

IN THE SUPREME COURT OF THE STATE OF NEVADA

Matthew W. Washington
Appellant,

vs.

State of Nevada
Respondent.Supreme Court No. 75777District Court No. C-13-294695-1

FILED

JUL 03 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY [Signature]
DEPUTY CLERKAPPELLANT'S INFORMAL BRIEF

INSTRUCTIONS: If you are an appellant proceeding pro se (without an attorney) in the Nevada Supreme Court, you must file either (1) a brief that complies with Nevada Rule of Appellate Procedure (NRAP) 28(a), or (2) a completed copy of this informal brief form, *see* NRAP 28(k), with the Nevada Supreme Court on or before the due date, *see* NRAP 31. In civil appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court may dismiss your appeal. In postconviction criminal appeals, if you do not file one of these documents by the due date, the Nevada Supreme Court or Nevada Court of Appeals may decide your appeal on the record without briefing.

HOW TO FILL OUT THIS FORM: This form must be typed, unless you are incarcerated, in which case it must be clearly handwritten. You do not need to refer to legal authority or the district court record. If you are completing your brief on this form, write only in the space allowed on the form. **Additional pages and attachments are not allowed.** If typing an informal brief, you may either use the lined paper contained in this form or an equivalent number of pages of your own paper. Your brief will be stricken if you fail to follow the directions in this form and the Nevada Rules of Appellate Procedure.

WHERE TO FILE THE BRIEF: You may file your brief in person or by mail.

To file your brief in person: Bring the brief to the Clerk's Office at the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada, or at the Regional Justice Center Clerk's Office (Drop Box), 200 Lewis Street, 17th Floor, Las Vegas, Nevada. You can file your brief Monday through Friday, 8:00 a.m. to 4:00

p.m.

JUL 03 2018

ELIZABETH A. BROWN
Informal Brief Form, October 2015
CLERK OF SUPREME COURT
DEPUTY CLERK

To file your brief by mail: Mail the brief to the Clerk of the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada 89701. **Your brief must be postmarked on or before the due date.**

You must file the original brief and 1 copy with the clerk of the Nevada Supreme Court. If you want the clerk to return a file-stamped copy of your brief, you must file the original form and 2 copies and include a self-addressed, stamped envelope. Documents cannot be faxed or emailed to the Supreme Court Clerk's Office.

Copies of the brief must be mailed or delivered to the other parties to this appeal or to the parties' attorneys, if they have attorneys. You must also include a proper certificate of service or complete the certificate that is attached to the informal brief form.

CAUTION: Pro se parties are prohibited from representing other parties. A pro se party may not complete a brief on behalf of other parties. Pro se parties may collaborate on their briefs, however, provided that if one brief is submitted on behalf of multiple pro se parties, each party must sign and date the brief to confirm that he or she has participated in the preparation of the brief and, by his or her signature, joins in the arguments and representations contained therein.

Judgment or Order You Are Appealing. List the judgment or order that you are appealing from and the date that the judgment or order was filed in the district court.

Filed Date	Name of Judgment or Order
05.01.18.	Petition For writ of Habeas Corpus

Notice of Appeal. Give the date you filed your notice of appeal in the district court: April 9, 2018

Related Cases. List all other court cases related to this case. Provide the case number, title of the case and name of the court where the case was filed.

Case No.	Case Title	Name of Court
	N/A	

Pro Bono Counsel. Would you be interested in having pro bono counsel assigned to represent you in this appeal?

☒ Yes ☐ No

NOTE: If the court determines that your case may be appropriate for having pro bono counsel assigned, an appropriate order will be entered. Assignment of pro bono counsel is not automatic.

Statement of Facts. Explain the facts of your case. (Your answer must be provided in the space allowed.)

On the evening of November 5, 2013 Matthew Washington drove his friend Martell Moten to a Las Vegas, Nevada apartment complex. Moten, unaware of who was actually inside the residence, on the night in question had an on-going conflict with several individuals living there over money. Moten's intention was to send a "message" to... LaRoy Thomas, Nathan Rawls, Marque Hill, and Ashely Scott that he wanted the money which he believed they owed him. Several gunshots were fired into their dwelling,

Scott and Thomas were both wounded... Nathan Rawls died as a result of his injuries, his gunshot wounds unfortunately were fatal. The DeSotos who also reside in the same housing complex... Darren and Loraine hear the gunshots fired by Moten, and consequently called the police. The DeSotos observed a silver Dodge Magnum leaving the complex, immediately after the shooting... had stopped. An officer with Las Vegas Metropolitan Police Dept. had gotten notification about the late night shooting, along with a description of the automobile seen at the scene, of the life taking gunplay. Hence the officer made the customary vehicle stop. Once the DeSotos were brought in, and they did give a positive identification of the Dodge Magnum, the police took Moten, as well as, Washington into custody. Allegedly at the vehicle stop an officer saw a handgun under the front passenger seat, because... the car doors had been... left open. The authorities impounded the Dodge, a search warrant was executed and the car was thoroughly processed by the crime lab, nothing else related to the suspected shooting was... discovered. Sometime later without the needed, procurement of the legally required new, or second search warrant there is a surprising location of another handgun by a LVMPD detective. The crime scene analyst reported, that they found shell casings from each firearm, at the apartment complex. When Marque Hill, Ashely Scott, and LaRoy Thomas were seperately interviewed in the aftermath of the shooting incident by... LVMPD, each of them admitted they did not know Washington... nor had... there ever been any interaction, of any kind whatsoever, prior to the night of November 5th, 2013 with one Matthew Washington. Additionally vital in the case at bar is a troublesome conundrum involving, the prosecution's myopic decision to charge Matthew Washington (hereafter Washington)... with murder, with the use of a deadly weapon... conspiracy to commit a murder... 2 counts of battery... also with a deadly weapon, 3 counts of

Attempted murder... 10 excessive counts of discharging a firearm at or into a structure, and lastly the charge... possession of firearm by a... felon. Counsel's ineffective performance before, and during the trial played an enormous part in why a jury returned guilty verdicts on all counts. It is beyond logic, that Washington could be found guilty of murder in a case where another person, in the case now under appellate review, as already accepted responsibility for shooting Nathan Rawls to death. That someone, is Martell Moten, who the record will reflect was in the car with Washington on the night of November 5th 2013. Evidence reveals that Moten knew Ashely Scott, Marque Hill, LaRoy Thomas... as well as the deceased Nathan Rawls. Obviously counsel for the Appellant failed to be superfluous, in the area of overall investigation and pre-trial preparation. This disturbing sub-par conduct of Mitchell Posin, has placed Washington in a sordid state of usurpation.

Statement of District Court Error. Explain why you believe the district court was wrong. Also state what action you want the Nevada Supreme Court to take. (Your answer must be provided in the space allowed).

To begin the district court committed an egregious blunder, by allowing the prosecution to charge Washington with 10 separate counts of the crime, of discharging a firearm at or into a structure. First and foremost counsel's blatant, and circuitous ineffectiveness comes to the forefront... in the case at bar... inasmuch counsel's failure to prevent Appellant's being subjected, to this perilous charge is overtly reprehensible. Counsel did mis-step, in not properly investigating the very viable defense, that Washington never even discharged a firearm, on the night in question. Not a modicum of forensic... nor ballistic evidence confirms that Washington ever handled, or discharged a handgun on the night of November 5th, 2013. Furthermore

the De Sotos NEVER said, they saw Appellant in possession of a firearm. Equally significant... and to the palpable chagrin of the prosecution, not a single victim EVEN KNEW, or had EVER ENCOUNTERED before that tragic night, the Appellant Matthew Washington. Counsel could have easily conveyed to jurors in this ~~relevant~~ matter, that his client (Washington) had absolutely NO motive to shoot ANYONE, Moten was in conflict with the victims NOT the Appellant. Mitchell Posin failed to investigate thoroughly, or provide minimal quality of reasonable performance, seems to be lucidly clear counsel's myriad of errors, in the case at bar did prejudice the defense. MEANS v. State, 120 Nev. 1001, 103 P.3d 25 (2004)... EVANS v. State, 117 Nev. 610, 622, 28 P.3d 498, 508 (2001)... US v. Padilla-Martinez, 762 F.2d 942 (11th Cir. 1985) Stockland v. Washington, 466 US 668 80 LEd. 2d 674, 104 S. Ct. 2052 ... (1984)... US v. Bowie, 221 F.3d 1183 (11th Cir. 2000)... US v. Hamilton, 391 F.3d 1066 (9th Cir. 2004).

Double jeopardy cannot be ignored by this most honorable Tribunal in this judicial setting, since counsel's introduced a flawed double jeopardy argument. The discharging of the firearm was a singular event, which did unfold, or occur on one specific night... subsequently to create 10 separate charges out of a singular act violates the stringent, and staunch protects derived from the 5th Amendment of our very own U.S. Constitution. Also Nevada forcefully prohibits against cumulative punishments under an "alternative-offense redundancy" theory. The crime scene analyst on the record, and under oath testified that only 6 shell casing were recovered from one handgun, while the total number of... 7 shell casing came from the other firearm. Yet Appellant was unexplainably charged wrongfully with 10 separate counts... of discharging a gun into, or at a structure when, no evidence exist, to substantiate that either weapon was fired 10 times. The

actual, impregnable 5th Amendment double jeopardy clause consistently forbids the state from subdividing a single criminal endeavor into multiple... violations or charges. This most powerful Tribunal must not be remiss, in its unwavering fiduciary obligation to ensure the Constitutional safeguard to not be placed in double jeopardy, being the pivotal right of every American in this great nation, should not... must not be given a narrow, grudging, sincere application. JACKSON v. STATE, 128 Nev. 598, 611, 291 P3d. 1274, 1283 (2012) Palazzolo v. Gercyca, 244 F3d 512 (6th Cir. 2001) US v. Aguilera, 179 F3d. 604 (8th Cir. 1999) US v. DiFrancesco, 449 US 117, 66 LEd. 2d 328, 101 S. Ct. 426 (1980) US v. McClain, 133 F3d 1191 (9th Cir. 1998) GREEN v. US, 355, US 184, 2 LEd 2d 199, 87 S. Ct. 221 (1961)

Appellate is flummoxed that counsel was so grossly ineffective... in the case at bar. In a capital murder case counsel is mandated by a 6th Amendment constitutional expectation of duty to investigate any, and all possible lines of defense tactics, as such this judicial... maxim is strictly observed for the sole purpose of evincing a valid claim of counsel's ineffectiveness. Where Washington is plainly as well as ingenuously prejudice by counsel's inability to convince a jury that Appellate, should have never been charged... nor found guilty of the crime of murder... is in itself a foreboding miscarriage of justice. There is a plethora of uncompound evidence, which counsel failed to utilize to behave his client, and favorably impact the panel of jurors. First... there is Moten's admittance to committing Rawls murder. The lack of evidence connecting Washington's actions to any forensic, and/or ballistic evidence, as it relates to the shooting itself. The record shows that Appellate was no more than a driver on November 5th 2013. There is a serene lack of motive, in regards to Washington's clearly limited

INVOLVEMENT, IN THE CASE AT BAR. THIS EVIDENCE IS ONLY AUGMENTED BY EACH OF THE SURVIVING TESTIMONY OF THE VICTIMS ... THOMAS, HILL, AND SCOTT THAT CONCEDE THEY DID NOT KNOW APPELLANT. CUMULATIVE ERROR DOES VERY MUCH EXIST, AND THEREFORE ENTITLES WASHINGTON TO AT THE VERY LEAST A NEW TRIAL ... COUNSEL'S FAILURE TO CHALLENGE THE SECOND SEARCH OF THE DODGE MAGNUM, WHICH WAS ESSENTIALLY A ROGUE, UNAUTHORIZED ACTION, COUNSEL DID NOT PROPERLY CONTEST THE IMPROPER TESTIMONY OF THE STATE'S OWN FORENSIC SCIENTIST ADDRESSING BULLETS AND SHELL CASING, COUNSEL DID NOT CHALLENGE THE STATE'S INTRODUCTION OF APPELLANT'S TATTOOS AT THE CRITICAL PENALTY PHASE OF THE TRIAL, WERE ALL HURTFUL CUMULATIVE ERRORS.

CONCLUSION

WHEREFORE APPELLATE PRAYS THAT THIS MATTER IS REVERSED AND ALSO REMANDED IN THE TRUE INTEREST OF JUSTICE

DATED this 25TH day of JUNE, 2018.

Matthew Washington
Signature of Appellant

Matthew Washington
Print Name of Appellant

CERTIFICATE OF SERVICE

I certify that on the date indicated below, I served a copy of this completed informal brief form upon all parties to the appeal as follows:

- ☐ By personally serving it upon him/her; or
☒ By mailing it by first-class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served):

MR. STEVEN WOLFSON
DISTRICT ATTORNEY
200 LEWIS AVE
LAS VEGAS, NV. 89155

DATED this 25th day of JUNE, 2018.

Matthew Washington
Signature of Appellant

Matthew Washington
Print Name of Appellant

P.O. BOX 7000 #1061467
Address

CARSON CITY, NV. 89702
City/State/Zip

N/A
Telephone