

Justin D. Porter ID NO. 1042449HIGH DESERT STATE PRISON
22010 COLD CREEK ROAD
POST OFFICE BOX 650
INDIAN SPRINGS, NEVADA 89070

FILED

SEP 02 2016

Justin D. Porter In Proper PersonTRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY [Signature]
DEPUTY CLERKIN THE SUPREME COURT OF THE
STATE OF NEVADAJustin D. PorterCASE NO.: 70206APPELLANT,DEPT NO.: N/A

vs.

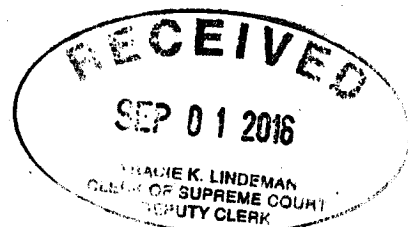
THE STATE OF NEVADA

DATE OF HEARING: _____

TIME OF HEARING: _____

RESPONDENT,Petition for rehearing
of the decision of The
Court of Appeals~~THE STATE OF NEVADA~~COMES NOW, Appellant Justin Porter, In Proper Person andHereby submit that this petition for rehearing is
based upon NRAP Rule 40. Petition for rehearing.THIS Petition, is made and based upon the attached Memorandum of Points
and Authorities, all of the pleadings and other documents on file in this case, as well asDATED This 24 day of August, 2016.

Respectfully submitted,

Justin D. Porter #1042449ID NO. 1042449Justin D. Porter In Proper Person

16-901030

FACTS / ARGUMENT

1 Appellant Justin Porter contends that the court
2 of Appeals overlooked and misapprehended
3 the facts the Appellant raised in his Appellant's
4 Informal Brief. The fact that the Appellant did
5 not have the ~~necessary~~ necessary lesser included
6 offense of manslaughter in his Jury Instruction
7 that is allowed in a open murder charge
8 which the Appellant was charged with. See
9 Appellant's Informal Brief pages, lines 3 Through
10 22. And points of law is *Wrenn v. State*,
11 Sheriff, Clark County, 87 Nev. 85, 482 P.2d 289,
12 1971 Nev. And the fact that the Appellant
13 raised that his Counsel's MR. Brown and
14 MR. Abood did not advocate Appellant's cause,
15 of having the necessary lesser included
16 offense of manslaughter in his Jury
17 Instruction, that would ~~absolve~~ absolve him from
18 the guilt of the greater offense. And the
19 fact that Counsel's violated his sixth
20 Amendment Right. See Informal Brief page 5,
21 lines 22 Through, page 6 Through lines 1 Through
22 24. And the points of law that would of
23 allowed the Appellant to be absolve from
24 the guilt of the greater offense is NR5175:
25 501; *Rosas v. State*, 122 Nev. 1258, 147 P.3d 1101,
26 2006. And the points of law of Counsel's violating
27 Appellant's Sixth Amendment Right is

1 Strickland V. Washington, 466 U.S. 668, 687 (1984).
2 And the fact that Felony-murder cannot stand
3 if there is no Felony OR an attempted one.
4 Appellant has no Felony OR an attempted Felony
5 that would allow him to be guilty of Felony-
6 murder. Therefore Appellant is Factual innocent
7 of second-degree murder under the Felony-
8 murder rule. Because the Appellant was
9 acquitted of the underlying felonies. See
10 Informal Brief page 3 lines 19 Through page 4,
11 Through page 5 ending at line 3 of page 5.
12 And the points of law is Payne v. State, 81 Nev.
13 503, 506, 406 P.2d 922, 924 (1965); Also Ramirez v.
14 State, 235 P.3d 619, 126 Nev. Adv. Rep. 22, 2010 Nev. 24
15 (Nev 2010). And the fact that the Appellant
16 Appellate Counsel MR. BROOKS Failed to
17 advocate for the Appellant not being guilty
18 of Felony murder because the Appellant
19 was acquitted of the underlying felonies.
20 So therefore Appellant cannot be guilty but
21 is innocent and the conviction cannot be
22 fairly characterized as Felony murder.
23 And that Counsel violated his Sixth Amendment.
24 See Informal Brief page 7 lines 14 Through 21.
25 And the points of law is Payne v. State,
26 81 Nev. 503, 506 406 P.2d 922, 924 (1965); Also
27 Strickland V. Washington, 466 U.S. 668, 687 (1984).

CONCLUSION

1 Because the Jury did not have the
2 evidence of the fact that they, the Jury
3 could be instructed on the theory of a
4 lesser included offense ~~that is necessary~~
5 of manslaughter, that was necessary included.
6 And the fact that the Jury was not
7 instructed as to a felony murder most
8 have a underlying felony for a conviction
9 of felony murder. And the Appellant is showing
10 cause of actual innocence, of being guilty
11 of felony murder. And also the Appellant is
12 showing that by the Jury not having the
13 manslaughter instructions which the Appellant
14 could be found guilty of prejudiced the
15 Appellant. • The Appellant was suppose to
16 be found guilty of the necessary included
17 offense of manslaughter which is involuntary
18 manslaughter. Therefore the conviction cannot
19 stand and should be reversed, reverse is
20 merited.

CERTIFICATE OF SERVICE BY MAILING

I, Justin D. Porter, hereby certify, pursuant to NRCP 5(b), that on this 21
day of August, 2016, I mailed a true and correct copy of the foregoing, "Petition
for rehearing of the decision of the court of Appeals"
by depositing it in the High Desert State Prison, ~~High Desert State Prison~~ Postage, fully prepaid,
addressed as follows:

SUPREME COURT OF NEVADA
Office of the Clerk
201 S. Carson Street, Suite 201
Carson City, Nevada 89401

CC:FILE

DATED: this 24 day of August, 2016.

Justin D. Porter #1042449

Justin Porter #1042449
/In Propria Personam

Post Office box 650 [HDSP]
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Petition for
rehearing of the decision of the court of Appeals
(Title of Document)

filed in District Court Case number 70206

☒ 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.

Justin Porter
Signature

August 24, 2016
Date

Justin D. Porter
Print Name

Petition for rehearing
Title