trial start date. COURT ORDERED, Tridal Date VACATED and RESET for a 5-day Trial plus penalty if convicted. The State has 22 witnesses with 2 out-of-state witnesses.

CUSTODY

2/14/01 10:30 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 14, 2001**

99C161426

The State of Nevada vs Mack C Mason

February 14, 2001**10:30 AM****Jury Trial****TRIAL BY JURY****Court Clerk:****DOROTHY KELLY****Heard By: Hardcastle,
Kathy****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Langford, Robert L.

Attorney

Mason, Mack C

Defendant

O'Neale, Lawrence J.

Attorney

Schieck, David M.

Attorney

Weckerly, Pamela C.

Attorney

JOURNAL ENTRIES

- Court convened at 11:26 A.M. Statements by Mr. O'Neale and Mr. Schieck. Voir Dire Oath administered to Panel. Voir Dire of Panel conducted. Court admonished and excused panel and recessed at 4:55 P.M.

TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 15, 2001**

99C161426

The State of Nevada vs Mack C Mason

February 15, 2001**9:00 AM****Jury Trial****TRIAL BY JURY****Court Clerk:****DOROTHY KELLY****Reporter/Recorder:****TINA SMITH Heard****By: Hardcastle, Kathy****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Langford, Robert L.

Attorney

Mason, Mack C

Defendant

O'Neale, Lawrence J.

Attorney

Schieck, David M.

Attorney

Weckerly, Pamela C.

Attorney

JOURNAL ENTRIES

- Court convened at 10:39 A.M. Voir Dire of Panel resumed. Twelve jurors and two alternates selected and sworn. Information read by the Clerk. Court read instructions to jurors. Opening statements by Mr. O'Neale and and Mr. Schieck. After afternoon recess, Court convened OUTSIDE THE PRESENCE OF THE JURY. Mr. Schieck stated during the peremptory challenges, State exercised a challenge of Mr. Cayce, an African American. He further stated he requested State make an offer of Baston and they did. He continued that in light of there being two African Americans on the jury, the defense does not have a formal Batson to make on the record. Mr. O'Neale stated there may be a Petrocelli issue wherein he spoke to Mrs. Mason in 1998, and she informed him she missed a video camcorder and she questioned the deft and he told her he pawned it; she redeemed it and put it in the same area as the gun; she then took the camcorder to someone else's house. He said there is a reasonable inference that someone was looking for something else and may be looking for the

camcorder again. Court responded the ransacking of the house is not relevant. INSIDE THE PRESENCE OF JURY: Witnesses sworn and testified; exhibits marked and admitted, as per worksheet. Court admonished and excused jurors and recessed at 5:00 P.M. Trial to resume tomorrow.

TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 16, 2001**

99C161426

The State of Nevada vs Mack C Mason

February 16, 2001**1:30 PM****Jury Trial****TRIAL BY JURY****Relief Clerk:****GEORGETTE****BYRD/GB****Reporter/Recorder:****TINA SMITH Heard****By: Hardcastle, Kathy****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Langford, Robert L.

Attorney

Mason, Mack C

Defendant

O'Neale, Lawrence J.

Attorney

Schieck, David M.

Attorney

Weckerly, Pamela C.

Attorney

JOURNAL ENTRIES

- 9:06 AM outside the presence of the jury, Mr. O'Neale DDA stated he spoke with witness P. Braxton last night regarding a 5/99 conversation with the defendant. Mr. O'Neale requested the defendant say during testimony "A" instead of "another" due to State's denied motion of prior bad acts. Mr. Schieck stipulated, COURT SO ORDERED. Mr. O'Neale stated the State will rest Wednesday morning.

9:10 AM jury present followed by cross examination of witness. Exhibts marked per the worksheet. Objections by the Defense regarding State's exhibit #13. 10:30 AM Court excused the jury for the morning break. Outside the presence of the jury, Mr. Schieck raised his objections to State's exhibit #13 indicating the photo was too gruesome and used to revoke a sympathetic action. Mr. O'Neale stated he did not think the exhibit was unfairly prejudicial. COURT ORDERED, based upon

statements by the State, it will overrule Defendant's objection, exhibit #13 will be admitted. With State's witnesses scheduled for the afternoon, Court excused the jury for the lunch hour. 1:05 PM outside the presence of the jury, Mr. O'Neale stated he spoke to his witness from the K-9 Unit regarding the case. Upon questioning by the State, the witness told Mr. O'Neale he could not remember the case and refreshed his memory by reading his report. Mr. O'Neale stated he did not know there was a report, he would have admitted it prior to trial and proceeded to make copies for the Defense. Mr. O'Neal stated he does not think there are any surprises in it. Mr. Langford stated the report does not appear to have anything substantial in it. COURT ORDERED, if there is anything in the report that creates a problem, the Court will take a recess. Court proceeded with the trial. 1:12PM Jury present followed by continued testimony. Exhibits marked per the worksheet. 2:45 PM Court excused the jury for the evening until 2/20/01 at 1:30 PM.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 20, 2001

99C161426

The State of Nevada vs Mack C Mason

February 20, 2001

10:30 AM

Jury Trial

TRIAL BY JURY

Court Clerk:

DOROTHY KELLY

Reporter/Recorder:

TINA SMITH Heard

By: Hardcastle, Kathy

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

Langford, Robert L.

Attorney

Mason, Mack C

Defendant

O'Neale, Lawrence J.

Attorney

Schieck, David M.

Attorney

Weckerly, Pamela C.

Attorney

JOURNAL ENTRIES

- Court convened INSIDE THE PRESENCE OF THE JURY at 1:35 P.M. Witnesses sworn and testified, as per worksheet. OUTSIDE PRESENCE OF JURY: Mr. O'Neale stated the crime scene analyst opened a wallet containing papers in front of the Clerk; he wants to offer the pawn ticket, ID and cancellation receipt; he will not offer the miscellaneous papers; neither side has looked at these items until today. Court showed counsel a note received from a juror regarding a statement by a witness as to filing income tax. Court stated the information as to filing income tax is information known by a lot of people; the matter will be covered by jury instructions. Court stated if counsel wants something additional, they can come up with a stipulation or put it on the record tomorrow. Mr. Langford stated while walking to the Courthouse today, someone came up and smiled and he said 'hello'. He further stated it occurred to both of them, she was a juror and he the defense attorney. Mr. O'Neale stated he wanted the foregoing on the record as there may have been an affidavit in

several years. Mr. Schieck stated he advised Mr. O'Neale the defense is adding more witnesses, Felicia Jackson's brother, a Vista Motel female clerk and the custodian of records from Marks Bros. Jewelry Store. Mr. O'Neale stated he will deal with that issue when the witnesses are offered. INSIDE THE PRESENCE OF THE JURY: Testimony presented; exhibits marked and admitted, as per worksheet. Court admonished and excused jury. OUTSIDE PRESENCE OF JURY: Court advised deft of his right to or not to testify. Court adjourned at 4:44 P.M.
TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 21, 2001**

99C161426

The State of Nevada vs Mack C Mason

February 21, 2001**9:30 AM****Jury Trial****TRIAL BY JURY****Court Clerk:****DOROTHY KELLY****Reporter/Recorder:****TINA SMITH Heard****By: Hardcastle, Kathy****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Langford, Robert L.

Attorney

Mason, Mack C

Defendant

O'Neale, Lawrence J.

Attorney

Schieck, David M.

Attorney

Weckerly, Pamela C.

Attorney

JOURNAL ENTRIES

- Court CONVENED OUTSIDE THE PRESENCE OF THE JURY at 10:40 A.M. Mr. O'Neale stated if defense contests voluntariness of defendant's statement, a hearing will be necessary. Mr. Schieck stated defense will not contest same. Court stated it reviewed in camera three PSI's on Dudley Thomas and did not find anything discoverable about his background. INSIDE PRESENCE OF JURY: Testimony resumed; exhibits marked and admitted, as per worksheet. State RESTED at 2:02 P.M. Defense witnesses sworn and testified, exhibits marked and admitted, as per worksheet. Court admonished and excused jury and recessed at 5:04 P.M.

TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 22, 2001**

99C161426

The State of Nevada vs Mack C Mason

February 22, 2001**10:00 AM****Jury Trial****TRIAL BY JURY****Court Clerk:****DOROTHY KELLY****Reporter/Recorder:****TINA SMITH Heard****By: Hardcastle, Kathy****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Langford, Robert L.

Attorney

Mason, Mack C

Defendant

O'Neale, Lawrence J.

Attorney

Schieck, David M.

Attorney

Weckerly, Pamela C.

Attorney

JOURNAL ENTRIES

- Court CONVENED OUTSIDE THE PRESENCE OF THE JURY at 10:26 A.M. Jury Instructions Settled. No objection by either side to verdict forms. INSIDE PRESENCE OF JURY: Testimony presented; exhibits marked and admitted, as per worksheet. Defense RESTED. State presented Rebuttal Witnesses. Both sides RESTED. Court read Jury Instructions to Jury. Closing arguments by Ms. Weckerly, Ms. Langford and Mr. Schieck. Rebuttal argument by Mr. O'Neale. Jurors left to begin deliberations at 4:22 P.M. Jury excused for the day at approximately 5 P.M. and to return tomorrow at 8:30 A.M. to resume deliberations.

TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 23, 2001**

99C161426

The State of Nevada vs Mack C Mason

February 23, 2001**10:00 AM****Jury Trial****TRIAL BY JURY****Court Clerk:****DOROTHY KELLY****Heard By: Hardcastle,
Kathy****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Jury deliberated all day without reaching a verdict and were excused at 4:20 P.M. to return on Monday, February 26th.

TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 26, 2001

99C161426

The State of Nevada vs Mack C Mason

February 26, 2001

1:45 PM

Jury Trial

TRIAL BY JURY**Relief Clerk:****GEORGETTE****BYRD/GB****Reporter/Recorder:****TINA SMITH Heard****By: Hardcastle, Kathy****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Langford, Robert L.

Attorney

Mason, Mack C

Defendant

O'Neale, Lawrence J.

Attorney

Schieck, David M.

Attorney

Weckerly, Pamela C.

Attorney

JOURNAL ENTRIES

- 4:03 PM jury foreperson brought in and questioned regarding jury misconduct as to another juror. Juror #7 brought in and questioned by the Court, and then returned to the deliberation room.

Outside the presence of the jury, colloquy between Court and Counsel regarding allen charge. Jury panel brought into courtroom and read the allen charge which was added to the jury instructions as #48. Court exused the jury until 2/27/01 at 9:30 AM.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 27, 2001**

99C161426

The State of Nevada vs Mack C Mason

February 27, 2001**1:45 PM****Jury Trial****TRIAL BY JURY****Court Clerk:****DOROTHY KELLY****Reporter/Recorder:****TINA SMITH Heard****By: Kathy Hardcastle****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Langford, Robert L.

Attorney

Mason, Mack C

Defendant

O'Neale, Lawrence J.

Attorney

Schieck, David M.

Attorney

Weckerly, Pamela C.

Attorney

JOURNAL ENTRIES

- Court convened OUTSIDE THE PRESENCE OF THE JURY at 1:31 P.M. Court informed counsel the jury reached their verdicts and stated the State may be requesting to reopen the case to submit evidence of possession of firearm by ex-felon. Court stated it will bring in the Jury and review the verdicts; if the verdicts are in order, they will be read and if it is requested the jury be polled, they will be. Court further stated if the State wants to re-open the case, the Court will inform the Jury and the State may submit what evidence they have, as well as the defense, and Court will read Jury Instructions to the Jury. Mr. Schieck stated he has no objection to the Jury Instructions but objects to the procedure. He further stated as to ex-felon charges, the Supreme Court ruled in a case the charges had to be severed. He continued that he felt that meant a separate trial and jury. He further stated he does not know if the deft received adequate information from counsel as to what effect his testifying has to the ex-felon charge. He further stated if the State wants to proceed with the ex-felon

charge he wants a new jury selected on that charge. Mr. O'Neale stated before the start of trial it was discussed about not reading Count VI to the Jury; that does not affect the deft's decision to or not to testify. He further stated there was never an indication the charge would be severed to a separate jury. He continued that he does not know if it will be necessary to proceed, as the verdicts have not been read; there is no error in proceeding the way the Court has indicated. Mr. Schieck stated he and Mr. Langford agree the concept of the same jury was not discussed. Court stated the purpose of siphoning the ex-felon charge is that the jury is not influenced by that charge. Court noted the procedure requested by the State has been done before; this is not something new and the procedure will be followed as outlined. Court stated Jury Instruction Numbers 49, 50, 51 and 52 will be added on and the jury will deliberate. No objection by Mr. Schieck to the Possession of Firearm by Ex-Felon Verdict Form. Jurors returned to the Courtroom and the Clerk read the following verdicts: COUNTS I,III - BURGLARY WHILE IN POSSESSION OF A FIREARM - GUILTY COUNT II - GRAND LARCENY OF A FIREARM - NOT GUILTY COUNT IV - MURDER WITH USE OF A DEADLY WEAPON (OPEN MURDER) - GUILTY COUNT V - SECOND DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON - GUILTY

Jurors polled at request of counsel. Court advised jurors of the date of the penalty hearing and admonished and excused them for the day and recessed at 1:50 P.M.

CUSTODY

03-05-01 10:30 A.M. PENALTY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 05, 2001

99C161426

The State of Nevada vs Mack C Mason

March 05, 2001

9:00 AM

All Pending Motions

**ALL PENDING
MOTIONS 03-05-01
Court Clerk:
DOROTHY KELLY
Reporter/Recorder:
TINA SMITH Heard
By: Kathy Hardcastle**

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Langford, Robert L.

Attorney

Mason, Mack C

Defendant

O'Neale, Lawrence J.

Attorney

Schieck, David M.

Attorney

Weckerly, Pamela C.

Attorney

JOURNAL ENTRIES

- PENALTY HEARING...DEFT'S MTM IN LIMINE TO LIMIT PENALTY HEARING EVIDENCE TO THE NOTICE OF EVIDENCE IN AGGRAVATION Argument by Mr. Schieck in support of his motion. He cited Rule 250 and Rule 250 (4) (f), and stated Subsection (4) (f) applies to character evidence and to any evidence presented at the penalty hearing. Argument by Mr. O'Neale, who stated the defense has been on notice of the evidence at issue for months. He further stated there is no due process violation and there is no harm here. Further argument by Mr. Schieck, who stated in addition to Flora Mason's statements, the State said it was going to call Steve Owens; he is not endorsed. He further stated the State has not given statutory notice. COURT ORDERED, evidence by Deputy District Attorney, Steve Owens, will not be permitted. Court stated it will take UNDER ADVISEMENT the Statement of Flora Mason regarding the 1995 incident. COURT ORDERED,

testimony as to the January 27, 1999, and December 13, 1996, incidents will be allowed in; counsel may bring in that debt was convicted of a gross misdemeanor in 1995; if defense wants to bring in the Alford Plea the definition of Alford Plea will be allowed. Court informed counsel of communication received by the bailiff from one of the jurors. INSIDE THE PRESENCE OF THE JURY: Opening Statements by Ms. Weckerly and Mr. Schieck. Testimony presented, exhibits marked and admitted, as per worksheet. OUTSIDE PRESENCE OF THE JURY: Flora Mason questioned by State and defense counsel so Court could determine admissibility of her statements. COURT ORDERED, Testimony of Flora Mason will be ALLOWED. INSIDE PRESENCE OF THE JURY: Testimony resumed. State RESTED. Testimony presented; exhibits marked and admitted, as per worksheet. Defense RESTED. OUTSIDE PRESENCE OF THE JURY: Jury Instructions SETTLED. No objection by either side to Verdict Forms. INSIDE PRESENCE OF JURY: Court read Jury Instructions to Jury. Closing arguments by Mr. O'Neale, Mr. Schieck, Mr. Langford and Ms. Weckerly. Jury left to begin deliberations at 4:20 P.M. Jury was excused at approximately 5:00 P.M. to return tomorrow at 9:00 A.M.

PENALTY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 06, 2001**

99C161426

The State of Nevada vs Mack C Mason

March 06, 2001**10:00 AM****Penalty Hearing**

**PENALTY
HEARING Court
Clerk: DOROTHY
KELLY
Reporter/Recorder:
TINA SMITH Heard
By: Kathy Hardcastle**

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

Langford, Robert L.

Attorney

Mason, Mack C

Defendant

O'Neale, Lawrence J.

Attorney

Schieck, David M.

Attorney

Weckerly, Pamela C.

Attorney

JOURNAL ENTRIES

- Jury returned at 1:30 P.M. with the following Verdicts, which were read by the Clerk. Jury IMPOSED a sentence of LIFE IN NEVADA STATE PRISON WITHOUT THE POSSIBILITY OF PAROLE in CT. IV - Murder of the First Degree With Use of a Deadly Weapon. As to the SPECIAL VERDICT, Jury DESIGNATED that the mitigating circumstance or circumstances as follows have been established: 1) The deft has conformed to the rules and regulations of his incarceration and served as a trustee in the Clark County Detention Center. 2) The deft acted under the influence of passion or emotion. 3) The deft did not physically harm Felicia Jackson. 4) The deft completed the Crossroads Bible Institute's "Great Truths of the Bible" course. 5) The age of the deft. 6) Any other mitigating circumstances.

As to the Special Verdict, the Jury DESIGNATED that the Aggravating Circumstance or

Circumstances, as follows, have been established beyond a reasonable doubt: 1) The murder was committed while the person was engaged in the commission of or an attempt to commit any Burglary and the deft killed the person murdered. 2) The murder was committed by a person who had previously been convicted of a felony involving the use or threat of violence to the person of another. Jurors polled as to the Verdict of Life in NSP Without the Possibility of Parole at the request of Mr. Schieck. Court thanked and excused the Jury and ORDERED, matter REFERRED to the Division of Parole and Probation for a Pre-Sentence Report and set for sentencing on the remaining counts. CUSTODY

04-30-01 9:00 A.M. SENTENCING - CTS. I-III & V (Jury Verdict)

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****April 30, 2001**

99C161426

The State of Nevada vs Mack C Mason

April 30, 2001**9:00 AM****Sentencing****SENTENCING****Court Clerk:****DOROTHY KELLY****Reporter/Recorder:****TINA SMITH Heard****By: Kathy Hardcastle****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Mason, Mack C

Defendant

O'Neale, Lawrence J.

Attorney

Schieck, David M.

Attorney

JOURNAL ENTRIES

- Ken Wheaton present for the Division of Parole and Probation. Mr. Schieck stated the deft provided him with a Pro Per Motion and is requesting it be filed to preserve the record. He further stated the deft wants the conviction overturned due to insufficient evidence. Court responded that is a matter to be raised on direct appeal. After conferring with Mr. Schieck, COURT ORDERED, David Schieck is APPOINTED to represent deft on appeal. Court DENIED Mr. Schieck's request to file deft's motion at the deft's request, stating no pro per motions can be filed when deft is represented by counsel. DEFT MASON ADJUDGED GUILTY OF COUNTS I AND III, BURGLARY WHILE IN POSSESSION OF A FIREARM (F), COUNT IV, MURDER WITH USE OF A DEADLY WEAPON (OPEN MURDER) (F) AND COUNT V - SECOND DEGREE KIDNAPING WITH USE OF A DEADLY WEAPON (F). Statement by Mr. Schieck. In addition to the \$25 Administrative Assessment Fee, \$250 DNA Fee and \$8,519 RESTITUTION, COURT ORDERED, Deft SENTENCED in CT. I to a MAXIMUM term of ONE HUNDRED EIGHTY (180) MONTHS in the Nevada Department of Prisons with a MINIMUM Parole Eligibility of FORTY (40) MONTHS and is to submit to a test to determine genetic markers and in CT.

III to a MAXIMUM term of ONE HUNDRED EIGHTY (180) MONTHS in the Nevada Department of Prisons with a MINIMUM Parole Eligibility of FORTY (40) MONTHS to run CONCURRENTLY with sentence in CT. I, and as to CT. IV, Court noted the Jury SENTENCED the deft to a term of LIFE, to be served CONCURRENTLY with COUNTS I and III, and as to CT. V, Deft SENTENCED to a MAXIMUM term of ONE HUNDRED EIGHTY (180) MONTHS in the Nevada Department of Prisons with a MINIMUM Parole Eligibility of FORTY (40) MONTHS plus an EQUAL and CONSECUTIVE term of a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM of FORTY (40) MONTHS for weapon enhancement to be served CONSECUTIVELY to COUNT IV, with 719 Days Credit for Time Served.

CLERK'S NOTE: Clerk was advised by the Court the State was not going forward on Ct. VI - Possession of Firearm by Ex-Felon, therefore, that Count is DISMISSED. dk

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 14, 2001

99C161426

The State of Nevada vs Mack C Mason

May 14, 2001

9:00 AM

Motion

**STATE'S MOTION
FOR RETURN OF
EVIDENCE Court
Clerk: DOROTHY
KELLY
Reporter/Recorder:
TINA SMITH Heard
By: Kathy Hardcastle**

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Mason, Mack C

Defendant

O'Neale, Lawrence J.

Attorney

Schieck, David M.

Attorney

JOURNAL ENTRIES

- Objection by Mr. Schieck to State's motion. He stated there was a witness who indicated there was a shiny chrome pistol used; if there is any reason the defendant is able to obtain a new trial, the gun is crucial evidence. Mr. Schieck further stated he has no objection to the return of the shotgun.

Argument by Mr. O'Neale, who stated that denying the motion would deprive the rightful owner of the gun. He further stated the issue of 'shiny' is a matter of fact for the jury. Court stated a similar gun could be shown and ORDERED, State's Motion for Return of Evidence is GRANTED. Mr. Schieck stated he will not waive the right to a similar gun.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****October 07, 2002**

99C161426

The State of Nevada vs Mack C Mason

October 07, 2002**9:00 AM****Request****DEFT'S PRO PER
REQUEST
VOLUNTARY
DISMISSAL/32
Court Clerk: Carole
D'Aloia
Reporter/Recorder:
Tina Smith Heard
By: Kathy Hardcastle****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Hehn, William A.

Attorney

JOURNAL ENTRIES

- COURT ORDERED, motion GRANTED and future date of 11/4/02 VACATED.
NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 10, 2003**

99C161426

The State of Nevada vs Mack C Mason

March 10, 2003**9:00 AM****Petition for Writ of Habeas
Corpus****DEFT'S PRO PER
PTN FOR WRIT OF
HABEAS CORPUS
AND
APPOINTMENT OF
COUNSEL/33 Court
Clerk: Dorothy Kelly
Reporter/Recorder:
Carrie Hansen Heard
By: Hardcastle, Kathy****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**Miller, James J.
Schieck, David M.Attorney
Attorney**JOURNAL ENTRIES**

- COURT ORDERED, David Schieck's Request to Withdraw as Counsel is GRANTED. COURT FURTHER ORDERED, matter CONTINUED for the State to file an Opposition.
NDC

DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS AND APPOINTMENT OF
COUNSEL

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****March 12, 2003**

99C161426

The State of Nevada vs Mack C Mason

March 12, 2003**9:00 AM****Petition for Writ of Habeas
Corpus****DEFT'S PRO PER
PTN FOR WRIT OF
HABEAS CORPUS
AND
APPOINTMENT OF
COUNSEL/33 Court
Clerk: Dorothy Kelly
Reporter/Recorder:
Carrie Hansen Heard
By: Hardcastle, Kathy****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Bauer, Elizabeth B.

Attorney

JOURNAL ENTRIES

- Ms. Bauer noted the State does not have a Writ yet. Court stated that one has been filed. Court stated it needs a response from the State as to appointment of counsel and ORDERED, matter CONTINUED.

NDC

DEFT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION) AND
APPOINTMENT OF COUNSEL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 14, 2003**

99C161426

The State of Nevada vs Mack C Mason

April 14, 2003**9:00 AM****Motion**

**DEFT'S PRO PER
MTN TO SECURE/34
Relief Clerk: Billie Jo
Craig
Reporter/Recorder:
Carrie Hansen Heard
By: Kathy Hardcastle**

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

Roger, David J.

Attorney

Whicker, Dennis G.

Attorney

JOURNAL ENTRIES

- Mr. Whicker advised no reply was filed as it is due May 14, 2003. COURT ORDERED, Defendant's Pro Per Motion to Secure is DENIED as it is untimely.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 14, 2003

99C161426

The State of Nevada vs Mack C Mason

May 14, 2003

9:00 AM

Petition for Writ of Habeas
Corpus

DEFT'S PRO PER
PTN FOR WRIT OF
HABEAS CORPUS
AND
APPOINTMENT OF
COUNSEL/33 Court
Clerk: Dorothy Kelly
Reporter/Recorder:
Carrie Hansen Heard
By: Kathy Hardcastle

HEARD BY:

COURTROOM:

COURT CLERK:

RECORDER:

REPORTER:

PARTIES**PRESENT:**

Bauer, Elizabeth B.

Attorney

JOURNAL ENTRIES

- Court stated Deft. has not set forth grounds for a basis for the Petition for the necessity of appointment of counsel; just bare allegation. COURT ORDERED, Deft's Pro Per Petition for Writ of Habeas Corpus (Post Conviction) and Appointment of Counsel. State to prepare the Order.

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****June 02, 2003**

99C161426

The State of Nevada vs Mack C Mason

June 02, 2003**9:00 AM****Motion****DEFT'S PRO PER
MTN FOR AN
ENLARGEMENT
OFOF TIME/35
Court Clerk: Dorothy
Kelly
Reporter/Recorder:
Deborah
VanBlaricom Heard
By: Kathy Hardcastle****HEARD BY:****COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Miller, James J.

Attorney

JOURNAL ENTRIES

- Court stated Deft's presence is waived and ORDERED, Deft's Pro Per Motion for Enlargement of Times is DENIED. COURT FURTHER ORDERED, matter CONTINUED two weeks to look at the file and to see if everything has been decided.

NDC

06-16-03 9:00 A.M. FURTHER PROCEEDINGS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 16, 2003**

99C161426

The State of Nevada vs Mack C Mason

June 16, 2003**9:00 AM****Further Proceedings**

**FURTHER
PROCEEDINGS
Court Clerk: Dorothy
Kelly
Reporter/Recorder:
Carrie Hansen Heard
By: Kathy Hardcastle**

HEARD BY:**COURTROOM:****COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:** Fattig, John T

Attorney

JOURNAL ENTRIES

- Court noted it previously denied a Writ on May 14, 2003, and further noted Deft's Motion for Enlargement of Time was denied. COURT ORDERED, Deft's Pro Per Motion for Leave to File an Amended Petition for Writ of Habeas Corpus scheduled to be heard on June 23rd, is DENIED on the basis it was filed untimely. June 23rd, Date is VACATED. Deft's presence is WAIVED; Case CLOSED.
NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 19, 2011**

99C161426

The State of Nevada vs Mack C Mason

April 19, 2011**9:00 AM****Petition for Writ of Habeas
Corpus****HEARD BY:** Barker, David**COURTROOM:** RJC Courtroom 10D**COURT CLERK:** Tia Everett**RECORDER:** Sara Richardson**REPORTER:****PARTIES****PRESENT:**

Fattig, John T

Attorney

Attorney

State of Nevada

Plaintiff

JOURNAL ENTRIES

- Court noted lack of Defendant's presence as he is in custody in the Nevada Department of Corrections (NDC). COURT ORDERED, matter CONTINUED for Judge Tao's presence.

NDC

CONTINUED TO: 4/28/2011 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 28, 2011**

99C161426

The State of Nevada vs Mack C Mason

April 28, 2011**9:00 AM****Petition for Writ of Habeas
Corpus****HEARD BY:** Tao, Jerome T.**COURTROOM:** RJC Courtroom 10D**COURT CLERK:** Tia Everett**RECORDER:** Sara Richardson**REPORTER:****PARTIES****PRESENT:**Kramer, Kristen B.
State of NevadaAttorney
Plaintiff**JOURNAL ENTRIES**

- Court reviewed point

Court FINDS, pursuant to NRS 34.726 petition is untimely and procedurally time barred as the petition was filed 8 years after remittitur was issued, making petition untimely and Defendant has failed to show good cause for the delay in filing the petition; therefore, COURT ORDERED, Petition DENIED. Ms. Storms for the Public Defender's office moved to withdraw as counsel for the record. Court stated counsel previously withdrew and Defendant was previously represented by the Special Public Defender's office.

NDC

CLERK'S NOTE: The above minute order has been distributed to:

Mack Mason # 69060
H.D.S.P.
PO Box 650
Indian Springs, NV 89018

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****July 05, 2016**

99C161426

The State of Nevada vs Mack C Mason

July 05, 2016**8:30 AM****Motion****HEARD BY:** Johnson, Eric**COURTROOM:** RJC Courtroom 10D**COURT CLERK:** Linda Skinner**RECORDER:****REPORTER:** Amber McClane**PARTIES****PRESENT:**Lexis, Chad N.
State of NevadaAttorney
Plaintiff**JOURNAL ENTRIES**

- Court noted Defendant is in prison and not present today and that this is not the proper vehicle to challenge the Judgment of Conviction, that Defendant should have filed a Writ of Habeas Corpus. So, this Court will treat the Motion as a Writ of Habeas Corpus. As such, the Writ is untimely as it was filed over 12 years after the 1 year time frame. Defendant raises claims that should have been presented in an earlier proceeding and fails to demonstrate good cause for failing to do so. Defendant does not present any new evidence and fails to demonstrate prejudice. Therefore, COURT ORDERED, Motion (Writ) DENIED.

NDC

CLERK'S NOTE: A copy of this Minute Order was mailed to Defendant:

MACK C. MASON #69060
SOUTHER DESERT CORRECTIONAL CENTER
P.O. BOX 208
INDIAN SPRINGS, NV 89070-0208

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 02, 2017**

99C161426

The State of Nevada vs Mack C Mason

February 02, 2017**3:00 PM****Minute Order****HEARD BY:** Johnson, Eric**COURTROOM:** RJC Courtroom 12A**COURT CLERK:** Natalie Ortega**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Defendant s Pro Per Motion and Order for Transportation of Inmate for Court Appearance has been taken OFF CALENDAR. This case is currently up on appeal to the Nevada Supreme Court, and thus this Court lacks jurisdiction to decide any motions.

CLERK'S NOTE: A copy of this minute order shall be mailed to Mark Mason, #69060, High Desert State Prison, PO Box 208, Indian Springs, NV 89070. ndo/2/6/17

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 08, 2017**

99C161426

The State of Nevada vs Mack C Mason

February 08, 2017**3:00 PM****Minute Order****HEARD BY:** Johnson, Eric**COURTROOM:** RJC Courtroom 12A**COURT CLERK:** Natalie Ortega**RECORDER:****REPORTER:****PARTIES****PRESENT:****JOURNAL ENTRIES**

- Defendant s Petition for Writ of Habeas Corpus has been continued to March 30, 2017 at 9:00a.m. This case is currently up on appeal to the Nevada Supreme Court, and thus this Court lacks jurisdiction to decide any motions. A copy of this minute order shall be mailed to Mark Mason, #69060, High Desert State Prison, PO Box 208, Indian Springs, NV 89070.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 29, 2017**

99C161426

The State of Nevada vs Mack C Mason

March 29, 2017**7:30 AM****Minute Order****HEARD BY:** Johnson, Eric**COURTROOM:** RJC Courtroom 12A**COURT CLERK:** Linda Skinner**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Per Law Clerk, COURT ORDERED, Defendant's Petition for Writ of Habeas Corpus set for March 30, 2017 at 9:00 a.m. is CONTINUED to April 25, 2017 at 8:30 a.m. as this case is currently up on appeal to the Nevada Court of Appeals and thus, this Court lacks jurisdiction to decide any motions.

NDC

CLERK'S NOTE: A copy of this Minute Order was mailed to Defendant:

MARK MASON #69060
HIGH DESERT STATE PRISON
P.O. BOX 208
INDIAN SPRINGS, NV 89070

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 25, 2017**

99C161426

The State of Nevada vs Mack C Mason

April 25, 2017**8:30 AM****Petition for Writ of Habeas
Corpus****HEARD BY:** Johnson, Eric**COURTROOM:** RJC Courtroom 12A**COURT CLERK:** Linda Skinner**RECORDER:** Angie Calvillo**REPORTER:****PARTIES****PRESENT:**Albritton, Alicia A.
State of NevadaAttorney
Plaintiff**JOURNAL ENTRIES**

- Court noted Defendant is in prison and not present today and as there is an appeal before the Supreme Court, COURT ORDERED, matter CONTINUED SIX (6) MONTHS.

NDC

... CONTINUED 10/24/17 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 24, 2017**

99C161426

The State of Nevada vs Mack C Mason

October 24, 2017**8:30 AM****Petition for Writ of Habeas
Corpus****HEARD BY:** Johnson, Eric**COURTROOM:** RJC Courtroom 12A**COURT CLERK:** Linda Skinner**RECORDER:** Angie Calvillo**REPORTER:****PARTIES****PRESENT:**Jones, Jr., John T.
State of NevadaAttorney
Plaintiff**JOURNAL ENTRIES**

- Upon Court's inquiry, Mr. Jones submitted on the State's opposition. Court noted Defendant was convicted and his appeal was denied by the Nevada Supreme Court with the remittitur being issued on September 3, 2002. Defendant filed an initial Petition for Writ of Habeas Corpus on September 5, 2002, however, filed a Motion to Voluntarily Dismiss the Petition and filed a new Petition on January 23, 2003. In May, 2003, this Court denied his petition and he did not appeal the denial of his second petition. In January 2011, he filed a 3rd Petition for Writ; on December 19, 2011, the Nevada Supreme Court issued an Order affirming the dismissal of Defendant's petition on the merits.

On June 9 2016, Defendant filed yet another petition, this one alleging ineffectiveness of counsel and actual innocence as well as Constitutional violations. In July, the Court denied Defendant's motion with a written order issuing in September 2016 to which Defendant filed a Notice of Appeal and was denied, recently by the Nevada Supreme Court. Defendant filed his 4th Petition for Writ of Habeas Corpus on November 15, 2016 which is before the Court. This petition is time barred as Nevada Revised Statute imposes a one year time period for filing of a post-conviction petition for writ of habeas. We are clearly beyond that which would have been September 3, 2013.

This is a successive petition and Defendant has failed to show good cause to justify consideration of the untimely and successive petition. Finally, the State pleads laches. Therefore, COURT

99C161426

ORDERED, DENIED.

NDC

CLERK'S NOTE: 11/2/17 A copy of this Minute Order was sent to Defendant:

MACK MASON #69060
SOUTHERN DESERT CORRECTIONAL CENTER
P.O. BOX 208
INDIAN SPRINGS, NV 89070-0208

CASE NO. C.161426DEPT. NO. TVJURY DATE: 2-14-01JUDGE: Kathy HurdcastleCLERK: Christy KellyREPORTER: Jana Smith

COUNSEL FOR THE PLAINTIFF

COUNSEL FOR THE DEFENDANT

State of Nevada
PLAINTIFFVS.
Mack C. Mason

DEFENDANT

STATE'S EXHIBITS

OFFERED ADMITTED

- | | | | |
|--|-------------|---|---|
| 1. Photo of .38 Revolver | 2/15/01 | <input checked="" type="checkbox"/> ready | <input checked="" type="checkbox"/> 2/15/01 |
| 2. Certified Copy of Gun Registration | 2/15/01 | <input checked="" type="checkbox"/> ready | <input checked="" type="checkbox"/> 2/15/01 |
| 3. Shotgun | 2/15/01 | <input checked="" type="checkbox"/> ready | <input checked="" type="checkbox"/> 2/15/01 |
| 4. Poster - Street Diagram | 2/15/01 | <input checked="" type="checkbox"/> ready | <input checked="" type="checkbox"/> 2/15/01 |
| 5. Pawn Ticket | 2/15/01 | <input checked="" type="checkbox"/> ready | <input checked="" type="checkbox"/> 2/15/01 |
| 6. Top Half of Pawn Ticket | 2/15/01 | <input checked="" type="checkbox"/> ready | <input checked="" type="checkbox"/> 2/15/01 |
| 7. POSTER - STREET aerial photo depicting pawnshop | 2/15/01 | <input checked="" type="checkbox"/> ready | <input checked="" type="checkbox"/> 2/15/01 |
| 8. ZEROX Copy of Receipt | 2/15/01 | <input checked="" type="checkbox"/> ready | <input checked="" type="checkbox"/> 2/15/01 |
| 9. Copy of Consent to Search Form | 2/15/01 | <input checked="" type="checkbox"/> ready | <input checked="" type="checkbox"/> 2/15/01 |
| 10. Large Aerial Poster | FEB 16 2001 | <input checked="" type="checkbox"/> | FEB 16 2001 |
| 11 Photo house | FEB 16 2001 | <input checked="" type="checkbox"/> | FEB 16 2001 |
| 12 Photo Vista motel | FEB 16 2001 | <input checked="" type="checkbox"/> | FEB 16 2001 |
| 13 photo Victim | FEB 16 2001 | <input checked="" type="checkbox"/> obj | FEB 16 2001 |
| 14) Photo Victim | FEB 16 2001 | <input checked="" type="checkbox"/> obj | FEB 16 2001 |
| 15) Photo Victim | FEB 16 2001 | <input checked="" type="checkbox"/> | FEB 16 2001 |
| 16) Photo Victim | FEB 16 2001 | <input checked="" type="checkbox"/> | FEB 16 2001 |
| 17) Photo x-Ray of Victim | FEB 16 2001 | <input checked="" type="checkbox"/> | FEB 16 2001 |
| 18) Photo x-Ray of Victim | FEB 16 2001 | <input checked="" type="checkbox"/> | FEB 16 2001 |
| 19) Envelope (Evidence) | FEB 16 2001 | <input checked="" type="checkbox"/> | FEB 16 2001 |
| 20) Bullet fragments from envelope | FEB 16 2001 | <input checked="" type="checkbox"/> | FEB 16 2001 |

OFFERED ADMITTED

20) Photo of Address # 903	FEB 16 2001	FEB 16 2001
21) Photo of Address # 3	FEB 16 2001	FEB 16 2001
22) Photo of Apt. Room + documents	FEB 16 2001	FEB 16 2001
23) Photo of Paper documents	FEB 16 2001	FEB 16 2001
24) Photo Clothes near Bed	FEB 16 2001	FEB 16 2001
25) Photo Clothes	FEB 16 2001	FEB 16 2001
26) Photo money	FEB 16 2001	FEB 16 2001
27) Large Poster of Room Diagram	FEB 16 2001	FEB 16 2001
28) Photo of Bed T.V.	FEB 16 2001	FEB 16 2001
29) Photo of Bed	FEB 16 2001	FEB 16 2001
30. Photo - Motel	2/20/01	2/20/01
31. " - Vent	✓	✓
32. " - Hole in wall in Room 205	✓	✓
33. " - " " " " "	✓	✓
34. " - Room 204 - Hole in wall	✓	✓
35. " - dark Colored wallet w/ paperwork	✓	✓
36. " - Closeup of wallet w/ ID of deft.	✓	✓
37. " - interior view of Room 204	✓	✓
38. " - Closeup view of vent	✓	✓
39. " - " " " " (Room 104) location in vent	✓	✓
40. " - " " " " Showing revolver	✓	✓
41. " - Close up of Smith & Wesson pistol	✓	✓
42. " - " " " " " "	✓	✓
43 - Evidence Envelope	2/20/01	2/20/01
43 a - * wallet containing papers	2/20/01	2/20/01

* - wallet admitted; not all papers admitted

State's

OFFERED ADMITTED

43B. - NV ID Card - Mack C Mason	2/20/01	<input checked="" type="checkbox"/>	no obj	<input checked="" type="checkbox"/>	2/20/01
43C. - Pawn Receipt for Shotgun	2/20/01	<input checked="" type="checkbox"/>	no obj	<input checked="" type="checkbox"/>	2/20/01
43D. - Marks Bros. Jewelers Receipt	2/20/01	<input checked="" type="checkbox"/>	no obj	<input checked="" type="checkbox"/>	2/20/01
44. - Box containing Revolver	2/21/01	<input checked="" type="checkbox"/>	no obj	<input checked="" type="checkbox"/>	2/21/01
44A. Plastic bag containing 6 envelopes containing cartridges	2/20/01	<input checked="" type="checkbox"/>	no obj	<input checked="" type="checkbox"/>	2/20/01
44B. Gun	2/20/01	<input checked="" type="checkbox"/>	no obj	<input checked="" type="checkbox"/>	2/20/01
45. Photo - Rm. 205 - mattress & wallet	2/20/01	<input checked="" type="checkbox"/>	no obj	<input checked="" type="checkbox"/>	2/20/01
46. " - personal property ^{2 black shoes} ^{1 gun bottle}	2/20/01	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>	2/20/01
47. " dresser w/ shoe boxes, white bag, ^{gun bottle} , black bag	2/20/01	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>	2/20/01
48. Poster -	2/21/01	<input checked="" type="checkbox"/>	no obj	<input checked="" type="checkbox"/>	2/21/01
49. Card - LVMPD (Rights of Persons Arrested)	2/21/01	<input checked="" type="checkbox"/>	no obj	<input checked="" type="checkbox"/>	2/21/01
50. Card w/ receipt # 291333 stapled	2/21/01	<input checked="" type="checkbox"/>	no obj	<input checked="" type="checkbox"/>	2/21/01
51. Poster depicting Motel	2/21/01	<input checked="" type="checkbox"/>	no obj	<input checked="" type="checkbox"/>	2/21/01
52. Poster depicting Pawn Shop	2/21/01	<input checked="" type="checkbox"/>	no obj	<input checked="" type="checkbox"/>	2/21/01
53. Colored Photo - Office of Vista Motel	2/22/01	<input checked="" type="checkbox"/>	no obj	<input checked="" type="checkbox"/>	2/22/01
54. " " - Office of Vista Motel	2/22/01	<input checked="" type="checkbox"/>	no obj	<input checked="" type="checkbox"/>	2/22/01
55. " " - Hallways & stairs	2/22/01	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>	2/22/01
56. " " - " " " "	2/22/01	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>	2/22/01
57. " " - " " " "	2/22/01	<input checked="" type="checkbox"/>	"	<input checked="" type="checkbox"/>	2/22/01
58. Photo of black bag, white bag, TV, bottle	2/22/01	<input checked="" type="checkbox"/>	no obj	<input checked="" type="checkbox"/>	2/22/01
59. CCDC Inventory Sheet	2/22/01	<input checked="" type="checkbox"/>	no obj	<input checked="" type="checkbox"/>	2/22/01

PENALTY HEARING

60. Certified Copy from State of Texas reflecting custody ^{of Mack Mason}	3/5/01	<input checked="" type="checkbox"/>	no obj	<input checked="" type="checkbox"/>	3/5/01
61. Judgment of Conviction (Mack Mason) filed 9-21-95	3/5/01	<input checked="" type="checkbox"/>	no obj	<input checked="" type="checkbox"/>	3/5/01
62. Amended Information filed 9/14/95 (Mack C. Mason)	3/5/01	<input checked="" type="checkbox"/>	no obj	<input checked="" type="checkbox"/>	3/5/01

CASE NO. C 161426DEPT. NO. IVJury
TRIAL DATE: 2-14-01JUDGE: Larry HardcastleCLERK: Deborah LeelyREPORTER: Ann SmithL.J. O'Male & Pam Mckersley
COUNSEL FOR THE PLAINTIFFDavid Schick & Robert Simpson
COUNSEL FOR THE DEFENDANTState of Kansas
PLAINTIFF

VS.

Mark C. Mason

DEFENDANT

DEFENDANT'S EXHIBITS

OFFERED ADMITTED

A Photo of Vista Motel	FEB 16 2001	<input checked="" type="checkbox"/>	FEB 16 2001
B Photo house	FEB 16 2001	<input checked="" type="checkbox"/>	FEB 16 2001
C Photo house	FEB 16 2001	<input checked="" type="checkbox"/>	FEB 16 2001
D Photo	FEB 16 2001	<input checked="" type="checkbox"/>	FEB 16 2001
E Photo	FEB 16 2001	<input checked="" type="checkbox"/>	FEB 16 2001
F. Photo - Ted, Radio, phone, Beer Bottle		<input type="checkbox"/>	<input type="checkbox"/>
G. ^{copy} MARKS BROS. JEWELERS RECEIPT	2/2/01	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 2/2/01
H. ^{copy} " " " "	2/2/01	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 2/2/01
I. ^{copy} " " " "	2/2/01	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 2/2/01
J. ^{copy} " " " "	2/2/01	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 2/2/01

PENALTY HEARING

K. Crossroad Bible Institute Certificate	3/5/01	<input checked="" type="checkbox"/> noobj	<input checked="" type="checkbox"/> 3/5/01
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COURT'S EXHIBITS

001. Note from Juror	<input type="checkbox"/>	<input type="checkbox"/>
002. Note from foreperson (Hamilton)	<input type="checkbox"/>	<input type="checkbox"/>
003. Note from foreperson (Hamilton)	<input type="checkbox"/>	<input type="checkbox"/>
004. note from Juror Mary Fjelsta	<input type="checkbox"/>	<input type="checkbox"/>
005. Note from Juror Cindy Horwitz	<input type="checkbox"/>	<input type="checkbox"/>
006. Note from Al Fitzgerald, Bailiff Re: Juror No. 7	<input type="checkbox"/>	<input type="checkbox"/>
007. Note from Judge Hardcastle, Responding to Juror's question (attached)		

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DESIGNATION OF RECORD ON APPEAL; DISTRICT COURT DOCKET ENTRIES; FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; DISTRICT COURT MINUTES; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

vs.

MACK C. MASON,

Defendant(s).

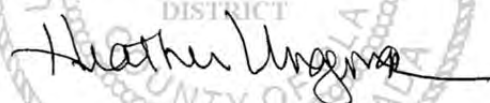
Case No: 99C161426

Dept No: XX

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 5 day of March 2018.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk