

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

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Elizabeth A. Brown
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STATE OF NEVADA,

Plaintiff,

vs.

STEVEN FLOYD VOSS,

Defendant.

Sup. Ct. Case No. 77505

Case No. CR96-1581

Dept. 1

RECORD ON APPEAL

VOLUME 8 OF 15

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FILED

Case No. CR96-1581

'96 DEC -4 A10:07

Dept. No. 10

JUDY BAILEY, CLERK

SECOND JUDICIAL DISTRICT COURT OF THE ~~BY~~ STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE JAMES A. STONE, DISTRICT JUDGE

--oOo--

STATE OF NEVADA,

Plaintiff,

SENTENCING

Vs.

STEVEN FLOYD VOSS,

Defendant.)

=====

TRANSCRIPT OF PROCEEDINGS

November 27, 1996

Reno, Nevada

APPEARANCES:

For the State:

DAVID STANTON
Deputy District Attorney
Washoe County Courthouse
Reno, Nevada

For the Deft:

COTTER CONWAY
Deputy Public Defender
75 Court Street
Reno, Nevada

Reported by:

RANDI LEE WALKER, CSR #137

Computer-Aided Transcription

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

3 //

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

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

8 The State is represented by Mr. Stanton.

9 The Division by Mr. Lorang.

10 This is the time set for sentencing.

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

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

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

22 THE COURT: Do you have anything to add?

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

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

3 THE COURT: Mr. Stanton?

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

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

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

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

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

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

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

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

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

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

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

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

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

12 Mr. Conway?

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

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

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

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

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

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

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

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

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

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

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

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

11 Thank you.

12 THE COURT: Mr. Stanton?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Baxter.

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

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

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

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

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

24 In his written statement, as I know the Court

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

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

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

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

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

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

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

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

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

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

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

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

7 Thank you, Your Honor.

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

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

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

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

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

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

24 With respect to requesting the recommendation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 With credit for 137 days time served.

11 That's the Court's order.

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

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

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

20 //////////////

21

22

23

24

FILED

2017 NOV -7 PM 1:19

JACQUELINE DRYANT
CLERK OF THE COURT

BY: *[Signature]*
DEPUTY

1 STEVEN FLOYD VOSS #52091
2 Northern Nevada Correctional Center
3 Post Office Box # 7000
4 Carson City, Nevada 89702-7000

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

9 THE STATE OF NEVADA

10 Plaintiff,

11 vs.

12 STEVEN FLOYD VOSS,

13 Defendant.

Case No. CR96-1581

Dept. No. 10

REQUEST FOR SUBMISSION
OF MOTION

16 COMES Now Defendant, STEVEN FLOYD VOSS, by and
17 through his proper person, and hereby requests that
18 his Pre-Sentencing Motion To Set Aside Jury Verdict, be
19 submitted to the Court for decision. Said Motion having
20 been filed on October 25, 2017 and the Plaintiff having
21 failed to file a Response and points and authorities
22 in opposition thereto. The foregoing document does not
23 contain the social security number of any person.

24 DATED this 6th day of November 2017.

25 By: *[Signature]*

26 STEVEN FLOYD VOSS

27 Defendant, in pro. per.

28 ///

CERTIFICATE OF SERVICE VIA U.S. MAIL

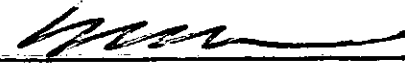
I, STEVEN FLOYD VOSS, do hereby certify that on this 6th day of November 2017, that I mailed a true and correct copy of the foregoing Request For - Submission of Motion, addressed to:

CHRISTOPHER J. HICKS, ESQ.,

Washoe County District Attorney

Post Office Box # 11130

Reno, Nevada 89520 -

By: 

STEVEN FLOYD VOSS.

///

///

///

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

STATE OF NEVADA,

Plaintiff,

Case No. CR96-1581

Dept. No. 10

vs.

STEVEN FLOYD VOSS,

Defendant.

ORDER DIRECTING RESPONSE

Presently before the Court is a PRESENTENCING MOTION TO SET ASIDE JURY VERDICT ("the Motion") filed by Defendant STEVEN FLOYD VOSS ("the Defendant") on October 25, 2017. Plaintiff THE STATE OF NEVADA ("the State") has yet to file a responsive pleading to the Motion.

IT IS ORDERED that the State will file a responsive pleading to the Motion within thirty (30) days from the date of this Order. ¹

DATED this 5 day of December, 2017.



ELLIOTT A. SATTLER
District Judge

¹ D.C.R. 13(3) states in pertinent part "Failure of the opposing party to serve and file his written opposition may be construed as an admission that the motion is meritorious and a consent to granting the same." Should the State fail to file a responsive pleading with the time allotted, the motion will be granted.

CERTIFICATE OF MAILING

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

Steven Floyd Voss #52094
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, NV 89702-7000

CERTIFICATE OF ELECTRONIC SERVICE

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

TERRENCE MCCARTHY, ESQ.


Sheila Mansfield
Judicial Assistant

Return Of NEF

Recipients

TERRENCE - Notification received on 2017-12-05 10:52:41.211.
MCCARTHY, ESQ.

DIV. OF PAROLE & - Notification received on 2017-12-05 10:52:41.055.
PROBATION

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A filing has been submitted to the court RE: CR96-1581

Judge:

HONORABLE ELLIOTT A. SATTLER

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12-05-2017:10:51:33

Clerk Accepted:

12-05-2017:10:52:11

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. STEVEN FLOYD VOSS (D10)

Document(s) Submitted:

Order...

Filed By:

Judicial Asst. SMansfield

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TERRENCE P. MCCARTHY, ESQ. for STATE
OF NEVADA
DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

STATE OF NEVADA for STATE OF NEVADA
STEVEN FLOYD VOSS for STEVEN FLOYD
VOSS
EGAN K. WALKER, ESQ. for STATE OF
NEVADA

CODE No. 2645
CHRISTOPHER J. HICKS
#7747
P. O. Box 11130
Reno, Nevada 89520-0027
(775) 328-3200
Attorney for Plaintiff

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

* * *

THE STATE OF NEVADA,

Plaintiff,

v.

Case No. CR96-1581

STEVEN FLOYD VOSS,

Dept. No. 10

Defendant.

_____ /

OPPOSITION TO "PRE-SENTENCING MOTION TO SET ASIDE JURY VERDICT"

COMES NOW, the State of Nevada and opposes the "pre-sentencing motion to set aside jury verdict" filed by Defendant Voss. This opposition is based upon the records of this court and the following points and authorities.

POINTS AND AUTHORITIES

Defendant Voss was convicted in 1996, of Burglary, multiple counts of uttering a forged instrument and multiple counts of forgery. He appealed but the judgment was affirmed. *Voss v. State*, Docket No, 29783, Order Dismissing Appeal (March 11, 1999). The Supreme Court ruled, among other things, that the evidence supporting each conviction was sufficient.

///

In October 2017, Voss filed a motion seeking a judgment of acquittal on the basis that the evidence was insufficient. The State responds that the question of the sufficiency of the evidence has been decided and that is now “the law of the case” and no longer subject to review by this court. *See Hall v. State*, 91 Nev. 314, 535 P.2d 797 (1975). In addition, and most importantly, the post-conviction habeas corpus petition “Comprehends and takes the place of all other common-law, statutory or other remedies which have been available for challenging the validity of the conviction or sentence, and must be used exclusively in place of them.” NRS 34.724(2)(b). Therefore, the pre-sentencing motion to set aside jury verdict should be denied.

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: January 4, 2018.

CHRISTOPHER J. HICKS
District Attorney

By /s/ TERRENCE P. McCARTHY
TERRENCE P. McCARTHY
Chief Appellate Deputy

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Washoe County District Attorney's Office and that, on January 4, 2018, I deposited for mailing through the U.S. Mail Service at Reno, Washoe County, Nevada, postage prepaid, a true copy of the foregoing document, addressed to:

Steven F. Voss #52094
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, NV 89702

/s/ DESTINEE ALLEN
DESTINEE ALLEN

Return Of NEF**Recipients**

TERRENCE - Notification received on 2018-01-04 09:55:34.328.
MCCARTHY, ESQ.
DIV. OF PAROLE & - Notification received on 2018-01-04 09:55:34.188.
PROBATION

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A filing has been submitted to the court RE: CR96-1581

Judge:

HONORABLE ELLIOTT A. SATTLER

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01-04-2018:08:14:43

Clerk Accepted:

01-04-2018:09:54:57

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. STEVEN FLOYD VOSS (D10)

Document(s) Submitted:

Opposition to

Filed By:

Terrence McCarthy

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The following people were served electronically:

TERRENCE P. MCCARTHY, ESQ. for STATE
OF NEVADA
DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

STATE OF NEVADA for STATE OF NEVADA
STEVEN FLOYD VOSS for STEVEN FLOYD
VOSS
EGAN K. WALKER, ESQ. for STATE OF
NEVADA

CR96-1581
STATE VS. STEVEN FLOYD VOSS
District Court
Washoe County
DOC

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FLOYD VOSS 4 Pages
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1 STEVEN FLOYD VOSS #52094

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2 Northern Nevada Correctional Center

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3 Post Office Box # 7000

4 Carson City, Nevada 89702-7000

JACQUELINE BRYANT
CLERK OF THE COURT

RECEIVED

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF WASHOE

9 THE STATE OF NEVADA,

Case No. CR96-1581

10 Plaintiff,

Dept. No. 10

11 VS.

12 STEVEN FLOYD VOSS,

13 Defendant,

16 NOTICE

18 COMES NOW Defendant, STEVEN FLOYD VOSS, by and
19 through his proper person and hereby submits the
20 instant Notice.

22 NOTICE IS HEREBY GIVEN of the Plaintiff's failure
23 to serve upon the Defendant a copy of the
24 Plaintiff's belated Response - Opposition to the Defendant's
25 Pre-Sentencing Motion To Set Aside Jury Verdicts, filed
26 on or about January 4, 2018,

27 The Defendant having been "informed by reliable
28 source, does believe that the Plaintiff had on January 4, 2018,

1 or thereabout, filed a Response or Opposition to the
2 Defendant's Pre-Sentencing Motion To Set Aside Jury
3 Verdicts, filed on October 25, 2017. Such Response or
4 Opposition which had been filed some twenty-nine
5 (29) days subsequent to this Court's Order Directing
6 Response filed on December 5, 2017. However, even
7 though the State had filed their Response or Opposition
8 within the time period prescribed within the
9 aforementioned Order of this Court, the State has
10 failed to serve a copy of said Response or Opposition
11 upon the Defendant as required by the rules of this
12 Court, as of the present date.

13 Nonetheless, even though the Defendant has been
14 informed of the State's filing of said Response or
15 Opposition, the Defendant as of the present date
16 has been unable to attain a copy of said Response
17 or Opposition, or to otherwise learn of the
18 content of such filing as to allow the Defendant
19 to prepare a Reply thereto. Of course, had
20 the State promptly served their Response or
21 Opposition upon the Defendant he would have at
22 this or some prior juncture submitted his Reply
23 in accordance with the rules of this Court.

24 The Defendant takes this opportunity to inform
25 the Court of the prior and continued vexatious
26 conduct of the State's Counsel, TERRENCE P. MCCARTHY,
27 ESA., and his routine practice of inserting
28 vexatious commentary into his responsive pleadings.

1 based upon said counsel's history of vexatious
2 conduct, the Defendant believes it likely that
3 said counsel had intentionally neglected to serve
4 the state's Response or Opposition upon the
5 Defendant for a dilatory purpose of delaying
6 the proceedings or prejudicing the Defendant
7 therein.

8 To present date the states failure to comply
9 with the mandates of District Court Rule 13(3), has
10 functioned to delay these proceedings for a
11 period of time in excess of two months. Therefore,
12 in light of the state's conduct in this matter, as
13 well as in consideration of the presumptively
14 prejudicial delay of some sixteen (16) years to present
15 date in conducting the Re-Sentencing Proceeding
16 ordered by this Court on August 17, 2001; it would
17 not be unreasonable for the Court to strike the
18 state's January 4, 2018 Response or Opposition as a
19 dilatory device, and to grant the Defendant's
20 Pre-Sentencing Motion To Set Aside Jury Verdicts and
21 the relief requested thereby.

22
23 Under penalty of perjury, I STEVEN FLOYD VOSS,
24 do hereby verify that I have read the content of
25 the foregoing document, and that same is true
26 and correct of my own personal information,
27 knowledge and belief.

28

1 The foregoing document does not contain the
2 personal information or social security number of
3 any person.

4 DATED this 8th day of January 2018.

6 By: 

7 STEVEN FLOYD VOSS,
8 Defendant, in pro. per.

9
10 CERTIFICATE OF SERVICE VIA U.S. MAIL


11
12 I, STEVEN FLOYD VOSS, do hereby certify that on
13 this 8th day of January 2018, that I mailed a
14 true and correct copy of the foregoing document,
15 addressed to:

16 TERRENCE P. MCCARTHY, ESQ. (DDA)

17 % Washoe County District Attorney

18 Post Office Box # 11130

19 Reno, Nevada 89520-0027

20
21 By: 

22 STEVEN FLOYD VOSS,

23
24 ///

25 ///

26 ///

CR96-1581
STATE VS. STEVEN FLOYD VOSS 12 Pages
District Court
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STEVEN FLOYD VOSS #520914

Northern Nevada Correctional Center

Post office Box # 7000

Carson City, Nevada 89702-7000

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2018 JAN 11 PM 4:04

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

THE STATE OF NEVADA,

Case No. CR96-1581

Plaintiff,

Dept. No. 10

VS.

STEVEN FLOYD VOSS,

Defendant.

DEFENDANT'S REPLY TO STATE'S OPPOSITION TO DEFENDANT'S
PRE-SENTENCING MOTION TO SET ASIDE JURY VERDICTS

COMES NOW Defendant, STEVEN FLOYD VOSS, by and
through his proper person, and hereby submits the
instant Reply.

The instant Reply is made and predicated upon the
attached memorandum of points and authorities,
and all papers and pleadings on file in the above
entitled case.

MEMORANDUM OF POINTS AND AUTHORITIESI. Nature of Reply:

The Defendant hereby replies to the state's Opposition filed on or about January 4, 2018, to his Pre-Sentencing Motion To Set Aside Jury Verdict filed on October 25, 2017.

II. Arguments:A. Legal Standards Involved:

Pursuant to NRS 175.381, "[t]he court may, on a motion of a defendant..., which is made after the jury returns a verdict of guilty, set aside the verdict and enter a judgment of acquittal if the evidence is insufficient to sustain a conviction." In reviewing the sufficiency of the evidence, this court must consider whether the evidence was such that a rational trier of fact could find the evidence supportive of the elements of the offenses charged beyond a reasonable doubt, even after consideration in a light most favorable to the prosecution. See, Wright v. State, 106 Nev. 647 (1990); State v. Rhodig, 101 Nev. 608 (1985); and Wilkins v. State, 96 Nev. 367 (1980).

1 B. The State's Opposition to the instant
2 Motion is misguided and without merit.

3
4 The state raises two (2) affirmative
5 defenses within its Opposition, which are:

6 (1) that the issue of the sufficiency of the
7 evidence has been decided and that the issue is now
8 "the law of the case" and no longer subject to review
9 by this court; and

10 (2) that pursuant to NRS 34-724(2)(b), a
11 Post-Conviction Petition For Writ Of Habeas Corpus is
12 the only available remedy available to challenge
13 the validity of the conviction or sentence, and
14 that therefore, the instant Motion must be denied.

15
16 However, the state completely ignores the
17 fact that the November 27, 1996 Judgment of Conviction
18 which was entered in the instant case has been
19 vitiated and rendered null and void by this
20 Court's entry of its August 14, 2001 WRIT OF HABEAS-
21 CORPUS (Findings of Fact, Conclusions of Law, And -
22 Judgment). Therefore, there exists no District
23 Court Judgment upon which the Nevada Supreme
24 Court's March 11, 1999 Order Dismissing Appeal can
25 operate. Thus, Law of the Case Doctrine is
26 completely inapplicable subsequent to this Court's
27 entry of its August 14, 2001 Writ Of Habeas Corpus
28 and the Nevada Supreme Court's Affirmance of that

1 Judgment in the context of Case No. 38373.
2 Thus, the Constitutional invalidity of this Court's
3 November 27, 1996 has already been established by
4 a Nevada Court of competent jurisdiction (the
5 District Court), and that Judgment has been
6 Affirmed by this states highest court. Therefore,
7 it is the Nevada Supreme Courts Decision in Case
8 No. 38373 and not Case No. 29783, which
9 establishes "the law of the case" to be followed in all
10 subsequent proceedings. Clearly, where the November
11 27, 1996 Judgment of Conviction has been vitiated
12 and rendered null and void by this Court's
13 August 14, 2001 Writ of Habeas Corpus, the Defendant
14 until such time as an Amended Judgment of
15 Conviction is entered, does not meet the in-custody
16 requirement of NRS 34.724, and the statutory
17 provisions of that statute are completely
18 inapplicable to the instant case. Based upon these
19 facts the State's Opposition to the instant Motion
20 is shown to be without merit. Further, and
21 more importantly, the state has completely failed
22 to address the obvious merits of the Defendant's
23 claims for relief, despite this Court's Order-
24 Directing Response. The very fact that this Court had
25 admonished the state that a failure to respond
26 would result in the granting of the instant Motion,
27 suffices to demonstrate that the Court had reviewed
28 the instant Motion and the prima facie evidence

1 appended thereto, and that the Defendant had made
2 a prima facie showing of the merits of his claims.
3 Whereas, the State's mere failure to file a Response
4 to the instant Motion would not have automatically
5 entitled the Defendant to the granting of the
6 instant Motion.

7
8 C. A rational trier of fact could not have
9 reasonably found the evidence admitted to be
10 supportive of the essential elements of the charged
11 offenses, beyond a reasonable doubt.

12
13 Whereas, the Jury's Guilty Verdicts were
14 clearly founded upon statutorily and constitutionally
15 prohibited and inadmissible evidence. To wit:
16 (a) Victim Hearsay Testimony from State's witnesses,
17 admitted in violation of NRS 51.065, NRS 48.035, and
18 the Defendant's state and federal rights to Due Process
19 And Equal Protection of Law, guaranteed under
20 Article 1 § 8 of the Nevada State Constitution, and the
21 Fourteenth Amendment to the United States
22 Constitution.

23 The Trial Record clearly reflects that the State
24 had admitted Victim Hearsay Testimony from State's
25 witnesses; Sandra Crumb; Linda Weeks; Sophia
26 Penjota; Ed Park; and others. Such Testimony
27 regarding certain alleged statements made by the
28 alleged victim, which were non-contemporaneous to

1 the time of the alleged crimes, concerning the
2 alleged victims intentions regarding the use of
3 funds from a \$5,026.⁰⁰ Settlement Check.
4 Despite the clear fact that the Victim Hearsay
5 Testimony was clearly prohibited and inadmissible.
6 Because, such testimony did not fall within any
7 recognized exception to the hearsay rules. Even
8 if such alleged prior intentions of the alleged
9 victim could be countenanced as true, where
10 the alleged victim did not testify and the Defendant
11 was deprived of his right to confront the alleged
12 declarant; such Victim Hearsay Testimony was
13 completely ineffective to establish the alleged
14 victims intentions regarding the use of the funds
15 from the \$5,026.⁰⁰ Settlement Check at the time
16 of the alleged crimes.

17 Further, the Trial Record clearly reflects that
18 the state had admitted at trial a Personal Check
19 #563, drawn on the Checking Account of the alleged
20 victim (State's Exhibit #29). The Defendant has pled
21 within the instant Motion that:

22 "The state's admission of evidence (State's Exhibit #29)
23 which was seized by state agents without a duly
24 authorized Search Warrant, had deprived the
25 Defendant of: (a) his Fourteenth Amendment rights
26 to Due Process and Equal Protection of Law, and to
27 receive a fair trial; and (b) his Sixth Amendment
28 rights to Jury Trial, and to receive beyond

1 reasonable doubt factual findings and Jury
2 Verdicts."

3 The state did not admit any evidence other than
4 said Victim Hearsay Testimony and state's Exhibit #29,
5 to prove the essential elements of the charged
6 crimes. Therefore, the Jury's Guilty Verdicts
7 could only have been the product of the state's
8 admission of the incompetent, prohibited, and
9 inadmissible evidence. In other words, the state
10 failed to prove by competent evidence, the essential
11 elements of the charged crimes, beyond a reasonable
12 doubt. In light of the aforementioned facts, no
13 rational and informed trier of fact could find the
14 evidence admitted at trial supportive of the
15 essential elements of the charged offenses, as required
16 under Wright, Rhodig, and Wilkins, as well as
17 In re Winship, 397 U.S. 358, 364 (1970), and progeny.
18 Thus, the Trial Proceedings were infected with
19 errors of constitutional magnitude, which had
20 rendered the jury's Verdicts unworthy of confidence.
21 Therefore, the State's failure to prove the elements
22 of the charged crimes with competent evidence,
23 reasonable doubt is self-evident, and the Defendant
24 is entitled to have the Jury's Guilty Verdicts set
25 aside, and to receive a Judgment of Acquittal
26 in regard to each of the six (6) counts charged
27 within the state's Criminal Information.

28

1 D. The State's Count I, Burglary charge, as
2 specified within the State's Criminal Information,
3 is at material variance with the Count I, Burglary
4 charge specified within the State's Criminal Complaint
5 filed in the Justice Court.

6
7 Count I, of the State's Criminal Information
8 is clearly at a manifest material variance to the
9 State's Criminal Complaint filed in the Reno Justice
10 Court. Such fact is undeniable in light of the
11 record. Therefore, given such fact the State's
12 Criminal Complaint was not sufficiently clear and
13 concise in regard to the necessary elements of the
14 specific intent crime of Burglary, specified
15 within Count I of the State's Criminal Complaint,
16 and the Criminal Complaint was not sufficient to
17 adequately Notice the Defendant of the nature
18 and cause of the Count I, Burglary charge, as
19 to allow the Defendant to effectively prepare a
20 defense to such charge. Moreover, the State's
21 deficient specification of the Count I, Burglary
22 charge within the State's Criminal Complaint
23 had allowed the State to circumvent the Notice
24 requirements, and to change prosecutorial theories
25 in mid-stream. Depriving the Defendant of Due
26 Process and Equal Protection of law, guaranteed
27 under Article 1 § 8 of the Nevada State Constitution and
28 the Fourteenth Amendment to the United States Constitution.

1 D. The record clearly demonstrates Judicial
2 Bias of the Trial Court, which had rendered the
3 trial proceedings fundamentally unfair, the Jury's
4 Verdicts unworthy of confidence, and the sentence
5 imposed to be decidedly onerous.

6
7 It is undisputable in light of the
8 Judicially Noticable facts that the Trial Court had
9 imposed a "onerous" sentence upon the Defendant
10 based upon the Trial Court's "suspect and impalpable"
11 belief that the Defendant had caused the disappearance
12 and murder of the alleged victim. Where, the
13 Petitioner had not been charged with such crimes.
14 No evidence of such crimes was adduced either
15 during the guilt phase of the trial or at sentencing
16 upon which Judge Stone could have reasonably
17 based such belief. Therefore, it is undeniably clear
18 that Judge Stone's stated belief was based on
19 matters outside of the record. The Court's
20 undeniable reliance upon matters outside of the
21 record in determining sentence, and its imposition
22 of maximum and consecutive sentences in regard to
23 each of the six counts charged, is demonstrative
24 of Judge Stone's actual personal bias toward the
25 Defendant at sentencing. Especially in light of
26 the Judicially Noticable fact that the sentences imposed
27 by Judge Stone, fell "outside the heartland of sentences
28 for persons with [the Defendant's] criminal history." See,

1 Findings of Fact, Conclusions of Law, And Judgment
2 (attached Exhibit #5, to the instant Motion),

3 In light of such demonstratable bias of Judge
4 Stone at sentencing, an implied bias may be
5 presumed at other stages of the trial proceedings,
6 including pre-trial proceedings and the guilt phase
7 of the trial proceedings. It is undeniable that
8 Judge Stone, had allowed the state to admit
9 Victim Hearsay Testimony at trial, where, such
10 testimony clearly did not fall within any recognized
11 exception to the hearsay rule (NRS 51.065) or the
12 Confrontation Clause of the Sixth Amendment; Despite
13 Defense Counsel's Motions In Limine requesting that
14 such Victim Hearsay Testimony be excluded under;
15 NRS 51.065 and the hearsay rule prescribed thereby; and
16 NRS 48.035 and the prohibition upon even relevant
17 evidence where the probative value of the evidence
18 is outweighed by its prejudicial effects. However,
19 instead of excluding the evidence of the alleged
20 victims alleged non-contemporaneous intentions regarding
21 the use of the \$5,026.⁰⁰ Settlement Check, the Court
22 had merely, and reluctantly, limited the use of the
23 Victim Hearsay Testimony to the alleged victims then
24 existing state of mind (or her intentions at the time of
25 her alleged utterance of such statements). However,
26 the jury was never admonished or instructed in regard
27 to their use of the Victim Hearsay Testimony in determining
28 the Defendant's guilt or innocence. Nonetheless,

1 Judge Stone's clearly erroneous decision to
2 allow the states admission of the Victim Hearsay
3 Testimony, without as much as conducting
4 a Petrocelli hearing, and a balancing test to determine
5 whether the probative value of the evidence might
6 be outweighed by its prejudicial effects, strongly
7 supports the possibility that Judge Stone had acquired
8 a personal bias toward the Defendant even prior to
9 trial. Thus, personal bias may reasonably be implied
10 at all stages of the trial proceedings over which
11 Judge Stone had presided.

12 13 III. Conclusion:


14
15 The Court should grant the instant Motion,
16 and set aside the Jury's Guilt Verdicts and formally
17 vacate the Court's November 27, 1996 Judgment of -
18 Conviction, and enter a Judgment of Acquittal
19 in regard to each of the six (6) counts charged
20 within the states Criminal Information.

21 22 IV. Verification:

23
24 Under penalty of perjury, I STEVEN FLOYD VOSS,
25 do hereby verify that I have read the content of
26 the foregoing document, and that same is true
27 and correct of my own personal information,
28 knowledge and belief.

1 The foregoing document does not contain the
2 personal information or social security number
3 of any person.
4

5 DATED this 9th day of January 2018.
6

7 By: 

8 STEVEN FLOYD VOSS,
9 Defendant, in pro. p. e.
10

11 CERTIFICATE OF SERVICE VIA U.S. MAIL
12

13 I, STEVEN FLOYD VOSS, do hereby certify
14 that on this 9th day of January 2018, that I
15 mailed a true and correct copy of the foregoing
16 document, addressed to:

17 TERRENCE P. MCCARTHY, ESQ. (DDA)
18 % Washoe County District Attorney
19 Post Office Box #11130
20 Reno, Nevada 89520-0027
21

22 By: 

23 STEVEN FLOYD VOSS,
24
25
26
27
28

CR96-1581
STATE VS. STEVEN FLOYD VOSS
District Court
Washoe County
3860
mple

1 STEVEN FLOYD VOSS # 52094

2 Northern Nevada Correctional Center

3 Post Office Box #7000

4 Carson City, Nevada 89702-7000

FILED

2018 JAN 11 PM 4:07

CLERK
COURT

5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

6 IN AND FOR THE COUNTY OF WASHOE

7 THE STATE OF NEVADA,

8 Plaintiff,

9 VS.

10 STEVEN FLOYD VOSS,

11 Defendant,

Case No. CR96-1581


Dept. No. 10

12 REQUEST FOR SUBMISSION13 OF MOTION

14
15
16 COMES now Defendant, STEVEN FLOYD VOSS, by and through
17 his proper person, and hereby requests that his Presentencing-
18 Motion To Set Aside Jury Verdict, be submitted to the Court
19 for decision. Said Motion having been filed on October 25, 2017,
20 the Plaintiff having filed a Response on January 4, 2018, and
21 the Defendant having filed his Reply contemporaneously herewith.

22 The foregoing document does not contain the Social
23 Security Number of any person.

24 DATED this 9th day of January 2018.

25 By: 

26 STEVEN FLOYD VOSS,

27 Defendant, in pro. per.

1. RESPECTFULLY SUBMITTED On this day of
2. January 2018.

3. By: _____

4. STEVEN FLOYD VOSS,
5. Defendant, in pro. per.

6.
7. CERTIFICATE OF SERVICE VIA U.S. MAIL
8.

9. I, STEVEN FLOYD VOSS, do hereby certify that on
10. this day of January 2018, that I mailed
11. a true and correct copy of the foregoing document,
12. addressed to:

13. TERRENCE P. McARTHUR, ESQ. (DDA)
14. % Washoe County District Attorney
15. Post Office Box #11130
16. Reno, Nevada 89520-0027
17.

18. By: _____

19. STEVEN FLOYD VOSS,
20.
21.
22.
23.
24.
25.
26.
27.
28.

CR96-1581
STATE VS. STEVEN FLOYD VOSS
District Court
Washoe County
DC-09900085938-043
FLOYD VOSS 4 Pages
01/11/2018 04:09:20

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

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2018 JAN 11 PM 4:09

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE5
6
7
8
9 THE STATE OF NEVADA,

Case No. CR96-1581

10 Plaintiff,

Dept. No. 10

11 vs.

12 STEVEN FLOYD VOSS,

13 Defendant.
14

15
16 MOTION FOR EVIDENTIARY HEARING IN REGARD TO THE
17 DEFENDANT'S PRE-SENTENCING MOTION TO SET ASIDE JURY VERDICTS
18

19 COMES NOW Defendant, STEVEN FLOYD VOSS, by and through
20 his proper person, and hereby submits the instant
21 Motion.

22
23 The instant Motion is made and predicated upon
24 the attached memorandum of points and authorities,
25 and all papers and pleadings on file in the instant case.
26
27
28

MEMORANDUM OF POINTS AND AUTHORITIESI. Nature of Motion:

Through the instant Motion the Defendant requests that he be granted an evidentiary hearing in regard to his Pre-Sentencing Motion To Set Aside Jury Verdicts filed on October 25, 2017. The Court having directed the State to file a responsive pleading within its December 5, 2017 ORDER, the State having filed there Opposition to the Defendant's aforementioned Motion on or about January 4, 2018, and the Defendant having filed his Reply to the State's Opposition contemporaneously herewith.

II. Argument:

The Court's granting of an evidentiary hearing is necessary in the premises of the Defendant's Pre-Sentencing Motion To Set Aside Jury Verdicts.

The Defendant's Pre-Sentencing Motion To Set Aside Jury Verdicts presently before the Court raises several somewhat complex claims for relief. An evidentiary hearing would assist in the development of the underlying factual predicates necessary to the full and fair litigation of the Defendant's claims for relief; and an evidentiary hearing is necessary to

1 create a record which is suitable and complete
2 for future judicial review.
3

4 III. Conclusion:
5

6 The Court should grant the instant Motion
7 and enter an ORDER granting the Defendant's
8 requested evidentiary hearing.
9

10 IV. Verification:
11

12 Under penalty of perjury, I STEVEN FLOYD
13 VOSS, do hereby verify that I have read the content
14 of the foregoing document, and that same is
15 true and correct of my own personal information,
16 knowledge and belief.

17 The foregoing document does not contain the
18 personal information or social security number of any
19 person.

20 DATED this 9th day of January 2018.
21

22 By: 

23 STEVEN FLOYD VOSS,
24 Defendant, in pro. per.
25
26
27
28

CERTIFICATE OF SERVICE VIA U.S. MAIL


I, STEVEN FLOYD VOSS, do hereby certify that
on this 9th day of January 2018, that I mailed
a true and correct copy of the foregoing
document, addressed to:

TERRENCE P. MCCARTHY, ESQ (DDA)

% Washoe County District Attorney

Post Office Box # 11130

Reno, Nevada 89520-0027

By: 

STEVEN FLOYD VOSS,

CR96-1581
DC-09900085938-047
STATE VS. STEVEN FLOYD VOSS 3 Page
District Court 01/11/2018 04:11 PM
Washoe County
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Molien

1 STEVEN FLOYD VOSS #52094

FILED

2 Northern Nevada Correctional Center

2018 JAN 11 PM 4:12

3 Post Office Box # 7000

4 Carson City, Nevada 89702-7000

CLERK OF DISTRICT COURT
J. BRYANT

5
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF WASHOE

8
9 THE STATE OF NEVADA,

Case No. CR96-1581

10 Plaintiff,

Dept. No. 10

11 VS.

12 STEVEN FLOYD VOSS,

13 Defendant.

14
15
16 MOTION FOR ORDER TO PRODUCE PRISONER AT EVIDENTIARY
17 HEARING RELATIVE TO MOTION TO SET ASIDE JURY VERDICTS

18
19 COMES NOW Defendant, STEVEN FLOYD VOSS, by and through
20 his proper person and hereby submits the instant Motion

21
22 The instant Motion is made and predicated upon the
23 attached memorandum of points and authorities, and
24 the Defendant's Motion For Evidentiary Hearing In Regard
25 To The Defendant's Pre-sentencing Motion To Set Aside
26 Jury Verdicts, submitted contemporaneously herewith.

MEMORANDUM OF POINTS AND AUTHORITIESI. Nature of Motion:

Through the instant Motion the Defendant seeks an ORDER TO PRODUCE PRISONER for purpose of an evidentiary hearing relative to the Defendant's Pre-Sentencing Motion To Set Aside Jury Verdicts, such evidentiary hearing which the Defendant has requested through his Motion For Evidentiary Hearing In Regard To The Defendant's Pre-Sentencing Motion To Set Aside Jury Verdicts, submitted contemporaneously herewith.

Thus the instant Motion is made contingent upon the court's granting of an evidentiary hearing.

II. Conclusion:

The Court should grant the instant Motion to perpetuate the Defendant's personal appearance at an evidentiary hearing, at the time and place to be set by the court.

III. Verification:

Under penalty of perjury, I STEVEN ROYD VOSS, do hereby verify that I have read the content of the foregoing document and that same is true and correct of my own personal information, knowledge and belief.

1 The foregoing document does not contain the
2 personal information or Social Security Number of
3 any person.

4 DATED this 9th day of January 2018.

6 By:

7 STEVEN FLOYD VOSS

8 Defendant, in proper.

10 CERTIFICATE OF SERVICE VIA U.S. MAIL

12 I, STEVEN FLOYD VOSS, do hereby certify that on
13 this 9th day of January 2018, that I mailed a
14 true and correct copy of the foregoing document,
15 addressed to:

16 TERRENCE P. MCCARTHY, ESQ (DDA)

17 % Washoe County District Attorney

18 Post Office Box # 11130

19 Reno, Nevada 89520-0027

21 By:

22 STEVEN FLOYD VOSS.

CR96-1581
DC-09900085938-053
STATE VS. STEVEN FLOYD VOSS 2 Pages
District Court 01/12/2018 07:57 AM
Washoe County 3860
MURPHY

FILED

1 STEVEN FLOYD VOSS #5209Y

2 Northern Nevada Correctional Center

2018 JAN 12 AM 7:57

3 Post Office Box # 7000

4 Carson City, Nevada 89702-7000

DEPUTY
CLERK OF THE COURT

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF WASHOE

9 THE STATE OF NEVADA,

Case No. CR96-1581

10 Plaintiff,

Dept. No. 10

11 V.S.

12 STEVEN FLOYD VOSS,

13 Defendant.

16 (PROPOSED) ORDER OF ACQUITTAL

18 COMES NOW Defendant, STEVEN FLOYD VOSS, by and
19 through his proper person, and hereby submits
20 the attached (Proposed) Order of Acquittal.

22 The instant (Proposed) Order of Acquittal is made
23 relative to the Defendant's Pre-Sentencing Motion To
24 Set Aside Jury Verdicts filed on October 25, 2017.

25 The foregoing document does not contain the
26 personal information or social security number of
27 any person.

1 DATED this 10th day of January 2018.

2
3 By: 

4 STEVEN FLOYD VOSS,

5 Defendant, in pro. per.

6
7
8 CERTIFICATE OF SERVICE VIA U.S. MAIL

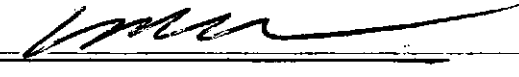
9
10 I, STEVEN FLOYD VOSS, do hereby certify that on
11 this 10th day of January 2018, that I mailed a
12 true and correct copy of the foregoing document,
13 addressed to:

14 TERRENCE P. McARTHUR, Esq. (DDA)

15 %o Washoe County District Attorney

16 Post Office Box # 11130

17 Reno, Nevada 89520-0037

18
19 By: 

20 STEVEN FLOYD VOSS

CR96-1581 DC-09900095938-054
STATE VS. STEVEN FLOYD VOSS 3 Pages
District Court 01/12/2018 07:57 AM
Washoe County 3860
MDIRNY

EXHIBIT

1
2
3
4
5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6 IN AND FOR THE COUNTY OF WASHOE
7

8
9 THE STATE OF NEVADA,
10 Plaintiff,

11 vs.

12 STEVEN FLOYD VOSS,
13 Defendant

Case No.: CR96-1581

Dept. No. 10

14
15 **JUDGMENT OF ACQUITTAL**
16

17 GOOD CAUSE APPEARING the court renders judgment
18 as follows.

19 IT IS ORDERED AND ADJUDGED that the Defendant, STEVEN FLOYD
20 VOSS, SHALL be acquitted in regard to each of the six (6) counts charge of:

21
22 Count I, Burglary, a violation of NRS. 205.060, a felony, the Defendant is
23 hereby acquitted;
24

25 Count II, uttering A Forged Instrument, a violation of NRS 205.090 and
26 NRS 2095.090 and NRS .110 a felony, the Defendant is hereby acquitted;
27
28

1 Count III, uttering A Forged Instrument, a violation of NRS 205.090 and
2 NRS 205.110, a felony the Defendant is hereby acquitted;

3 Count IV, Forgery, a violation of NRS 205.090, a felony,
4 the Defendant is hereby acquitted;

5 Count V, Forgery, a violation of NRS 205.090, a felony,
6 the Defendant is hereby acquitted;

7 Count VI, Attempted Theft, a violation of NRS 193.330, a felony,
8 the Defendant is hereby acquitted.
9
10

11
12 IT IS SO ORDERED ON THIS _____ DAY OF _____ 2018.

13 NUNC PRO TUNC to November 27, 1996.
14
15

16 _____
17 ELLIOTT A. SATTLER

18 District Judge
19
20
21
22
23
24
25
26
27
28

CR96-1581
STATE VS. STEVEN FLOYD VOSS
District Court
Washoe County
Nevada
DC-09900085938-116
FLOYD VOSS 15 Pages
01/12/2018 04:32 PM
2490

1 STEVEN FLOYD VOSS #5209Y

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2 Northern Nevada Corrections Center

2019 JAN 12 PM 4:32

3 Post Office Box #7000

4 Carson City, Nevada 89702-7000

CLERK OF DISTRICT COURT
CLERK

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF WASHINGTON

9 THE STATE OF NEVADA,

Case No. CR96-1581

10 Plaintiff,

Dept. No. 10

11 VS.

12 STEVEN FLOYD VOSS,

13 Defendant.

16 MOTION TO FORMALLY VACATE JUDGMENT OF CONVICTION17 AND TO DISMISS ACTION WITH PREJUDICE DUE TO THE18 STATE'S FAILURE TO PROSECUTE

20 COMES NOW Defendant, STEVEN FLOYD VOSS, by and
21 through his proper person, and hereby submits the
22 instant Motion.

23 The instant Motion is made and predicated upon
24 the attached memorandum of points and authorities,
25 and all papers and pleadings on file in the above
26 entitled case.

MEMORANDUM OF POINTS AND AUTHORITIESI. Nature of Motion:

Through the instant Motion the Defendant seeks an ORDER of this Court which: (a) formally vacates this Court's Judgment of Conviction, entered on November 27, 1996, that has been vitiated and rendered void by this Court's entry of a Writ of Habeas Corpus (see, Findings of Fact, Conclusions of Law, And Judgment) on August 14, 2001; and (b) dismisses the instant case with prejudice, due to the state's failure to prosecute the case to its culmination within a reasonable duration of time.

II. Procedural History:

A Criminal Complaint was filed in the Reno Justice Court on June 28, 1996, which had charged the Defendant with the crimes of: Count I, Burglary; Count II, Uttering A Forged Instrument; Count III, Uttering A Forged Instrument; Count IV, Forgery; Count V, Forgery; and Count VI, Attempted Theft. A Preliminary Hearing was conducted in said Court on July 15, 1996, and the case was bound over to the District Court.

A Criminal Information was filed in this Court on July 16, 1996. The instant case proceeded to trial on October 7, 1996. On October 10, 1996 the Jury had returned Guilty Verdicts in regard to each of the

1 six counts charged. Sentencing Proceedings were
2 thereafter conducted on November 27, 1996. Where,
3 at such time, the Court had imposed maximum and
4 consecutive sentences in regard to each of the six (6)
5 counts charged, and on that same date the Court
6 had entered a written Judgment of Conviction.

7 On December 24, 1996 the Defendant filed a timely
8 Notice of Appeal from this Court's November 27, 1996
9 Judgment of Conviction and sentence.

10 A Direct Appeal was docketed in the Nevada
11 Supreme Court, Case No. 29783, on December 24, 1996.
12 Said Court had entered an Order Dismissing Appeal
13 on March 11, 1999.

14 On March 9, 2000 the Defendant filed a timely
15 Post-Conviction Petition For Writ of Habeas Corpus,
16 which was assigned Case No. CR96-P-1581). This Court
17 had entered an Order For Evidentiary Hearing And For -
18 Appointment of Post-Conviction Counsel, on May 11, 2000,
19 and Attorney Scott W. Edwards, Esq., was appointed
20 to represent the Defendant in such regard. An Evidentiary
21 Hearing was held on June 8, 2001. Wherein, the Court,
22 from the bench, had granted the writ, in regard
23 to the Defendant's Ground Six claims. The Court had
24 determined that the Defendant is entitled to receive
25 a new sentencing proceeding. Thereafter, on
26 August 14, 2001 the Court had entered its Findings of -
27 Fact, Conclusions of Law, And Judgment. Wherein,
28 the Court had ruled as follows:

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

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

It is hereby the judgment and order of this Court that Voss's Petition for Writ of Habeas Corpus (Post-Conviction) is granted, but only insofar as allowing for a new sentencing proceeding. In all other respects, the Petition is denied." Id. at Page 6, Line 9, through Page 7, Line 8.

On August 20, 2001 the Defendant had filed a timely Notice of Appeal from this Court's partial denial of the Defendant's March 9, 2000 Petition. An appeal

1 was docketed in the Nevada Supreme Court, Case
2 No. 38373, on 2000. Said Court had entered
3 an Order of Affirmance on January 17, 2002. Which
4 had affirmed, in whole, this Court's Judgment and
5 Order in Case No. CR96-P-1581.

6 Nonetheless, to present date, the Defendant has
7 not received the substantial benefits of: (a) the
8 Court Ordered Re-Sentencing Proceeding; (b) Fair and
9 Proportionate Sentencing; or (c) the entry of a
10 written, final and appealable, Amended Judgment -
11 of Conviction, which memorializes such Fair and
12 Proportionate sentences, as contemplated by this
13 Court's August 14, 2001 Writ of Habeas Corpus (Findings -
14 of Fact Conclusions of Law, And Judgment).

15 16 III. Arguments:

17
18 A. The failure to conduct a, timely, Re-Sentencing
19 Proceeding, pursuant to the Court's August 14, 2001
20 Writ of Habeas Corpus, is attributable to the State's
21 negligence.

22 The ultimate responsibility to: (a) set a
23 date for the Re-Sentencing hearing ordered by this
24 Court within its August 14, 2001 Writ of Habeas Corpus;
25 and (b) attain a written and final Amended -
26 Judgment of Conviction, and the culmination of
27 the State's prosecution, falls squarely upon the
28 state. Whereas, a criminal defendant

1 quite simply, is not called upon to make certain
2 that he is legally convicted. See, State v. Lovless,
3 62 Nev. 17, 24, 136 P. 2d 236, 239 (1949); Barker v. Wingo,
4 407 U.S. 514, 530-532 (1972); and progeny. Therefore,
5 there can be no legitimate and meritorious argument
6 that the state's failure to timely cause the
7 commencement of the Court ordered Re-sentencing
8 Proceedings, contemplated to result in the imposition
9 of fair and proportionate sentences, and in the
10 entry of a written and final Amended Judgment -
11 Of Conviction, is attributable to the Defendant.

12 Nonetheless, it is clear that the state by its
13 own negligence, has inexcusably failed to prosecute
14 the instant case to its culmination within a
15 reasonable duration of time. Whereas, pursuant
16 to NRS 176.015(1), a criminal Defendant has a
17 statutory, Due Process right, to receive the prompt
18 imposition of sentence. Said statute provides that:

19 "[The] sentence must be imposed without
20 unreasonable delay."

21 Said statute which parallels Federal Rules of Criminal
22 Procedure, Rule 3, and the Speedy Trial Clause of the
23 Sixth Amendment to the United States Constitution.

24 Thus, the Defendant concludes that the sixteen (16)
25 year delay by the state to prosecute the instant
26 case to its culmination, with customary promptness
27 and vigour, and to thereby secure the entry of a
28 written and final Amended Judgment of Conviction, is

1 clearly an unreasonable delay under NRS 176.015(1),
2 and an presumptively prejudicial delay under the
3 Sixth Amendments Speedy Trial Clause, see,
4 Barker v. Wingo, 407 U.S. 514 (1972)

5
6 B. This Court's August 14, 2001 Writ of Habeas
7 Corpus, functions to vitiate and render null and void
8 this Court's prior November 27, 1996 Judgment of Conviction,

9 The Defendant submits that this Court
10 through its August 14, 2001 Writ of Habeas Corpus, and
11 the Nevada Supreme Court's Affirmance of such
12 Judgment in the context of Case No. 38373, that
13 the Court's prior November 27, 1996 Judgment of Conviction
14 has effectively been vitiated and rendered null
15 and void, see, Findings of Fact, Conclusions of Law, And-
16 Judgment, entered on August 14, 2001, at Page 6, Line 9,
17 through Page 7, Line 8.

18
19 C. The substantive relief contemplated by the
20 Post-Conviction Court's, August 14, 2001, Writ of Habeas-
21 Corpus, is no longer available to the Defendant due
22 to the passage of time and the State's presumptively
23 prejudicial delay in achieving the culmination of the
24 prosecution.

25 It is clear from the very language of this
26 Court's August 14, 2001 Writ of Habeas Corpus (Findings of-
27 Fact, Conclusions of Law, And Judgment), that the Court
28 had found that the Defendant had received sentences on

1 November 27, 1996, which are disproportionate to
2 the crimes charged in consideration of the Defendant's
3 insubstantial criminal record. That is, "a sentence
4 clearly outside the heartland of sentences for a
5 person with Voss's criminal record being sentenced
6 for forgery offenses." Which is precisely the
7 reason that the Post-Conviction Court had found
8 "onerous" the sentences imposed by the November 27, 1996
9 Judgment of Conviction, and the reason why the Court
10 had found that "Voss is entitled to a new sentencing
11 hearing." Thus, in reasonable translation, the
12 Post-Conviction Court had found the sentences imposed
13 by Judge Stone on November 27, 1996, to be clearly
14 disproportionate to the crimes charged in light of
15 the Defendant's insubstantial criminal history, and that
16 therefore, the Defendant is entitled to receive a
17 Re-sentencing Proceeding, whereby his disproportionate
18 sentences would be corrected by the entry of an
19 Amended Judgment of Conviction which memorializes
20 fair and proportionate sentences.

21 However, at this juncture, the relief that was
22 contemplated by the Post-Conviction Court, and which
23 was memorialized within the Court's Writ of Habeas Corpus
24 (Findings of Fact, Conclusions of Law, And Judgment), is
25 no longer available to the Defendant due to the
26 passage of time. In other words, do to the state's
27 presumptively prejudicial delay of some sixteen (16) years,
28 and the state's failure to prosecute the instant case to

1 its culmination within a "reasonable" duration
2 of time; the Defendant at this juncture has
3 already served five (5) of his six (6) "onerous"
4 sentences to completion and discharge. Further,
5 the Defendant is scheduled to expire and discharge
6 the sixth (6th) and final "onerous" sentence in short
7 order. Therefore, the relief which was clearly
8 contemplated by the Post-Conviction Court, as
9 set out within the Court's Writ of Habeas Corpus,
10 have not been, and can never be, realized by the
11 Defendant. Due to the inexcusable negligence
12 attributable to the State,

13
14 D. In light of the record and the
15 operative circumstances involved, the only
16 equitable remedy, still available, to cure the
17 prejudicial effects of the "onerous", "suspect and
18 impalpable" sentences imposed upon the Defendant, is
19 to vacate with prejudice this Court's November 27, 1996
20 Judgment of Conviction, and to enter a Judgment of
21 Acquittal in regard to each of the six (6) counts charged.

22 Clearly, this Court's November 27, 1996
23 Judgment of Conviction has already been vitiated and
24 rendered null and void by this Court's August 14, 2001
25 Writ of Habeas Corpus. Therefore, said Judgment of
26 Conviction should already have been vacated, pursuant
27 to said Writ of Habeas Corpus. Nonetheless, because
28 the relief which was contemplated by the Post-Conviction

1 Court, is no longer available to the Defendant at
2 the present juncture, due to no fault of his own,
3 the only possible and equitable remedy available to
4 this Court; is to vacate the Court's November 27, 1996
5 Judgment of Conviction with prejudice, and to enter
6 a Judgment of Acquittal in regard to each of the
7 six (6) counts charged. Due to the State's inexcusable
8 and presumptively prejudicial failure to prosecute
9 the culmination of the instant case within a
10 "reasonable" duration of time,
11

12 E. An ORDER of this Court vacating its prior
13 November 27, 1996 Judgment of Conviction with prejudice,
14 and the Court's entry of a Judgment of Acquittal, would
15 also, and appropriately so, serve as a sanction
16 against the State for its wanton and constructive
17 neglect to prosecute the instant case to its culmination,
18 thereby depriving the Defendant of the substantial
19 remedies contemplated by the Post-Conviction Court
20 in the context of Case No. CR96-P-1581.

21 The record clearly reflects that the
22 Defendant has repeatedly and continuously invoked his
23 right to receive the Court ordered Re-sentencing
24 Proceeding through his proper person pleadings filed
25 in this Court. However, the State after being served
26 such pleadings, has never undertaken any action
27 reasonably contemplated to result in the Court ordered
28 Re-Sentencing proceeding. Further, it should be noted

1 that subsequent to the withdraw of Post-Conviction
2 Counsel, Scott W. Edwards, Esq. in Case No. CR96-P-1581,
3 no Defense Counsel was appointed to represent the
4 indigent Defendant in regard to the Court ordered
5 Re-sentencing proceedings in the instant case, and on
6 Direct Appeal from an Amended Judgment of Conviction and
7 the sentences which would have been imposed thereby,
8 if warranted. Clearly, had Defense Counsel been
9 appointed to represent the Defendant in regard to the
10 Court ordered Re-sentencing Proceedings, such Counsel
11 could have potentially litigated any number of conceivable
12 Pre-Sentencing Motions. However, at this juncture this
13 Court cannot reasonably determine the nature and
14 legal basis of such conceivable Motions, where same were
15 never filed and submitted to this Court. Thus, the
16 merits and ultimate outcome of such prospective Motions,
17 and for that matter, the effect that same might have
18 had on the outcome of the instant case, cannot
19 reasonably be determined at this juncture. Nonetheless,
20 it is clear that the deprivation of Defense Counsel at
21 such an important stage of the Trial Proceedings as
22 sentencing, had undeniably violated the Defendant's
23 Sixth Amendment right to be represented by Defense Counsel;
24 and his Fourteenth Amendment rights to Due Process and
25 Equal Protection of Law, as well as paralleling State Statutory
26 and Constitutional rights. Therefore, the presumptively
27 prejudicial delays in achieving the culmination of the
28 prosecution have undeniably prejudiced the Defendant.

1 Because, it goes almost without saying that: (a) had the
2 state set a date for the Court ordered Re-Sentencing
3 Proceeding, that Defense Counsel surely would have been
4 appointed, because the Court could not have reasonably
5 proceeded with sentencing until Defense Counsel was
6 appointed and present; and (b) the Defendant would
7 not have been made to serve his decidedly "onerous"
8 sentences to completion. Of course, due to the myriad
9 of errors occurring within the Trial Proceedings,
10 such as those raised within the Defendant's proper
11 person Pre-Sentencing Motion To Set Aside Jury Verdicts¹
12 filed on October 25, 2017, and other prospective claims
13 which could have been raised by Defense Counsel if
14 such counsel had been appointed; it is wholly
15 conceivable that if Defense Counsel had been appointed
16 that the outcome of the instant case might have been
17 substantially different.

18 19 IV. Conclusion:

20
21 This Court should grant the instant Motion,
22 and vacate with prejudice, the Court's prior November 27,
23 1996 Judgment of Conviction; and enter a Judgment -
24 of Acquittal in regard to each of the six (6) counts
25 charged within the State's July 16, 1996 Criminal Information.

26
27 ¹ The Defendant incorporates by reference herein his previously
28 filed Pre-Sentencing Motion To Set Aside Jury Verdicts.

IV. Verification:

Under penalty of perjury, I STEVEN FLOYD VOSS, do hereby verify that I have read the content of the foregoing document, and that same is true and correct of my own personal information, knowledge and belief. This document does not contain the social security number of any person.

DATED this 11th day of January 2018.

By: 

STEVEN FLOYD VOSS,

Defendant, in pro. per.

CERTIFICATE OF SERVICE VIA U.S. MAIL

I, STEVEN FLOYD VOSS, do hereby certify that on this 11th day of January 2018, that I mailed a true and correct copy of the foregoing document, addressed to:

TERRENCE P. MCCARTHEY, ESQ (DDA)

% Washoe County District Attorney

Post Office Box # 11130

Reno, Nevada 89520-0027

By: 

STEVEN FLOYD VOSS

1
2
3
4
5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6 IN AND FOR THE COUNTY OF WASHOE
7

8
9 THE STATE OF NEVADA,
10 Plaintiff,

11 vs.

12 STEVEN FLOYD VOSS,
13 Defendant

Case No.: CR96-1581

Dept. No. 10

14
15 **JUDGMENT OF ACQUITTAL**
16

17 GOOD CAUSE APPEARING the court renders judgment
18 as follows.

19 IT IS ORDERED AND ADJUDGED that the Defendant, STEVEN FLOYD
20 VOSS, SHALL be acquitted in regard to each of the six (6) counts charge of:
21

22 Count I, Burglary, a violation of NRS. 205.060, a felony, the Defendant is
23 hereby acquitted;
24

25 Count II, uttering A Forged Instrument, a violation of NRS 205.090 and
26 NRS 2095.090 and NRS .110 a felony, the Defendant is hereby acquitted;
27
28

1 Count III, uttering A Forged Instrument, a violation of NRS 205.090 and
2 NRS 205.110, a felony the Defendant is hereby acquitted;

3 Count IV, Forgery, a violation of NRS 205.090, a felony,
4 the Defendant is hereby acquitted;

5 Count V, Forgery, a violation of NRS 205.090, a felony,
6 the Defendant is hereby acquitted;

7 Count VI, Attempted Theft, a violation of NRS 193.330, a felony,
8 the Defendant is hereby acquitted.
9
10

11
12 IT IS SO ORDERED ON THIS _____ DAY OF _____ 2018.

13 NUNC PRO TUNC to November 27, 1996.
14
15

16 _____
17 ELLIOTT A. SATTLER

18 District Judge
19
20
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28

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

STEVEN FLOYD VOSS,
Petitioner,

vs.

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

Respondent,

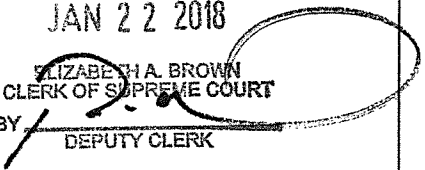
and

THE STATE OF NEVADA,
Real Party in Interest.

CR96-1581
No. 74227 DID

FILED

JAN 22 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DIRECTING ANSWER

This is a petition for extraordinary relief. Steven Floyd Voss has provided this court with a copy of the "Findings of Fact, Conclusions of Law and Judgment" that was entered in district court case number CR96P1581 on August 9, 2001. Voss asserts that although this order granted his petition in part and held he was entitled to a new sentencing hearing, he has never been resentenced and an amended judgment of conviction has never been entered. Voss' claim is not belied by the record before this court. The State shall have 30 days to file an answer in which it informs this court whether Voss has ever been resentenced in this case and if an amended judgment of conviction has been entered pursuant to that resentencing. If Voss has been resentenced and an amended judgment of conviction has been entered, the State shall also provide this court with a copy of the amended judgment of conviction with its answer.

It is so ORDERED.

 C.J.

18-900091
V8. 1513

cc: Steven Floyd Voss
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk



Return Of NEF**Recipients**

TERRENCE - Notification received on 2018-01-23 14:05:49.985.
MCCARTHY, ESQ.

DIV. OF PAROLE & - Notification received on 2018-01-23 14:05:48.534.
PROBATION

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR96-1581

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

01-23-2018:14:03:20

Clerk Accepted:

01-23-2018:14:04:53

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. STEVEN FLOYD VOSS (D10)

Document(s) Submitted:

Supreme Ct Order Directing

Filed By:

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

DIV. OF PAROLE & PROBATION

TERRENCE P. MCCARTHY, ESQ. for STATE
OF NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

STATE OF NEVADA for STATE OF NEVADA
STEVEN FLOYD VOSS for STEVEN FLOYD
VOSS

EGAN K. WALKER, ESQ. for STATE OF
NEVADA

CR96-1581
DC-09900086028-101
STATE VS. STEVEN FLOYD VOSS 5 Pages
District Court 01/24/2018 02:52 PM
Washoe County
2610
MPLBY

STEVEN FLOYD VOSS #52091Y

FILED

Northern Nevada Correctional Center

2018 JAN 24 PM 2:52

Post Office Box # 7000

Carson City, Nevada 89702-7000

CLERK
DISTRICT COURT

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,

Case No. CR96-1581

Plaintiff,

Dept. No. 10

VS.

STEVEN FLOYD VOSS,

Defendant.

NOTICE OF STATES FAILURE TO FILE POINTS AND AUTHORITIES

IN OPPOSITION TO DEFENDANTS MOTION TO FORMALLY VACATE

JUDGMENT OF CONVICTION AND TO DISMISS ACTION WITH

PREJUDICE DUE TO THE STATES FAILURE TO PROSECUTE

and,

REQUEST FOR JUDGMENT ON THE PLEADINGS IN ACCORDANCE

WITH DISTRICT COURT RULES, RULE 13(3)

COMES NOW Defendant, STEVEN FLOYD VOSS, by and through
his proper person, and hereby submits the instant
Notice and Request. Which are made and predicated
upon the attached memorandum of points and authorities
and all papers and pleadings on file in the above entitled case.

MEMORANDUM OF POINTS AND AUTHORITIESI. Nature of Document:

Through the filing of the instant Document, the Defendant Notices the Court of the state's failure to file Points And Authorities in opposition to the Defendant's Motion To Formally Vacate Judgment of Conviction And To Dismiss Action with Prejudice Due To The State's Failure To Prosecute, filed January 12, 2018; and Request's that the Court in accordance with District Court Rule 13(3), construe the state's failure to file Points And Authorities in opposition to the Defendant's aforementioned Motion as an admission of the merits of said Motion, and as a consent to the granting of same, and upon such premise to enter a Judgment on The Pleadings granting Defendant's Motion and the relief requested thereby. Where, the merits of the Defendant's Motion are clear from the face of said Motion, and from the record it-self,

II. Argument:

Judgment on the pleadings submitted, and the Court's granting of the Defendant's Motion To Formally Vacate Judgment of Conviction And To Dismiss Action with Prejudice Due To The State's Failure To Prosecute, is clearly warranted and equitable.

1 The merits of the Defendant's instant
2 Motion To Formally Vacate Judgment of Conviction And -
3 To Dismiss Action With Prejudice Due To The State's -
4 Failure To Prosecute, are clearly meritorious,
5 the merits of the Defendant's instant Motion being
6 clear upon its very face, and in consideration of the
7 record as a whole. Whereas, there can be absolutely
8 no legitimate argument that: the Defendant on
9 , 200 was not granted a Writ of Habeas Corpus
10 in the context of habeas corpus proceedings undertaken
11 in Case No. CR96-P-1581, and relative to the instant
12 Case No. CR96-1581; and that said Writ of Habeas Corpus
13 did not grant the Defendant the right to receive a
14 Re-Sentencing proceeding, contemplated to correct the
15 onerous sentence imposed upon the Defendant by the
16 Court's November 27, 1996 Judgment of Conviction by causing
17 a fair and proportionate sentence to be imposed in
18 regard to each of the six counts charged; the
19 Defendant has received the Re-sentencing proceeding to
20 which he is entitled, or the substantial benefits
21 contemplated by the post-conviction Court to result
22 from such proceedings.

23 Clearly, sentencing proceedings and the entry of
24 a final written Judgment of Conviction are the
25 culmination of the trial proceedings, and it is the
26 state which is burdened with not only achieving such
27 a culmination of the trial proceedings, but also to
28 do so within a reasonable duration of time, as

1 required under NRS 176.015(1), and the speedy
2 trial clause of the Sixth Amendment to the United
3 States Constitution. Such claims which have been
4 raised by the Defendant within the instant Motion
5 and which have not been refuted by the state.
6 Thus, the state has conceded the merits of such
7 arguments by their silence. Moreover, the state has
8 not opposed the granting of the requested relief.
9 Therefore, by their silence the state has effectively
10 conceded the merits of the instant Motion, and
11 consented to the Court's granting of the instant Motion.
12 Whereas, District Court Rules, Rule 13(3), clearly
13 provides that:

14 "Failure of the opposing party to serve and file his
15 written opposition may be construed as an admission
16 that the motion is meritorious and a consent to
17 granting same."

18 Therefore, the Defendant submits that the Court
19 should construe the state's silence as a concession
20 to the merits of the instant Motion and as a consent to
21 the Court's granting of same. Thus, the Court should
22 consider the instant Motion on the pleadings submitted
23 and enter Judgment, granting the instant Motion
24 and ordering that the November 27, 1996 Judgment of-
25 Conviction be formally vacated with prejudice, and that
26 a Judgment of Acquittal be entered in regard to
27 each of the six (6) counts charged.
28

III. Verification:

Under penalty of perjury, I STEVEN FLOYD VOSS, do hereby verify that I have read the content of the foregoing Notice and Request, and that same is true and correct of my own personal information, knowledge and belief.

The foregoing document does not contain the personal information or social security number of any person.

DATED this 23rd day of January 2018, 12:13 am

By: Steven Floyd Voss

STEVEN FLOYD VOSS,

Defendant, in pro. per.

CERTIFICATE OF SERVICE VIA U.S. MAIL

I, STEVEN FLOYD VOSS, do hereby certify that on this 23rd day of January 2018, that I mailed a true and correct copy of the foregoing document, addressed to:

TERRENCE P. MCCARTHY, Esq. (DDA)

% Washoe County District Attorney

Post Office Box # 11130

Reno, Nevada 89520-0027

By: Steven Floyd Voss

STEVEN FLOYD VOSS

1 STEVEN FLOYD VOSS #52094

FILED

2 Northern Nevada Correctional Center

2018 JAN 24 PM 2:55

3 Post Office Box #7000

4 Carson City, Nevada 89702-7000

5

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF WASHOE

9 THE STATE OF NEVADA,

Case No. CR96-1581

10 Plaintiff,

Dept. No. 10

11 VS.

12 STEVEN FLOYD VOSS,

REQUEST FOR SUBMISSION

13 Defendant.

14

15

16 COMES NOW Defendant, STEVEN FLOYD VOSS, by and through
17 his proper person, and hereby requests that his Motion To -18 Formally Vacate Judgment of Conviction And To Dismiss Action -19 With Prejudice Due To The State's Failure To Prosecute, filed

20 on January 12, 2018, be submitted to the Court for decision.


21 The Plaintiff not having filed a Response - Opposition to22 said Motion, and the Defendant having filed his Notice of the23 Plaintiff's Failure To Oppose Motion, and Request For Judgment24 on Motion Pleadings in accordance with DCR, Rule 13(3)

25 This document does not contain the social security number

26 of any person.

27 DATED this 23rd day of January 2018.

28

By: 

STEVEN FLOYD V8.1522

CERTIFICATE OF SERVICE VIA U.S. MAIL

1

2

3

I, STEVEN FLOYD VOSS, do hereby certify that
on this 23rd day of January 2018, that I mailed
a true and correct copy of the foregoing document,
addressed to:

6

7

TERRENCE P. MCCARTHY, Esq. (ADA)

8

% Washoe County District Attorney

9


Post Office Box # 11130

10

Reno, Nevada 89520-0027

11

12

By: 

13

STEVEN FLOYD VOSS

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

* * *

THE STATE OF NEVADA,

Plaintiff,
vs.

Case No.: CR96-1581
Dept. No.: 10

STEVEN FLOYD VOSS,
Defendant.

ORDER

Presently before the Court is a PRE-SENTENCING MOTION TO SET ASIDE JURY VERDICT ("the Motion"). The Motion was filed by Defendant STEVEN FLOYD VOSS ("the Defendant") on October 25, 2017. The Court directed the State of Nevada ("the State") to file a responsive pleading to the Motion in an ORDER DIRECTING RESPONSE filed on December 5, 2017. The State filed an OPPOSITION TO "PRE-SENTENCING MOTION TO SET ASIDE JURY VERDICT" ("the Opposition") on January 4, 2018. The Defendant filed his DEFENDANT'S REPLY TO STATE'S OPPOSITION TO DEFENDANT'S PRE-SENTENCING MOTION TO SET ASIDE JURY VERDICTS ("the Reply") on January 11, 2018, and contemporaneously submitted the matter for the Court's consideration.

On November 27, 1996, the Defendant was convicted, pursuant to a jury verdict, of one count of BURGLARY, one count of ATTEMPTED THEFT, two counts of UTTERING A FORGED INSTRUMENT, and two COUNTS OF FORGERY. The Defendant was sentenced to

1 consecutive sentences in the Nevada Department of Corrections for all six offenses.¹ The
2 Defendant's convictions were the subject of a direct appeal to the Nevada Supreme Court ("the
3 Supreme Court"). The Supreme Court entered an ORDER DISMISSING APPEAL, No. 29783 on
4 March 11, 1999 ("the March Order"). The March Order found "sufficient evidence to establish guilt
5 beyond a reasonable as determined by a rational trier of fact." The March Order further found, "the
6 jury's verdict will not be disturbed on appeal where, as here, sufficient evidence supports the
7 verdict."
8

9 The Defendant filed a POST-CONVICTION PETITION FOR WRIT OF HABEAS
10 CORPUS ("the Writ"). The Court conducted an evidentiary hearing regarding the Writ.² The Court
11 entered its FINDINGS OF FACT, CONCLUSION OF LAW AND JUDGMENT ("the FFCLJ") on
12 August 9, 2001. The FFCLJ denied the Writ in all aspects with one exception.³ The Supreme Court
13 affirmed the FFCLJ in the ORDER OF AFFIRMANCE No. 38373 ("the January Order") filed
14 January 17, 2002. Of note, the January Order found:
15

16 [the Defendant] was essentially caught in the midst of the commission of the crime at a Reno
17 bank as he attempted to cash the victim's forged personal check. Although [the Defendant]
18 alleged that he had consent from the victim, there was sufficient evidence to support the
19 jury's finding to the contrary.

20 The January Order, *5. The Defendant has filed numerous motions to file a successive petition for
21 writ of habeas corpus. The Court has denied all of the requests. The denials have been affirmed by
22

23 ¹ The Honorable James A. Stone ("Judge Stone") presided over the trial and sentencing.

24 ² The Honorable Steven P. Elliott ("Judge Elliott") presided over the Writ and all subsequent proceedings in the instant
25 action until March 18, 2013, when the undersigned became the presiding judge in Department X of the Second Judicial
26 District Court.

26 ³ Judge Elliott found the Defendant was entitled to a new sentencing hearing because Judge Stone "based [the
27 Defendant's] onerous sentence, at least in part, on suspect and impalpable ground [sic] that [the Defendant] had
28 murdered Ms. Baxter." The FFCLJ, 6:26 through 7:2. Whether the Defendant has received his re-sentencing is currently
before the Nevada Court of Appeals. *See generally*, ORDER DIRECTING ANSWER No. 74227 filed January 22, 2018.

1 the Nevada Supreme Court. *See generally*, ORDER OF AFFIRMANCE No. 42307 entered July 27,
2 2004; ORDER OF AFFIRMANCE No. 44637 entered April 22, 2005.⁴

3 The Court has reviewed the Motion and the Reply. These pleadings are attempts to re-
4 litigate the Defendant's guilt. The issue of the Defendant's guilt was decided over twenty years ago.
5 That decision has been affirmed by the Nevada Supreme Court and is the law of the case. *Hall v.*
6 *State*, 91 Nev. 314, 535 P.2d 797 (1975); *Hogan v. Warden*, 109 Nev. 952, 860 P.2d 710 (1993);
7 *Lisle v. State*, 131 Nev. Adv. Op. 31, 351 P.3d 725 (2015); *Peck v. State*, 2017 WL 1948575 (Nev.
8 2017). The Defendant may not circumvent this well-established doctrine by merely changing the
9 name of the pleading he files. *See generally*, *Pangallo v. State*, 112 Nev. 1533, 1535, 930 P.2d 100,
10 102 (1996)(overruled on other grounds by *Griffin v. State*, 122 Nev. 737, 137 P.3d 1165
11 (2006)(holding the "procedural label" attached to a motion is "of little importance").
12

13
14 It is hereby **ORDERED** the PRE-SENTENCING MOTION TO SET ASIDE JURY
15 VERDICT is **DENIED**.⁵

16 **DATED** this 25 day of January, 2018.

17
18 
19 ELLIOTT A. SATTLER
20 District Judge
21
22
23
24
25

26 ⁴ These two orders are not intended to be an exhaustive list of the appeals to the Supreme Court filed by the Defendant.
27 He has an extensive history seeking to re-litigate his convictions through various legal mechanisms.

28 ⁵ A Proposed Order of Acquittal was submitted to the Court on January 12, 2018. This was an improper submission and
is DENIED. In addition, a Motion to Formally Vacate Judgment of Conviction and to Dismiss Action with Prejudice
Due to the State's Failure to Prosecute was submitted to the Court on January 24, 2018. This Motion is also DENIED.

1
2 **CERTIFICATE OF MAILING**


3 Pursuant to NRCF 5(b), I certify that I am an employee of the Second Judicial District
4 Court of the State of Nevada, County of Washoe; that on this 25 day of January, 2018, I deposited
5 in the County mailing system for postage and mailing with the United States Postal Service in Reno,
6 Nevada, a true copy of the attached document addressed to:

7
8 STEVEN FLOYD VOSS, #52094
9 Northern Nevada Correctional Center
10 P.O. Box 7000
11 Carson City, NV 89702-7000

12 **CERTIFICATE OF ELECTRONIC SERVICE**

13 I hereby certify that I am an employee of the Second Judicial District Court of the State of
14 Nevada, in and for the County of Washoe; that on the 25 day of January, 2018, I electronically
15 filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of
16 electronic filing to the following:

17
18 TERRENCE McCARTHY, ESQ.
19
20
21

22 
23 Sheila Mansfield
24 Judicial Assistant
25
26
27
28

Return Of NEF

Recipients

TERRENCE MCCARTHY, ESQ. - Notification received on 2018-01-25 16:20:31.491.

DIV. OF PAROLE & PROBATION - Notification received on 2018-01-25 16:20:31.023.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR96-1581

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

01-25-2018:16:17:29

Clerk Accepted:

01-25-2018:16:18:00

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. STEVEN FLOYD VOSS (D10)

Document(s) Submitted:

Ord Denying

Filed By:

Judicial Asst. SMansfield

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

TERRENCE P. MCCARTHY, ESQ. for STATE
OF NEVADA
DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

STEVEN FLOYD VOSS for STEVEN FLOYD
VOSS
STATE OF NEVADA for STATE OF NEVADA
EGAN K. WALKER, ESQ. for STATE OF
NEVADA

CODE: 2540

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

STEVEN FLOYD VOSS,
Petitioner,

CASE NO: CR96-1581

vs.

DEPT. NO.: 10

STATE OF NEVADA,

Respondent,

_____ /

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that on the 25th day of January, 2018 the Court entered a decision or order in this matter, a true and correct copy of which is attached hereto.

You may appeal to the Supreme Court from the decision or order of the 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 the 26th day of January, 2018.

JACQUELINE BRYANT
Clerk of the Court

By /s/ Rosa Rodriguez
Deputy Clerk

CERTIFICATE OF SERVICE

CASE NO. CR96-1581

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; and that on the 26th day of January, 2018, I electronically filed the Notice of Entry of Order with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to:

TERRENCE MCCARTHY ESQ. for STATE OF NEVADA

DIV. OF PAROLE & PROBATION

I further certify that on the 26th day of January, 2018, I deposited in the Washoe County mailing system for postage and mailing with the U.S. Postal Service in Reno, Nevada, a true and correct copy of the Notice of Entry of Order, addressed to:

Steven Voss #52094
Northern Nevada Correctional Center
P.O Box 7000
Carson City, NV 89702-7000

Attorney General's Office
100 N. Carson Street
Carson City, NV 89701-4717

/s/ Rosa Rodriguez
Rosa Rodriguez

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

* * *

THE STATE OF NEVADA,

Plaintiff,
vs.

Case No.: CR96-1581
Dept. No.: 10

STEVEN FLOYD VOSS,
Defendant.

ORDER

Presently before the Court is a PRE-SENTENCING MOTION TO SET ASIDE JURY VERDICT ("the Motion"). The Motion was filed by Defendant STEVEN FLOYD VOSS ("the Defendant") on October 25, 2017. The Court directed the State of Nevada ("the State") to file a responsive pleading to the Motion in an ORDER DIRECTING RESPONSE filed on December 5, 2017. The State filed an OPPOSITION TO "PRE-SENTENCING MOTION TO SET ASIDE JURY VERDICT" ("the Opposition") on January 4, 2018. The Defendant filed his DEFENDANT'S REPLY TO STATE'S OPPOSITION TO DEFENDANT'S PRE-SENTENCING MOTION TO SET ASIDE JURY VERDICTS ("the Reply") on January 11, 2018, and contemporaneously submitted the matter for the Court's consideration.

On November 27, 1996, the Defendant was convicted, pursuant to a jury verdict, of one count of BURGLARY, one count of ATTEMPTED THEFT, two counts of UTTERING A FORGED INSTRUMENT, and two COUNTS OF FORGERY. The Defendant was sentenced to

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3 Supreme Court"). The Supreme Court entered an ORDER DISMISSING APPEAL, No. 29783 on
4 March 11, 1999 ("the March Order"). The March Order found "sufficient evidence to establish guilt
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12 August 9, 2001. The FFCLJ denied the Writ in all aspects with one exception.³ The Supreme Court
13 affirmed the FFCLJ in the ORDER OF AFFIRMANCE No. 38373 ("the January Order") filed
14 January 17, 2002. Of note, the January Order found:
15

16 [the Defendant] was essentially caught in the midst of the commission of the crime at a Reno
17 bank as he attempted to cash the victim's forged personal check. Although [the Defendant]
18 alleged that he had consent from the victim, there was sufficient evidence to support the
19 jury's finding to the contrary.

20 The January Order, *5. The Defendant has filed numerous motions to file a successive petition for
21 writ of habeas corpus. The Court has denied all of the requests. The denials have been affirmed by
22

23 ¹ The Honorable James A. Stone ("Judge Stone") presided over the trial and sentencing.

24 ² The Honorable Steven P. Elliott ("Judge Elliott") presided over the Writ and all subsequent proceedings in the instant
25 action until March 18, 2013, when the undersigned became the presiding judge in Department X of the Second Judicial
26 District Court.

26 ³ Judge Elliott found the Defendant was entitled to a new sentencing hearing because Judge Stone "based [the
27 Defendant's] onerous sentence, at least in part, on suspect and impalpable ground [sic] that [the Defendant] had
28 murdered Ms. Baxter." The FFCLJ, 6:26 through 7:2. Whether the Defendant has received his re-sentencing is currently
before the Nevada Court of Appeals. *See generally*, ORDER DIRECTING ANSWER No. 74227 filed January 22, 2018.

1 the Nevada Supreme Court. *See generally*, ORDER OF AFFIRMANCE No. 42307 entered July 27,
2 2004; ORDER OF AFFIRMANCE No. 44637 entered April 22, 2005.⁴

3 The Court has reviewed the Motion and the Reply. These pleadings are attempts to re-
4 litigate the Defendant's guilt. The issue of the Defendant's guilt was decided over twenty years ago.
5 That decision has been affirmed by the Nevada Supreme Court and is the law of the case. *Hall v.*
6 *State*, 91 Nev. 314, 535 P.2d 797 (1975); *Hogan v. Warden*, 109 Nev. 952, 860 P.2d 710 (1993);
7 *Lisle v. State*, 131 Nev. Adv. Op. 31, 351 P.3d 725 (2015); *Peck v. State*, 2017 WL 1948575 (Nev.
8 2017). The Defendant may not circumvent this well-established doctrine by merely changing the
9 name of the pleading he files. *See generally*, *Pangallo v. State*, 112 Nev. 1533, 1535, 930 P.2d 100,
10 102 (1996)(overruled on other grounds by *Griffin v. State*, 122 Nev. 737, 137 P.3d 1165
11 (2006)(holding the "procedural label" attached to a motion is "of little importance").
12

13
14 It is hereby **ORDERED** the PRE-SENTENCING MOTION TO SET ASIDE JURY
15 VERDICT is **DENIED**.⁵

16 **DATED** this 25 day of January, 2018.

17
18 
19 ELLIOTT A. SATTLER
20 District Judge
21
22
23
24
25

26 ⁴ These two orders are not intended to be an exhaustive list of the appeals to the Supreme Court filed by the Defendant.
27 He has an extensive history seeking to re-litigate his convictions through various legal mechanisms.

28 ⁵ A Proposed Order of Acquittal was submitted to the Court on January 12, 2018. This was an improper submission and
is DENIED. In addition, a Motion to Formally Vacate Judgment of Conviction and to Dismiss Action with Prejudice
Due to the State's Failure to Prosecute was submitted to the Court on January 24, 2018. This Motion is also DENIED.

1
2 **CERTIFICATE OF MAILING**

3 Pursuant to NRCF 5(b), I certify that I am an employee of the Second Judicial District
4 Court of the State of Nevada, County of Washoe; that on this 25 day of January, 2018, I deposited
5 in the County mailing system for postage and mailing with the United States Postal Service in Reno,
6 Nevada, a true copy of the attached document addressed to:

7
8 STEVEN FLOYD VOSS, #52094
9 Northern Nevada Correctional Center
10 P.O. Box 7000
11 Carson City, NV 89702-7000

12 **CERTIFICATE OF ELECTRONIC SERVICE**

13 I hereby certify that I am an employee of the Second Judicial District Court of the State of
14 Nevada, in and for the County of Washoe; that on the 25 day of January, 2018, I electronically
15 filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of
16 electronic filing to the following:

17
18 TERRENCE McCARTHY, ESQ.
19
20
21

22 
23 Sheila Mansfield
24 Judicial Assistant
25
26
27
28

Return Of NEF

Recipients

TERRENCE MCCARTHY, ESQ. - Notification received on 2018-01-26 16:21:17.262.

DIV. OF PAROLE & PROBATION - Notification received on 2018-01-26 16:21:17.122.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR96-1581

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

01-26-2018:16:20:10

Clerk Accepted:

01-26-2018:16:20:45

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. STEVEN FLOYD VOSS (D10)

Document(s) Submitted:

Notice of Entry of Ord

Filed By:

Deputy Clerk RRodriguez

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

TERRENCE P. MCCARTHY, ESQ. for STATE
OF NEVADA
DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

STEVEN FLOYD VOSS for STEVEN FLOYD
VOSS
STATE OF NEVADA for STATE OF NEVADA
EGAN K. WALKER, ESQ. for STATE OF
NEVADA

CR96-1581
STATE VS. STEVEN FLOYD VOSS
District Court
Washoe County
DC-08600083095-040
6 Pages
02/02/2018 12:53 PM
2490

FILED

2018 FEB -2 PM 12:58

JACQUELINE BRYANT
CLERK OF THE COURT
BY: *[Signature]*
DEPUTY

1 STEVEN FLOYD VOSS #53094

2 Northern Nevada Correctional Center

3 Post Office Box #7000

4 Carson City, Nevada 89702-7000

5
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF WASHOE

8
9 THE STATE OF NEVADA,

Case No. CR96-1581

10 Plaintiff,

Dept. No. 10

11 VS.

12 STEVEN FLOYD VOSS,

13 Defendant.

14
15
16 MOTION AND DEMAND FOR SPEEDY TRIAL

17 (Imposition of Sentence.)

18
19 COMES NOW Defendant, STEVEN FLOYD VOSS, by and
20 through his proper person, and hereby submits the instant
21 Motion and Demand.

22
23 The instant Motion and Demand is made and
24 predicated upon the attached memorandum of points
25 and authorities, and all papers and pleadings on file
26 in the above entitled case.

MEMORANDUM OF POINTS AND AUTHORITIESI. Nature of Motion and Demand:

The Defendant hereby Re-Asserts and maintains his invocation of his Speedy Trial Rights and to receive prompt sentencing without "unnecessary" or "undue" delay. Such rights which are guaranteed under the sixth Amendment to the United States Constitution and the statutory provisions of Nevada Revised Statutes (NRS 176.015(1)), as a matter of Due Process and Equal Protection of Law under the Fourteenth Amendment to the United States Constitution and Article 188 of the Constitution of the State of Nevada.

Whereas, the Defendant again identifies that he is entitled to receive Re-sentencing pursuant to this Court's August 9, 2001 granting of a Writ of Habeas Corpus in the context of proceedings in Case No. CR96-P-1581. See, Findings of Fact, Conclusions of Law, And Judgment, filed on said date.

II. Argument:A. Controlling Standards:

The Sixth Amendment to the United States Constitution, guarantees that "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial." The United States

1 Supreme Court has held that a speedy imposition of
2 sentence may be guaranteed by the Sixth Amendments
3 right to Speedy Trial. See, Pollard v. United States,
4 352 U.S. 354, 361-362 (1957). A lengthy delay in the
5 imposition of sentence is unconstitutional and entitles
6 a defendant to relief; factors to weigh include the
7 length of delay, reason for delay, defendant's assertion
8 of the right, and prejudice which the delay causes
9 the defendant. See, Burkett v. Fulcomer, 951 F.2d 1431,
10 1446-1447 (1991). Also see, Barker v. Wingo, 407 U.S. 514,
11 531-532 (1972). Nevada state law comprehends
12 these principles. See, NRS 176.015(1) ("the sentence
13 must be imposed without undue delay"); Leonard v. State,
14 Nev. , 17 P. 3d 397 (2001). Wherein, the Nevada
15 Supreme Court held that:
16 "In considering a claim of the right to speedy
17 trial, it is necessary to consider the following
18 factors: (1) the length of delay; (2) the reason for
19 the delay; (3) the defendant's assertion of the
20 right; and (4) prejudice to the defendant."
21 Also see, Graves v. State, Nev. , 912 P.2d 234 (1996);
22 Furbay v. State, Nev. , 998 P.2d 553 (2000); and
23 Middleton v. State, 968 P.2d 296 () (citing
24 Barker v. Wingo, 407 U.S. 514 (1972). The Sixth
25 Amendment's fundamental right to speedy trial serves
26 to (1) prevent undue and oppressive incarceration of
27 the accused; (2) minimize anxiety and concern
28 accompanying a public accusation; and (3) limit

1 the possibility that a long delay will impair the
2 accused's ability to defend himself." See,
3 Klopfer v. North Carolina, 386 U.S. 213, 222-225
4 (1967). Thus, sentencing is the culmination of
5 the trial proceedings.

6
7 B. There can be no legitimate argument
8 that the Defendant is not entitled to receive
9 a resentencing proceeding.

10
11 In light of this Court's Judgment and
12 order granting the Defendant a writ of Habeas Corpus,
13 filed on August 9, 2001, which had further granted
14 the Defendant a Re-sentencing proceeding based upon
15 substantial prejudicial errors occurring at sentencing
16 and the disproportionate sentence imposed by the
17 Court, "a sentence clearly outside the heartland of
18 sentences for a person with [the Defendants'] criminal
19 record being sentenced for forgery offenses." Whereas,
20 this Court had concluded as a matter of fact and
21 law, that:

22 "Because Judge Stone based Voss's onerous
23 sentence, at least in part, on the suspect and
24 impalpable ground that Voss murdered Ms. Baxter,
25 Voss is entitled to a new sentencing hearing."

26 Therefore, the Defendant submits that the previously
27 ordered Re-sentencing Proceeding must be undertaken
28 without further "undue" or "unnecessary" delay.

III. Conclusion:

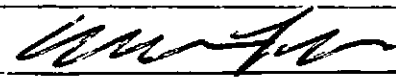
The instant Motion should be granted, and Re-sentencing evaluations should be commenced without further "undue" or "unnecessary" delay, pursuant to this Court's August 9, 2001 Judgment and Order (Writ of Habeas Corpus).

IV. Verification:

Under penalty of perjury, I STEVEN FLOYD VOSS, do hereby verify, that I have read the content of the foregoing document, and that same is true and correct of my own personal information, knowledge and Belief.

The foregoing document does not contain the personal information or social security number of any person.

DATED this 31st day of January 2018.

By: 

STEVEN FLOYD VOSS,

Defendant, in pro. per.

///

///

///

CERTIFICATE OF SERVICE VIA U.S. MAIL

I, STEVEN FLOYD VOSS, do hereby certify that on
this 31st day of January 2018, that I mailed a
true and correct copy of the foregoing document,
addressed to:

TERRENCE P. MCCARTHY, Esq. (DIDA)

% Washoe County District Attorney

Post Office Box # 11130

Reno, Nevada 89520-0027

By: 

STEVEN FLOYD VOSS.

FILED

2018 FEB -2 PM 12:58

JACQUELINE BRYANT
CLERK OF THE COURT
BY *JMB*
DEPUTY

STEVEN FLOYD VOSS #52094

Northern Nevada Corrections Center

Post Office Box # 7000

Carson City, Nevada 89702-7000

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,

Case No. CR96-1581

Plaintiff,

Dept. No. 10

VS.

STEVEN FLOYD VOSS,

Defendant.

MOTION FOR APPOINTMENT OF TRIAL COUNSEL

COMES NOW Defendant, STEVEN FLOYD VOSS, by and through his proper person, and hereby submits the instant Motion.

The instant Motion is made and predicated upon the attached memorandum of points and authorities, and all papers and pleadings on file in the above entitled action.

MEMORANDUM OF POINTS AND AUTHORITIESI. Nature of Motion:

Through the instant Motion the Defendant seeks the appointment of Trial - Defense Counsel, to represent him in regard to sentencing proceedings presently pending before this Court, pursuant to this Court's August 9, 2001 Judgment and Order (Writ of Habeas Corpus).

II. Argument:A. Legal Standards Involved:

The Sixth Amendment provides that "[i]n all criminal prosecutions the accused shall enjoy the right... to have the assistance of counsel for his defense. The Sixth Amendment right to counsel applies to state criminal prosecutions. See, Gideon v. Wainwright, 372 U.S. 335, 342 (1963); through the Fourteenth Amendment. See, Johnson v. Zerbst, 304 U.S. 458, 463 (1938). The right to counsel attaches at critical stages of a criminal prosecution after the initiation of adversarial judicial proceedings. See, Kirby v. Illinois, 406 U.S. 682, 689 (1972). The Sixth and Fourteenth Amendments require appointment of counsel for indigent defendants in state courts. See, Gideon v. Wainwright,

1 372 U.S. at 342.

2
3 B. The Defendant is entitled to the appointment
4 of Defense Counsel.

5
6 Sentencing is the culmination of the trial
7 proceedings. See, Pollard v. United States, 352 U.S. 354,
8 (1957), and Buckett v. Fulcomer, 951 F. 2d 1431 (1991).
9 Thus, sentencing is a critical stage of the trial
10 proceedings upon which the right to counsel attaches
11 under Kirby. Thus, the Sixth and Fourteenth
12 Amendments require that the Defendant be appointed
13 Defense Counsel, under Gideon.

14
15 III. Conclusion:

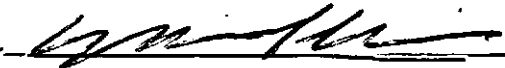
16
17 The Court should grant the instant Motion
18 and enter an Order appointing counsel to represent
19 the Defendant in regard to the sentencing proceeding
20 presently pending before this Court.

21
22 IV. Verification:

23
24 Under penalty of perjury, I STEVEN FLOYD VOSS,
25 do hereby verify that I have read the content of the
26 foregoing document and that same is true and correct
27 of my own personal information, knowledge and
28 belief.

1 The foregoing document does not contain the
2 personal information, or social security number of
3 any person.

4 DATED this 31st day of January 2018,

6 By: 

7 STEVEN FLOYD VOSS,

8 Defendant, in pro per.

9
10 CERTIFICATE OF SERVICE VIA U.S. MAIL

11
12 I STEVEN FLOYD VOSS, do hereby certify that on this
13 31st day of January 2018, that I mailed a true
14 and correct copy of the foregoing document, addressed to:
15 TERRENCE P. MCCARTHY, Esq. (DDA)
16 % Washoe County District Attorney
17 Post Office Box # 7000
18 Carson City, Nevada 89520-0027

19
20 By: 

21 STEVEN FLOYD VOSS

FILED

2018 FEB -5 PM 1:50

JACQUELINE BRYANT
CLERK OF THE COURT

BY

DEPUTY

1 STEVEN FLOYD VOSS #52094

2 Northern Nevada Corrections Center

3 Post Office Box # 7000

4 Carson City, Nevada 89702-7000

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF WASHOE

9 THE STATE OF NEVADA,

Case No. CR96-1581

10 Plaintiff,

Dept. No. 3

11 VS.

12 STEVEN FLOYD VOSS,

13 Defendant.

NOTICE OF APPEAL

16 NOTICE IS HEREBY GIVEN that the Defendant STEVEN FLOYD
 17 VOSS, hereby appeals to the Nevada Supreme Court, from
 18 the Order of the above named Court, in the above named
 19 case, entered on January 26, 2018, which denied the
 20 Defendant's Pre-Sentencing Motion To Set Aside Jury Verdict
 21 filed on October 25, 2017.

22 DATED this 2nd day of February 2018.

23 This document does not contain the social security
 24 number of any person.

25 By: 

26 STEVEN FLOYD VOSS,

27 Defendant in pro. per.

CR96-1581
 STATE VS. STEVEN FLOYD VOSS 2 Pages
 District Court 02/05/2018 01:50 PM
 Washoe County
 2520
 DMC/FJF/1

CERTIFICATE OF SERVICE VIA U.S. MAIL

I, STEVEN FLOYD VOSS, do hereby certify that
on this 2nd day of February 2018, that I mailed a
true and correct copy of the foregoing Notice of Appeal,
addressed to:

TERRENCE P. MCCARTHY, Esq. (DIA)
% Washoe County District Attorney
Post Office Box # 11130
Reno, Nevada 89526-0027

By: Steven Floyd Voss
STEVEN FLOYD VOSS.

///

///

///

Code 1310

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

THE STATE OF NEVADA,

Plaintiff,

vs.

STEVEN FLOYD VOSS,

Defendant.

Case No. CR96-1581
Dept. No. 10

CASE APPEAL STATEMENT

This case appeal statement is filed pursuant to NRAP 3(f).

1. Appellant is Steven Floyd Voss.
2. This appeal is from an order entered by the Honorable Judge Elliott Sattler.
3. Appellant is representing himself in Proper Person on appeal. The Appellant's address is:

Steven Floyd Voss #52094
N.N.C.C.
P.O. Box 7000
Carson City, Nevada 89702-7000
4. Respondent is the State of Nevada. Respondent is represented by the Washoe County District Attorney's Office:

Terrance McCarthy, Esq., SBN: 2745
P.O. Box 11130
Reno, Nevada 89520
5. Respondent's attorney is not licensed to practice law in Nevada: n/a

6. Appellant was represented by appointed counsel in District Court.
7. Appellant is not represented by appointed counsel on appeal.
8. Appellant did not file a motion to proceed in forma pauperis in the District Court.
9. Proceeding commenced by the filing of an Information on July 1, 1996.
10. This is a criminal proceeding and the Appellant is appealing the Order filed January 25, 2018.
11. The case has been the subject of a previous appeal to the Supreme Court:
Supreme Court No: 29783, 42307 and 74227
12. This case does not involve child custody or visitation.
13. This is not a civil case involving the possibility of a settlement.

Dated this 6th day of February, 2018.

Jacqueline Bryant
Clerk of the Court

By: /s/ Yvonne Vilorio
Yvonne Vilorio
Deputy Clerk

Code 1350

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

THE STATE OF NEVADA,

Case No. CR96-1581

Plaintiff,

Dept. No. 10

vs.

STEVEN FLOYD VOSS,

Defendant.

_____ /

CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on the 6th day of February, 2018, I electronically filed the Notice of Appeal in the above entitled matter to the Nevada Supreme Court.

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

Dated this 6th day of February, 2018

Jacqueline Bryant
Clerk of the Court

By /s/ Yvonne Vilorio
Yvonne Vilorio
Deputy Clerk

Return Of NEF**Recipients**

TERRENCE - Notification received on 2018-02-06 10:41:46.429.
MCCARTHY, ESQ.

DIV. OF PAROLE & - Notification received on 2018-02-06 10:41:46.304.
PROBATION

***** IMPORTANT NOTICE - READ THIS INFORMATION *****

PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR96-1581

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

02-06-2018:10:40:32

Clerk Accepted:

02-06-2018:10:41:16

Court:

Second Judicial District Court - State of Nevada

Criminal

Case Title:

STATE VS. STEVEN FLOYD VOSS (D10)

Document(s) Submitted:

Case Appeal Statement

Certificate of Clerk

Filed By:

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

TERRENCE P. MCCARTHY, ESQ. for STATE
OF NEVADA

DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

STEVEN FLOYD VOSS for STEVEN FLOYD
VOSS

STATE OF NEVADA for STATE OF NEVADA

EGAN K. WALKER, ESQ. for STATE OF
NEVADA

FILED

2018 FEB -6 PM 12:21

JUDGE THE BRYAN
CLERK OF THE COURT

CITY

COUNTY

1 STEVEN FLOYD VOSS #52094

2 Northern Nevada Correctional Center

3 Post Office Box #7000

4 Carson City, Nevada 89702-7000

5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

8
9 THE STATE OF NEVADA,

Case No. CR96-1581

10 Plaintiff,

Dept. No.

11 VS.

Chief Judge

12 STEVEN FLOYD VOSS,

13 Defendant.

14
15
16 MOTION FOR DISQUALIFICATION OF DISTRICT JUDGE17 ELLIOTT A. SATTLER, AND FOR ADMINISTRATIVE18 REASSIGNMENT OF CASE BY CHIEF JUDGE19
20 COMES NOW Defendant, STEVEN FLOYD VOSS, by and
21 through his proper person, and hereby submits the
22 instant Motion.23
24 The instant Motion is made and predicated
25 upon the attached memorandum of points and
26 authorities and all papers and pleadings on file
27 in the above entitled case.
28

DC-0990009611B-017
CR96-1581
STATE VS. STEVEN FLOYD VOSS
District Court
Washoe County
NVR
2490
12:21 PM
02/06/2018
MPURY

MEMORANDUM OF POINTS AND AUTHORITIESI. Nature of Motion:

Through the instant Motion the Defendant seeks the Disqualification of District Court Judge, Elliott A. Stättler, in all future proceedings relative to the instant case (CR 96-1581). Based upon implied bias, and where his impartiality might reasonably be questioned, due to his prior employment by the Office of the Washoe County District Attorney, during relevant stages of the state's prosecution of the instant case.

The Defendant requests that the instant Motion be heard by the Chief Judge of the Second Judicial District Court, for Washoe County, or by an appropriate District Court Judge assigned thereby.

II. Statement of Relevant Facts:

The Defendant, STEVEN FLOYD VOSS, was tried in October of 1996, upon a Criminal Information filed in the District Court on July 16, 1996. Which had charged the Defendant with the crimes of: Count I, Burglary; Count II and Count III, Uttering A Forged Instrument; Count IV and Count V, Forgery; and Count VI, Attempted Theft. The Jury returned Guilty Verdicts relative to each of the six (6) counts charged. Sentencing Proceedings were conducted on November 27, 1996 by District Court Judge,

1 James A. Stone.

2 The Defendant filed a timely Notice of Appeal
3 on December 24, 1996, and a Direct Appeal was
4 docketed in the Nevada Supreme Court, Case No.

5 The Nevada Supreme Court entered an Order Dismissing -
6 Appeal on March 11, 1999, which had affirmed the
7 District Court's Judgment in whole.

8 The Defendant filed a timely Post-Conviction -
9 Petition For Writ of Habeas Corpus on March 9, 2000.

10 Where, in Ground Six of said Petition, the Defendant
11 had raised the claim that the sentencing Court had
12 based its sentence, at least in part, upon allegation
13 of untried criminal conduct (the kidnapping and Murder
14 of Beverly Ann Baxter, the alleged victim in the instant
15 case), in violation of the Defendant's Fourteenth Amendment
16 rights. An evidentiary hearing and the appointment of
17 Post-Conviction Counsel was ordered, and such evidentiary
18 hearing was held on June 8, 2001. Whereat, the Court,
19 from the bench, had granted a writ of Habeas Corpus
20 relative to such Ground Six claims, Findings of Fact,
21 Conclusions of Law, And Judgment, were filed on
22 August 9, 2001. Wherein, pertinent part, the Court'
23 had held that:

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

1 of Ms. Baxter, Judge Stone made reference in his
2 rendition of sentence, to his belief that she would
3 not be found alive. He then imposed the maximum
4 sentence on Voss, a sentence clearly outside the
5 heartland of sentences for a person with Voss's
6 criminal record being sentenced for forgery offenses...
7 Because Judge Stone based Voss's onerous sentence,
8 at least in part, on the suspect and impalpable
9 ground that Voss had murdered Ms. Baxter, Voss
10 is entitled to a new sentencing hearing.

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

16
17 However, despite this Court's granting of such a
18 Writ of Habeas Corpus, the entry of same in August of
19 2001, and the Nevada Supreme Court's Affirmance of such
20 Judgment, the Court ordered Re-Sentencing Proceedings
21 have never been conducted; and no Amended Judgment
22 of Conviction, setting out fair and proportionate
23 sentences has been entered.

24 The Defendant has contemporaneously herewith filed,
25 and served upon Judge Elliott A. Sattler, a Request For-
26 Voluntary Recusal.

27
28 III. Arguments:

A. Legal Standards Involved:-

Under the Code of Judicial Conduct, Canon 3 (B) (1),
A judge shall hear and decide matters assigned to the
judge except those in which disqualification is required.
Under Canon 3 (B) (5), A judge shall perform
judicial duties without bias or prejudice. A judge
must perform judicial duties impartially and fairly.
A judge who maintains bias on any basis in a
proceeding brings the judiciary into dispute. See,
Commentary Canon 3 (B) (5). Recusal is mandatory
where a district judge has acted as an attorney in
the case pursuant to the plain language of
NRS 1.230 and C.J.C. Canon 3 (E). see,
Turner v. State, 114 Nev. 682, 962 P. 2d 1223 (1998);
and erroneous refusal to recuse constitutes reversible
error. Under Canon 3 (E) (1), a judge is disqualified
whenever his impartiality might reasonably be questioned,
regardless of whether any of the specific rules in
Section 3 (E) (1) apply. see, Commentary Canon 3 (E) (1).
The question of whether a judges impartiality might
reasonably be questioned, and the opinion of the
judge as to his ability to be impartial, is determined
pursuant to Las Vegas Downtown Redevelopment Agency v. -
Hecht, 113 Nev. 644, 940 P. 2d 134 (1997). Under
Canon 3 (E) (1), A judge shall disqualify himself
in a proceeding in which his impartiality might
reasonably be questioned, including but not limited to:

1 (a) the judge has a personal bias or prejudice
2 concerning a party or a party's lawyer, or
3 personal knowledge of disputed evidentiary facts
4 concerning the proceeding; and (b) the judge has served
5 as a lawyer in the matter in controversy, or a
6 lawyer with which whom the judge previously practiced
7 law, had during such association, served as a
8 lawyer concerning the matter.

9
10 B. The impartiality of District Court Judge,
11 Elliott A. Sattler, in these proceedings is reasonably
12 questioned.

13 The impartiality of Judge Elliot, is
14 reasonably questioned in these proceedings, due to
15 his prior employment with the office of the Washoe
16 County District Attorney, and his professional
17 involvement in the prosecution of the instant case,
18 and the related case no. CR97-2077. Both cases
19 involving the same victim, and where Judge Elliot,
20 inherently pursuant to such prior employment and
21 involvement in the subject matter of the instant
22 case, has express knowledge of material facts
23 involving the proceedings.

24 This Court should therefore require Judge
25 Elliot, to answer these allegations, and to either
26 confirm or deny same, and to particularly
27 specify his belief as to whether he can maintain
28 impartiality in the proceedings presently before the Court,

1 and in any and all future proceedings which
2 might conceivably be undertaken. Whereas, the
3 Defendant is informed, and does believe that Judge
4 Elliott's impartiality in these proceedings is reasonably
5 questioned, despite whether the Defendant can
6 demonstrate the existence of an actual bias toward
7 him by Judge Elliot.

8
9 IV. Conclusion:

10
11 The instant Motion should be granted, and
12 District Court Judge, Elliott A. Sattler, should be
13 disqualified, and the instant case should be
14 reassigned to a different District Court Judge.
15 Such reassignment which should exclude District
16 Court Judges: Egan Walker, who prosecuted the
17 instant case; and Jerome Polaha, who presides over
18 the related case no. CR97-2077. However, the Defendant
19 does not oppose the appointment of any other
20 District Court Judge, to preside over the instant case.

21
22 V. Verification:

23
24 Under penalty of perjury, I STEVEN FLOYD VOSS,
25 do hereby verify that I have read the content of
26 the foregoing Motion, and that same is true and
27 correct of my own personal information, knowledge
28 and belief; and that the instant Motion is not

1 submitted for any improper or dilatory purpose.
2 The instant Motion does not contain the
3 personal information or social security number of
4 any person.

5 DATED this 5th day of February 2018.

6 By: [Signature]

7 STEVEN FLOYD VOSS,

8 Defendant, in pro per.

9

10 CERTIFICATE OF SERVICE VIA U.S. MAIL

11

12 I, STEVEN FLOYD VOSS, do hereby certify that
13 on this 5th day of February 2018, that I mailed
14 a true and correct copy of the foregoing Motion,
15 addressed to:

16 TERRANCE P. MCCARTHEY, Esq. (DDA)

17 % Washoe County District Attorney

18 Post office Box # 11130

19 Reno, Nevada 89520-0027

20

By: [Signature]

21

STEVEN FLOYD VOSS.

22

23 ///

24 ///

25 ///

26

27

28

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

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

8
9 THE STATE OF NEVADA,
10 Plaintiff,
11 VS.
12 STEVEN FLOYD VOSS,
13 Defendant.

Case No. CR96-1581
Dept. No. 10

14
15
16 REQUEST FOR VOLUNTARY RECUSAL OF DISTRICT JUDGE

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

21
22 The instant Request is made and predicated upon
23 the attached Memorandum of Points And Authorities,
24 and matters to be judicially noticed.

MEMORANDUM OF POINTS AND AUTHORITIESI. Nature of Request:

The Defendant hereby requests the voluntary
recusal of the Honorable, Elliott A. Sattler, District
Court Judge, in all future proceedings relative
to the instant case. Based upon an implied bias
effected by his prior employment by the office of the
Washoe County District Attorney, during relevant
stages of the state's prosecution of the instant
case.

II. Request For Voluntary Recusal:

The Defendant respectfully requests that the
Honorable, Elliott A. Sattler, District Court Judge,
voluntarily recuse himself in regard to all future
proceedings undertaken in the context of the instant
case (CR96-1581). Whereas, the Defendant is informed
and does believe that, Judge Elliott, prior to taking
the bench in Department 10 of this Court, had been
employed in the capacity of Deputy District Attorney
with the Washoe County District Attorney's office, as
a criminal prosecutor, and that in the course of
such employment had been involved in the prosecution of
the instant case, attained express knowledge of the
case, and had formed an opinion regarding the Defendant's

1 relative to the crimes charged in the instant case
2 as well as the crimes charged in the related case
3 (CR97-2077), prior to his assignment to the Department
4 bench.

5 Therefore, pursuant to the Code of Judicial Conduct,
6 Canon 3, E(1)(a) and (b), the Defendant submits that
7 Judge Elliott, should disqualify - recuse himself in
8 the instant case, where: his impartiality might
9 reasonably be questioned; he maintains a personal bias
10 or prejudice toward the Defendant, or personal knowledge
11 of disputed evidentiary facts relative to the
12 proceedings; or he has served as a lawyer, or a
13 lawyer with whom the judge has previously practiced
14 law had during such association served as a
15 lawyer relative to the matters before the Court.

16 Further, pursuant to the Code of Judicial Conduct,
17 Canon 2, the Defendant submits that Judge Elliott,
18 should disqualify - recuse himself, to avoid impropriety,
19 and even the appearance of impropriety, relative
20 to the instant case.

21
22 Respectfully submitted, this 5th day of February 2018.

23 By: Steven Floyd Voss

24 STEVEN FLOYD VOSS,
25 Defendant, in pro. per.
26
27
28

CERTIFICATE OF SERVICE VIA U.S. MAIL

I, STEVEN FLOYD VOSS, do hereby certify that
on this 5th day of February 2018, that I
mailed a true and correct copy of the foregoing,
document addressed to:

ELLIOT A SATLER, Esq.,
District Judge,
Via Court Clerk,
Washoe County District Court
75 Court Street,
Reno, Nevada 89501-

and,

TERRENCE P. MCCARTHY, Esq. (DDA)
% Washoe County District Attorney
Post Office Box # 11130
Reno, Nevada 89520-0027

By: Steven Floyd Voss

STEVEN FLOYD VOSS.

Return Of NEF

Recipients

TERRENCE MCCARTHY, ESQ. - Notification received on 2018-02-07 07:57:55.899.

DIV. OF PAROLE & PROBATION - Notification received on 2018-02-07 07:57:55.774.

***** IMPORTANT NOTICE - READ THIS INFORMATION *****
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR96-1581

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

02-06-2018:16:03:33

Clerk Accepted:

02-07-2018:07:57:23

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. STEVEN FLOYD VOSS (D10)

Document(s) Submitted:

Request

Filed By:

Judicial Asst. SMansfield

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

TERRENCE P. MCCARTHY, ESQ. for STATE
OF NEVADA
DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

STEVEN FLOYD VOSS for STEVEN FLOYD
VOSS
STATE OF NEVADA for STATE OF NEVADA
EGAN K. WALKER, ESQ. for STATE OF
NEVADA

1
2
3
4
5
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF WASHOE

8 * * *

9 THE STATE OF NEVADA

10 Plaintiff,

Case No: CR96-1581

11 vs.

Dept. No: 10

12 STEVEN FLOYD VOSS,

13 Defendant.
14 _____/

15
16 **ANSWER TO MOTION FOR DISQUALIFICATION**

17 On February 6, 2018, Defendant STEVEN FLOYD VOSS, filed a pleading entitled
18 MOTION FOR DISQUALIFICATION OF DISTRICT JUDGE ELLIOTT A. SATTLER, AND
19 FOR ADMINISTRATIVE REASSIGNMENT OF CASE BY CHIEF JUDGE ("the Motion")
20 wherein the Defendant seeks reassignment to a different judge to hear the Motion to Disqualify
21 Judge Sattler due to alleged bias and prejudice.

22 In the interest of justice and pursuant to NRS 1.235(5)(b), the undersigned hereby responds
23 to the allegations as follows:

- 24 1. The Court acknowledges that, as an attorney and now a Judge of the Second Judicial
25 District Court, he is a member of the State Bar of Nevada and was a Deputy District
26 Attorney for the Washoe County District Attorney's Office during the years of 1993-
27 2013.
28

1 2. The Court has reviewed the docket in this matter. According to the minutes filed on
2 September 3, 1996, the Court, while a Deputy District Attorney for the Washoe County
3 District Attorney's Office, appeared at a Motion to Continue Trial Date. This is the only
4 appearance made in this case by the Court. ¹ The Court took no other action on the instant
5 case. The case was assigned to, and prosecuted by, the Honorable Egan K. Walker
6 ("Judge Walker") who is now the presiding judge in Dept. 7 of the Second Judicial
7 District Court, State of Nevada. Judge Walker was a colleague of Judge Sattler from
8 1995 to 2000.

9 3. The Court refutes any other allegations made by Defendant in his Motion for
0 Disqualification filed February 6, 2018.

1 4. The Court denies any actual or implied bias or prejudice against the Defendant and has
2 no recollection of the September 3, 1996 appearance or of the Defendant, and,

3 5. The Court has no implied bias or prejudice, nor does the Court entertain any actual bias
4 or prejudice for or against either the parties or their counsel to this action.

5 The Court refers this issue to Chief Judge Scott Freeman for resolution of this issue or
6 reassignment.

7 DATED this 1 day of February, 2018.

8. 
ELLIOTT A. SATTLER
District Judge

¹ Defendant incorrectly refers to the Court in his Motion as Judge Elliott, instead of Judge Sattler.

CERTIFICATE OF MAILING

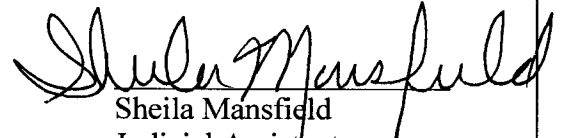
Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 9 day of February, 2018, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

Steven Floyd Voss, #52094
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, NV 89702-7000

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe; that on the 9 day of February, 2018, I electronically filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

TERRENCE McCARTHY, ESQ.


Sheila Mansfield
Judicial Assistant

Return Of NEF**Recipients**

TERRENCE - Notification received on 2018-02-09 11:52:39.728.
MCCARTHY, ESQ.

DIV. OF PAROLE & - Notification received on 2018-02-09 11:52:39.572.
PROBATION

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR96-1581

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

02-09-2018:11:10:26

Clerk Accepted:

02-09-2018:11:52:06

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. STEVEN FLOYD VOSS (D10)

Document(s) Submitted:

Other ...

Filed By:

Judicial Asst. SMansfield

You may review this filing by clicking on the following link to take you to your cases.

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-

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The following people were served electronically:

TERRENCE P. MCCARTHY, ESQ. for STATE
OF NEVADA
DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

STEVEN FLOYD VOSS for STEVEN FLOYD
VOSS
STATE OF NEVADA for STATE OF NEVADA
EGAN K. WALKER, ESQ. for STATE OF
NEVADA

**IN THE SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK**

STEVEN FLOYD VOSS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 75064
District Court Case No. CR961581

DID

RECEIPT FOR DOCUMENTS

TO: Steven Floyd Voss
Washoe County District Attorney \ Terrence P. McCarthy, Deputy District Attorney
Jacqueline Bryant, Washoe District Court Clerk ✓

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

02/09/2018 Appeal Filing Fee waived. Criminal.

02/09/2018 Filed Notice of Appeal/Proper Person. Appeal docketed in the Supreme Court this day.

DATE: February 09, 2018

Elizabeth A. Brown, Clerk of Court
lh

Return Of NEF

Recipients

TERRENCE MCCARTHY, ESQ. - Notification received on 2018-02-12 13:47:36.315.

DIV. OF PAROLE & PROBATION - Notification received on 2018-02-12 13:47:36.159.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR96-1581

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

02-12-2018:13:46:25

Clerk Accepted:

02-12-2018:13:47:04

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. STEVEN FLOYD VOSS (D10)

Document(s) Submitted:

Supreme Court Receipt for Doc

Filed By:

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

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-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

TERRENCE P. MCCARTHY, ESQ. for STATE
OF NEVADA
DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

STEVEN FLOYD VOSS for STEVEN FLOYD
VOSS
STATE OF NEVADA for STATE OF NEVADA
EGAN K. WALKER, ESQ. for STATE OF
NEVADA

1 CODE: 3370
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5

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE
8

9 STATE OF NEVADA,

10 Plaintiff,

11 v.

12 STEVEN FLOYD VOSS,

13 Defendant.
14

Case No.: CR96-1581
Dept. No.: 10

15 **ORDER REFERRING DISQUALIFYING QUESTION**

16 On February 6, 2018, Defendant STEVEN FLOYD VOSS filed his *Motion for*
17 *Disqualification of District Judge Elliot A. Sattler, and for Administrative Reassignment of Case by*
18 *Chief Judge*. On February 9, 2018, Judge Elliot A. Sattler filed his *Answer to Motion for*
19 *Disqualification*.

20 Pursuant to NRS 1.235 and after randomization, the disqualification motion is referred to
21 Department 4 for decision.

22 IT IS SO ORDERED.

23 DATED: this 14 day of February, 2018.

24 
25 DISTRICT JUDGE
26
27
28

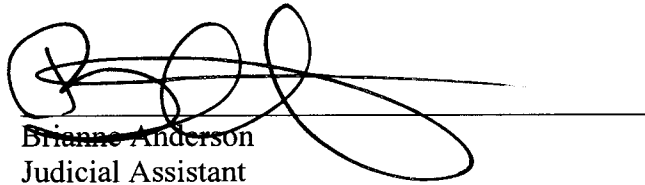
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 14th day of February, 2018, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

Steven Floyd Voss, #52094
NNCC
P.O. Box 7000
Carson City, NV 89702-7000

Further, I certify that on the 14th day of February, 2018, I electronically filed the foregoing with the Clerk of the Court electronic filing system, which will send notice of electronic filing to the following:

TERRENCE MCCARTHY, ESQ. for STATE OF NEVADA


Brienne Anderson
Judicial Assistant

Return Of NEF

Recipients

TERRENCE MCCARTHY, ESQ. - Notification received on 2018-02-14 16:00:51.605.

DIV. OF PAROLE & PROBATION - Notification received on 2018-02-14 16:00:51.09.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR96-1581

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

02-14-2018:15:59:19

Clerk Accepted:

02-14-2018:16:00:08

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. STEVEN FLOYD VOSS (D10)

Document(s) Submitted:

Order...

Filed By:

Judicial Asst. BAnderson

You may review this filing by clicking on the following link to take you to your cases.

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-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

TERRENCE P. MCCARTHY, ESQ. for STATE
OF NEVADA
DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

STEVEN FLOYD VOSS for STEVEN FLOYD
VOSS
STATE OF NEVADA for STATE OF NEVADA
EGAN K. WALKER, ESQ. for STATE OF
NEVADA

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

* * *

THE STATE OF NEVADA

Plaintiff,

Case No: CR96-1581

vs.

Dept. No: 10

STEVEN FLOYD VOSS,

Defendant.

ORDER

On February 6, 2018, the Defendant STEVEN FLOYD VOSS ("the Defendant") filed a MOTION FOR DISQUALIFICATION OF DISTRICT JUDGE ELLIOTT A. SATTLER, AND FOR ADMINISTRATIVE REASSIGNMENT OF CASE BY CHIEF JUDGE ("the Motion"). The Court entered an ANSWER TO MOTION FOR DISQUALIFICATION ("the Answer") on February 9, 2018. Upon reflection, the Court voluntarily recuses itself from these proceedings. The Answer is withdrawn. The Court notes the matter should not be assigned to Department 7 because the presiding judge, the Honorable Egan K. Walker, was the trial attorney in the instant proceedings.

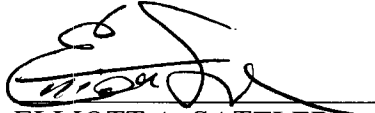
It is hereby **ORDERED** this matter be referred to the Clerk of the Court for random reassignment to a department other than Department 10 or Department 7.

It is further **ORDERED** the ORDER [denying the Defendant's PRE-SENTENCING MOTION TO SET ASIDE JURY VERDICT] ("the January Order") entered by the undersigned on January 25, 2018, is hereby **WITHDRAWN**. The January Order disposed of two additional

1 procedural requests made by the Defendant: the Defendant submitted a PROPOSED ORDER OF
2 ACQUITTAL on January 12, 2018, and a MOTION TO FORMALLY VACATE JUDGMENT OF
3 CONVICTION AND TO DISMISS ACTION WITH PREJUDICE DUE TO THE STATE'S
4 FAILURE TO PROSECUTE on January 24, 2018. The Court denied these requests in footnote 5 of
5 the January ORDER. The PRE-SENTENCING MOTION TO SET ASIDE JURY VERDICT; the
6 MOTION TO FORMALLY VACATE JUDGMENT OF CONVICTION AND TO DISMISS
7 ACTION WITH PREJUDICE DUE TO THE STATE'S FAILURE TO PROSECUTE; and the
8 PROPOSED ORDER OF ACQUITTAL shall be re-submitted for consideration after the case is
9 reassigned. The new district judge shall rule on all of these matters.

10 DATED this 16 day of February, 2018.

11 NUNC PRO TUNC to February 9, 2018.

12
13 
14 ELLIOTT A. SATTLER
15 District Judge
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CERTIFICATE OF MAILING

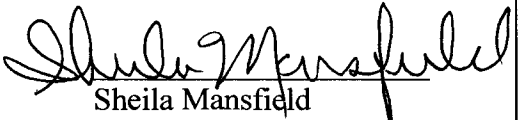
Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 16 day of February, 2018, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

Steven Floyd Voss #52094
Northern Nevada Correctional Center
P.O. Box 7000
Carson City, NV 89702-7000

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe; that on the 16 day of February, 2018, I electronically filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

TERRENCE MCCARTHY, ESQ.


Sheila Mansfield
Judicial Assistant

Return Of NEF

Recipients

TERRENCE MCCARTHY, ESQ. - Notification received on 2018-02-16 12:11:22.861.

DIV. OF PAROLE & PROBATION - Notification received on 2018-02-16 12:11:22.752.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR96-1581

Judge:

HONORABLE ELLIOTT A. SATTLER

Official File Stamp:

02-16-2018:12:10:23

Clerk Accepted:

02-16-2018:12:10:53

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. STEVEN FLOYD VOSS (D10)

Document(s) Submitted:

Ord Granting Recusal

Filed By:

Judicial Asst. SMansfield

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

TERRENCE P. MCCARTHY, ESQ. for STATE
OF NEVADA
DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

STEVEN FLOYD VOSS for STEVEN FLOYD
VOSS
STATE OF NEVADA for STATE OF NEVADA
EGAN K. WALKER, ESQ. for STATE OF
NEVADA

1 **CODE 1312**
2
3
4
5

6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**
8

9 **STATE OF NEVADA,**

10 **Plaintiff,**

Case No: CR96-1581

11 **vs.**

12 **STEVEN FLOYD VOSS,**

Dept. No: 10

13 **Defendant.**
14 _____/

15
16 **CASE ASSIGNMENT NOTIFICATION**
17

18 I hereby certify the above-entitled matter has been randomly reassigned to
19 Department 1, from Department 10.

20 Additional information:

21 On ORDER (OF VOLUNTARY RECUSAL) was filed February 16, 2018.

22 Dated February 16, 2018.
23
24

25 **JACQUELINE BRYANT**
Clerk of the Court

26 By _____

27 Deputy Clerk
28

1
2
3 **CERTIFICATE OF SERVICE**4 Case No. **CR96-1581**5 I certify that I am an employee of the Second Judicial District Court; that on
6 February 16, 2018, I electronically filed the Case Assignment Notification with the Court
7 System which will send a notice of electronic filing to the following:

8 Honorable KATHLEEN M. DRAKULICH

9 TERRENCE MCCARTHY, ESQ., Deputy District Attorney

10 Pursuant to NRCP 5 (b), I certify that I am an employee of the Second
11 Judicial District Court, and that on February 16, 2018, I deposited in the Washoe County
12 mailing system for postage and mailing with the U.S. Postal Service in Reno, Nevada, a
13 true copy of the attached document, addressed to:

14 STEVEN FLOYD VOSS, #52094

15 Northern Nevada Correctional Center

16 P.O. Box 7000

17 Carson City, NV 89702

18
19
20 The undersigned does hereby affirm that pursuant to NRS 239B.030 and NRS 603A.040, the preceding
21 document does not contain the personal information of any person.

22 Dated February 16, 2018.

23
24
25 
26 M. Purdy
27 Deputy Clerk
28

Return Of NEF

Recipients

TERRENCE MCCARTHY, ESQ. - Notification received on 2018-02-16 14:00:25.184.

DIV. OF PAROLE & PROBATION - Notification received on 2018-02-16 14:00:24.732.

***** IMPORTANT NOTICE - READ THIS INFORMATION *****
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR96-1581

Judge:

HONORABLE KATHLEEN DRAKULICH

Official File Stamp:

02-16-2018:13:59:17

Clerk Accepted:

02-16-2018:13:59:52

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. STEVEN FLOYD VOSS (D1)

Document(s) Submitted:

Case Assignment Notification

Filed By:

Michelle Purdy

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

TERRENCE P. MCCARTHY, ESQ. for STATE
OF NEVADA
DIV. OF PAROLE & PROBATION

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

STEVEN FLOYD VOSS for STEVEN FLOYD
VOSS
STATE OF NEVADA for STATE OF NEVADA
EGAN K. WALKER, ESQ. for STATE OF
NEVADA

CR96-1581
DC-09500086185-036
STATE VS. STEVEN FLOYD VOSS (Page 2)
District Court 02/16/2018 02:10 PM
Washoe County 3980
SUCRE

1 STEVEN FLOYD VOSS # 52094

FILED

2 Northern

3 Post Office Box # 7000

2018 FEB 16 PM 2:10

4 Carson City, Nevada 89702-7000

JACQUELINE BRYANT
CLERK OF THE COURT

BY

DEPUTY

6 IN THE SECOND

8 THE STATE OF NEVADA,

Case No. CR96-1581

9 Plaintiff,

Dept No.

10 VS.

11 STEVEN FLOYD VOSS,

REQUEST FOR SUBMISSION

12 Defendant

TO CHIEF JUDGE

15 COMES NOW Defendant, STEVEN FLOYD VOSS, by
16 and through his proper person, and hereby
17 requests that his: (1) Motion And Demand For Speedy-
18 Trial, filed February 2, 2018; (2) Motion For Appointment-
19 of Trial Counsel, filed February 2, 2018; and (3) Motion-
20 For Disqualification of District Judge Elliott A. -
21 SATTLER, And For Administrative Reassignment
22 of Case By Chief Judge, be submitted to Chief
23 District Court Judge, Scott Freeman, for
24 decision. The foregoing document does not
25 contain the Social Security Number of any person.

26 DATED this 14th day of February 2018

27 By: 

STEVEN FLOYD VOSS

Defendant in V8. 1590 per

CERTIFICATE OF SERVICE VIA U.S. MAIL

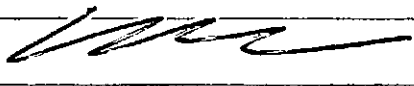
I, STEVEN FLOYD VOSS, do hereby
certify that on this 14th day of February
2018, that I mailed a true and correct
copy of the foregoing Request For Submission,
addressed to:

TERRENCE P. MCCARTHY, Esq. (DDA)

% Washoe County District Attorney

Post Office Box # 11130

Reno, Nevada 89520-0027

By: 

STEVEN FLOYD VOSS

111

111

111

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

STATE OF NEVADA,

Plaintiff,

v.

CASE NO.: CR96-1581

STEVEN FLOYD VOSS,

DEP. NO.: 1

Defendant.

ORDER

Currently before this Court are the following motions filed by Steven Floyd Voss
("Defendant"):

1. *Presentencing Motion to Set Aside Jury Verdict* filed October 25, 2017;
2. *Proposed Order of Acquittal* submitted January 12, 2018; and
3. *Motion to Formally Vacate Judgment of Conviction and to Dismiss Action with Prejudice Due to the State's Failure to Prosecute* filed January 12, 2018.

On January 25, 2018, Department 10, through the Honorable Judge Sattler, entered an *Order* denying the above-entitled motions. On February 5, 2018, the Defendant filed a *Notice of Appeal*, appealing the January 25, 2018 Order. On February 6, 2016, the Defendant filed a *Motion for Disqualification of District Judge Elliot A. Sattler, and for Administrative Reassignment of Case by Chief Judge*. On February 16, 2018, an *Order Granting Recusal* was filed, ordering that the case be randomly reassigned to a department other than

1 Department 10 or Department 7, withdrawing the January 25, 2018 Order, and stating that
2 the Defendant shall re-submit the motions for consideration after the case has been
3 reassigned.

4 On February 16, 2018, the case was randomly reassigned to Department 1. However,
5 this court is divested of jurisdiction to decide the Defendant's motions because they are
6 currently pending before the Nevada Supreme Court. Accordingly, no motions will be
7 entertained until a remittitur from the Supreme Court is filed in this matter. Until the
8 remittitur is filed, any motions submitted for decision, including any of the above-named
9 motions submitted for decision, will be vacated without further order from the Court.¹ Once
10 the remittitur is filed, the Defendant may submit his respective motions for decision.
11

12 IT IS SO ORDERED.

13 Dated this 2nd day of March, 2018.

14 
15 KATHLEEN DRAKULICH
16 DISTRICT JUDGE
17
18
19
20
21
22
23
24

25 ¹ On February 16, 2018, the Defendant filed a *Request for Submission* regarding the following motions: 1) *Motion and Demand for Speedy-Trial* filed February 2, 2018; 2) *Motion for Appointment of Counsel* filed
26 February 2, 2018; and *Motion for Disqualification of District Judge Elliott A. Sattler, and for Administrative*
27 *Reassignment of Case by Chief Judge* ("Motion for Disqualification") filed February 6, 2018 (which is
28 improperly submitted, as Judge Sattler recused himself and the case has been reassigned). Other than the
Motion for Disqualification, these motions are undecided. However, the relief sought in the above motions are
dependent on the Court's rulings on the motions currently on appeal and awaiting a remitter from the Supreme
Court. Therefore, the February Request for Submission is hereby VACATED.

CERTIFICATE OF MAILING

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the
STATE OF NEVADA, COUNTY OF WASHOE; that on the 5th day of March, 2018, I did the
following:


☒ Electronically filed with the Clerk of the Court, using the eFlex system which
constitutes effective service for all eFiled documents pursuant to the eFile User Agreement:

TERRENCE P. MCCARTHY, ESQ.

DIV. OF PAROLE & PROBATION

☒ Transmitted document to the Second Judicial District Court mailing system in a sealed
envelope for postage and mailing by Washoe County using the United States Postal Service in
Reno, Nevada:

STEVEN FLOYD VOSS #52094
PO BOX #7000
CARSON CITY, NV 89702



Return Of NEF

Recipients

TERRENCE MCCARTHY, ESQ. - Notification received on 2018-03-05 10:54:23.757.

DIV. OF PAROLE & PROBATION - Notification received on 2018-03-05 10:54:23.46.

******* IMPORTANT NOTICE - READ THIS INFORMATION *******
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR96-1581

Judge:

HONORABLE KATHLEEN DRAKULICH

Official File Stamp:

03-05-2018:10:53:03

Clerk Accepted:

03-05-2018:10:53:43

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. STEVEN FLOYD VOSS (D1)

Document(s) Submitted:

Order...

Filed By:

Judicial Asst. DKent

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

DIV. OF PAROLE & PROBATION
TERRENCE P. MCCARTHY, ESQ. for STATE
OF NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

EGAN K. WALKER, ESQ. for STATE OF
NEVADA
STATE OF NEVADA for STATE OF NEVADA
STEVEN FLOYD VOSS for STEVEN FLOYD
VOSS

CR96-1581
DC-09900086320-119
STATE VS. STEVEN FLOYD VOSS 3 Pages
District Court 03/09/2018 01:23 PM
Washoe County 2610
FILED

1 STEVEN FLOYD VOSS # 5209Y

2 Northern Nevada Correctional Center

3 Post Office Box # 7000

4 Carson City, Nevada 89702-7000

5

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF WASHOE

8

9 THE STATE OF NEVADA,

Case No. CR96-1581

10 Plaintiff,

Dept. No. 1

11 VS.

12 STEVEN FLOYD VOSS,

13 Defendant.

14

15

16 NOTICE AND MOTION

17

18 COMES NOW Defendant, STEVEN FLOYD VOSS, by and
19 through his proper person, and hereby submits the
20 instant Notice and Motion.

21

22 The instant Notice and Motion are made and
23 predicated upon the attached memorandum of points
24 and authorities; attached exhibits; and all papers
25 and pleadings on file in the above entitled case,
26 including the Defendant's Petition For Writ of Coram Nobis -
27 and Motion For Judgment of Acquittal, submitted
28 contemporaneously herewith.

MEMORANDUM OF POINTS AND AUTHORITIESI. Nature of Notice and Motion:

The Defendant hereby: (1) Notices the Court and the Plaintiff that on February 26, 2018 that he had expired to completion, expiration, and discharge, each of the six (6), decidedly "onerous" sentences imposed upon him through the Court's November 27, 1996 Judgment of Conviction (see, attached Exhibit # 1); and (2) Motions the Court to convert the proceedings presently pending in this Court to a Petition For Writ of Coram Nobis, where this Court no longer maintains jurisdiction to conduct the Re-sentencing Proceedings previously ordered by this Court within its August 14, 2001 Writ of Habeas Corpus (Findings of Fact, Conclusions of Law, And Judgment).

II. Argument:

A. This Court no longer maintains jurisdiction to conduct Re-sentencing Proceedings pursuant to the Court's August 14, 2001 Judgment (Writ of Habeas Corpus).

On August 14, 2001 this Court had entered Findings of Fact, Conclusions of Law, And Judgment, relative to the Defendant's Post-Conviction Petition For Writ of Habeas Corpus, filed on March 9, 2000. Wherein, the Court had

1 granted a Writ of Habeas Corpus, entitling the
2 Defendant to receive a new sentencing proceeding.
3 However, as of the present date such Court ordered
4 Re-Sentencing Proceedings have not been conducted,
5 and as of the date of February 26, 2018 the Defendant
6 has completed, expired, and been discharged, by the
7 Nevada Department of Corrections, in regard to each
8 of the decidedly "onerous" sentences imposed upon him
9 through the Court's November 27, 1996 Judgment of Conviction,
10 which has not been formally vacated by the Court.

11 Therefore, the Defendant concludes that where he
12 has expired to completion and discharge the "onerous"
13 sentences imposed pursuant to this Court's November 27, 1996
14 Judgment of Conviction, that this Court no longer
15 maintains jurisdiction to conduct Re-sentencing
16 Proceedings, or to enter an Amended Judgment of
17 Conviction, modifying the previously imposed sentences.

18
19 B. This Court maintains jurisdiction and
20 discretion to entertain and grant appropriate relief
21 through a Petition For Writ of Coram Nobis.

22
23 The common law remedy of a Petition For Writ-
24 of Coram Nobis has never been abolished, abrogated,
25 or superseded by State Statutory Law, and such
26 remedy remains available to a person who is not
27 "in-custody" pursuant to a Judgment of Conviction
28 to challenge such Judgment of Conviction. after his

1 discharge of the sentence(s) imposed thereby. Thus,
2 the "exclusive remedy" requirement of NRS 34.724 (2)(b),
3 is inapplicable to a Petition for Writ of Coram Nobis.
4 Because, such a Petition is only available to a person
5 who is no longer in custody pursuant to the challenged
6 conviction or sentence, see, Trujillo v. State, 129 Nev.
7 ___, 310 P.3d 594, 595-596 (2013), cited in Harris v. State,
8 130 Nev. ___, 329 P.3d 619 (2014).

9
10 C. The Defendant's claims for relief specified
11 within his Petition for Writ of Coram Nobis (filed
12 contemporaneously herewith), are meritorious and
13 warrant relief.

14
15 It is clear on the face of this Court's
16 August 14, 2001 Writ of Habeas Corpus (Findings of Fact -
17 Conclusions of Law, And Judgment), that the sentences
18 imposed pursuant to the Court's November 27, 1996
19 Judgment of Conviction fell "outside the heartland
20 of sentences for a person with [the Defendant's] criminal
21 record being sentenced for forgery offenses...."
22 and that therefore, the Defendant was entitled to
23 receive a Re-Sentencing Proceeding and an Amended -
24 Judgment of Conviction reflecting fair and proportionate
25 sentences. However, the Defendant has not received
26 such Re-Sentencing Proceeding or the substantial benefits
27 therefrom. Further, this Court no longer maintains
28 jurisdiction to conduct Re-Sentencing Proceedings or to

1 enter an Amended Judgment of Conviction, where the
2 Defendant has expired to completion and discharge each
3 of the Six (6) "onerous" sentences" imposed pursuant to
4 the November 27, 1996 Judgment of Conviction. Thus, the
5 Defendant cannot possibly receive the relief that was
6 contemplated by the Post-Conviction Court, as
7 memorialized within the Court's August 14, 2001 Writ of-
8 Habeas Corpus. Therefore, the Defendant is entitled
9 to receive equitable relief, such as the relief
10 requested through the Defendant's Petition For Writ of-
11 Coram Nobis, filed contemporaneously herewith.

12 13 III. Conclusion:

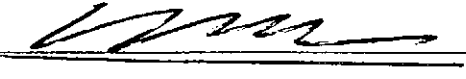
14
15 The Court should take judicial notice of the
16 relevant noticable facts, and grant the Defendants
17 Motion, converting the pending proceedings to a
18 Petition For Writ of Coram Nobis.

19 20 IV. Verification:

21
22 Under penalty of perjury, the Defendant hereby
23 verifies that he has read the content of the
24 foregoing document and that same is true and
25 correct of his own personal information, knowledge
26 and belief.

27 The foregoing document does not contain the
28 social security number of any person.

1 DATED this 7th day of March 2018.

2
3 By: 

4 STEVEN FLOYD VOSS,

5 Defendant, in pro per

6
7
8 CERTIFICATE OF SERVICE VIA U.S. MAIL


9
10 I, STEVEN FLOYD VOSS, do hereby certify that
11 on this 7th day of March 2018, that I mailed
12 a true and correct copy of the foregoing document,
13 addressed to:

14 TERRENCE P. MCCARTHY, ESQ. (DA4)

15 90 Washoe County District Attorney

16 Post Office Box # 11130

17 Reno, Nevada 89520-0027

18
19 By: 

20 STEVEN FLOYD VOSS

EXHIBIT #1

CR96-1581
STATE VS STEVEN FLOYD MOSS 2 Pages
District Court 03/09/2018 01:23 PM
Washoe County 2610
EX-1 SMOLLE

EXHIBIT #1

INMATE REQUEST FORM

1.) INMATE NAME	DOC #	2.) HOUSING UNIT	3.) DATE
VOSS, STEVEN F.	52094	2C - 6E	03-27-2018

4.) REQUEST FORM TO: (CHECK BOX)

☒ CASEWORKER ☐ MEDICAL ☐ MENTAL HEALTH ☐ CANTEEN

☐ EDUCATION ☐ VISITING ☐ LAW LIBRARY ☐ DENTAL

☐ LAUNDRY ☐ PROPERTY ROOM ☐ SHIFT COMMAND ☐ OTHER _____

5.) NAME OF INDIVIDUAL TO CONTACT: Unit #2, Caseworker

6.) REQUEST: (PRINT BELOW) I am informed that on February 26, 2018, that I expired and discharged the last of the six (6) sentences imposed pursuant to the November 27, 1996 Judgment of Conviction entered in Washoe County District Court Case No. CR96-1581; and that at present date, I am restrained pursuant to Murder and Kidnapping convictions as set out within the January 30, 2004 Corrected Amended Judgment of Conviction entered in Washoe County District Court, Case No. CR97-2077.

Please verify whether such facts are true and correct.

7.) INMATE SIGNATURE [Signature] DOC # 52094

8.) RECEIVING STAFF SIGNATURE _____ DATE _____

9.) RESPONSE TO INMATE

CR 961581 expired 3/4/18. —

Voss is serving time currently under CR97-2077. —

10.) RESPONDING STAFF SIGNATURE CC-S J. Buchanan DATE 3/5/18

CR96-1581
DC-0590008320-121
STATE VS. STEVEN FLOYD VOSS 20 Pages
District Court 03/09/2018 01:23 PM
Washoe County
DOC 3645
SMOLFE

1 STEVEN FLOYD VOSS #5209Y

2 Northern Nevada Correctional Center

3 Post Office Box # 7000

4 Carson City, Nevada 89702-7000

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF WASHOE

9 STEVEN FLOYD VOSS,

10 Defendant/Petitioner,

11 VS.

12 THE STATE OF NEVADA,

13 Plaintiff/Respondent.

Case No. CR96-1581

Dept. No. 1

16 PETITION FOR WRIT OF CORAM NOBIS

17 And

18 MOTION FOR JUDGMENT OF ACQUITTAL

20 COMES NOW Defendant/Petitioner, STEVEN FLOYD VOSS, by
21 and through his proper person, and hereby submits
22 the instant Petition and Motion.

23 The instant Petition and Motion is made and
24 predicated upon the attached memorandum of points and
25 authorities, all papers, pleadings, and exhibits, on
26 file in the above entitled case, and matters to be
27 aduced at evidentiary hearing.

MEMORANDUM OF POINTS AND AUTHORITIESI. Nature of Petition and Motion:

The Petitioner through the instant pleadings seeks a writ of Coram Nobis dissolving this Court's November 27, 1996 Judgment of Conviction, which has previously been effectively vitiated by this Court's August 14, 2001 entry of a writ of Habeas Corpus (Findings of Fact, Conclusions of Law, And Judgment); the state's failure to prosecute the case to its final culmination, by attaining a Re-Sentencing Proceeding pursuant to said August 14, 2001 writ of Habeas Corpus, and thereby attaining an Amended Judgment of Conviction setting out the fair and proportionate sentences contemplated by said writ of Habeas Corpus; and where the Petitioner had on February 26, 2018 served to completion and discharge each of the six (6) decidedly "onerous" sentences imposed pursuant to said November 27, 1996 Judgment of Conviction. Which functions to divest this Court of jurisdiction to enter an Amended Judgment of Conviction contemplated by this Court's August 14, 2001 writ of Habeas Corpus. Requiring, that a Judgment of Acquittal now be entered,

II. Procedural History:

A Criminal Complaint was filed in the Reno

1 Justice Court on June 28, 1996, alleging the crimes
2 of Burglary, Forgery, uttering A Forged Instrument,
3 and Attempted Theft; and a Preliminary Hearing was
4 held on July 15, 1996, wherein a finding of probable cause
5 was found.

6 A Criminal Information was filed in the District
7 Court on July 16, 1996. The case proceeded to Trial on
8 October 7, 1996. On October 10, 1996 the jury had returned
9 Guilty Verdicts relative to each of the six counts
10 charged, sentencing proceedings were conducted on
11 November 27, 1996. The court had imposed consecutive
12 maximum sentences in regard to each of the six counts
13 charged, and a written Judgment of Conviction was entered
14 on that same date.

15 A timely Notice of Appeal was filed on December 24,
16 1996 and a Direct Appeal was docketed in the Nevada
17 Supreme Court, Case No. 29783. Said Court had entered
18 an Order Dismissing Appeal on March 11, 1999.

19 On March 9, 2000 the Petitioner filed a proper
20 person Post-Conviction Petition For Writ of Habeas Corpus
21 (case No. CR96-P-1581). An Order Granting Evidentiary
22 Hearing And Appointment Of Post-Conviction Counsel was
23 entered on May 11, 2000. Whereby, Attorney Scott W. Edwards,
24 Esq., was appointed. An evidentiary hearing was held
25 on June 8, 2001, wherein, the court, from the bench,
26 had granted a writ of Habeas Corpus relative to the
27 Petitioner's Ground six claims. The court thereby
28 granting the Petitioner a Re-Sentencing Hearing.

1 Thereafter, on August 14, 2001 the Court had entered
2 its Findings of Fact, Conclusions of Law And Judgment.
3 wherein, the Court had ruled as follows:

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

15 Because Judge Stone based Voss's onerous
16 sentence, at least in part, on the suspect and
17 impalpable ground that Voss had murdered Ms. Baxter,
18 Voss is entitled to a new sentencing hearing.

19 It is hereby the judgment and order of this Court
20 that Voss's Petition For Writ of Habeas Corpus (Post-
21 Conviction) is granted, but only insofar as allowing
22 for a new sentencing proceeding. " Id. at Page 6, Line
23 9, through Page 7, Line 8.

24 On August 20, 2001 the Petitioner filed a timely Notice of
25 Appeal from the partial denial of his March 9, 2000 Petition.
26 An appeal was docketed in the Nevada Supreme Court, Case
27 No. 38373. On January 17, 2002 said Court had entered an Order
28 of Affirmance, which had affirmed, in whole the District Court's

1 August 14, 2001 Findings of Fact, Conclusions of Law, And Judgment
 2 entered in Case No. CR96-P-1581.
 3 Nonetheless, to present date, the Petitioner has not
 4 received the substantial benefits of (a) the Court ordered
 5 Re-Sentencing Proceeding; (b) Fair and Proportionate
 6 sentencing; or (c) the entry of a written and final
 7 Amended Judgment of Conviction, which memorializes such
 8 Fair and Proportionate sentences, as contemplated by this
 9 Court's August 14, 2001 Writ of Habeas Corpus (Findings of Fact-
 10 Conclusions of Law, And Judgment). Moreover, the Petitioner can
 11 never receive the substantial benefits contemplated by the
 12 Post-Conviction Court, because on February 26, 2018 the
 13 Defendant had served to completion and discharge the
 14 last of the six (6) "onerous" sentences imposed by the
 15 November 27, 1996 Judgment of Conviction.

17 III. Arguments:

19 A. The ultimate responsibility to achieve a
 20 culmination of the prosecution resulting in the entry
 21 of an Amended Judgment of Conviction rests squarely on
 22 the State,

24 The burden of achieving a final written
 25 Amended Judgment of Conviction, pursuant to the District
 26 Court's August 14, 2001 Writ of Habeas Corpus, falls squarely
 27 on the State as the Master of the case. Whereas, a
 28 criminal defendant quite simply is not called upon

to make certain that he is legally convicted or sentenced. See, State v. Loveless, 62 Nev. 17, 24, 136 P. 2d 236, 239 (1949); Barker v. Wingo, 407 U.S. 514, 530-532 (1972); and progeny. Therefore, there can be no legitimate argument that the state's failure to cause the commencement of Re-sentencing proceedings and to achieve the Court's entry of a written and final Judgment of Conviction pursuant to the District Court's August 14, 2001 Writ of Habeas Corpus, is not attributable to the state.

NRS 176.015(1), provides that:

"[The] sentence must be imposed without unreasonable delay."

The state has clearly failed to meet its burden of imposing a prompt sentence, one without "unreasonable delay." Where, no resentencing proceedings have been conducted, and no Amended Judgment of Conviction has been entered in the seventeen (17) or so years since the District Court's entry of its August 14, 2001 Writ of Habeas Corpus. Such a duration of delay which is presumptively prejudicial under the Sixth Amendment's Speedy Trial Clause. See, Barker v. Wingo, 407 U.S. 514 (1972).

B. The District Court no longer maintains jurisdiction to enter an Amended Judgment of Conviction pursuant to the Court's August 14, 2001 Writ of Habeas Corpus.

The District Court no longer maintains its jurisdiction to enter an Amended Judgment of Conviction

1 to correct the decidedly "onerous" sentences previously
2 imposed upon the Petitioner via the court's prior
3 November 27, 1996 Judgment of Conviction, where: (i) despite
4 the District Court's entry of its August 14, 2001 Writ of -
5 Habeas Corpus, the Court had neglected to formally vacate
6 the November 27, 1996 Judgment of Conviction; and (2)
7 the Petitioner has served to completion and discharge
8 each of the six (6) consecutive sentences imposed via
9 the November 27, 1996 Judgment of Conviction. It is an
10 undisputable fact supported by the record that despite
11 the District Court's entry of its August 14, 2001 Writ of -
12 Habeas Corpus which recognized the constitutional
13 infirmity of the sentences imposed via the November 27,
14 1996 Judgment of Conviction, that at no time prior to
15 the Petitioner's completion and discharge from such
16 decidedly "onerous" sentences on February 26, 2018,
17 did the District Court vacate the November 27, 1996
18 Judgment of Conviction. Thus, there can be no reasonable
19 argument that the Petitioner has not been maintained in
20 continuous custody pursuant to the November 27, 1996
21 Judgment of Conviction, from such date of November 27, 1996
22 (with credit for his pre-trial confinement) up to the date
23 of February 26, 2018 when he was discharged from the last
24 of the six (6) sentences imposed by said Judgment of Conviction
25 by the Nevada Department of Corrections. See, attached
26 Exhibit #1. The Petitioner hereby identifies that despite
27 his request to the Nevada Department of Corrections to
28 be provided a Certificate of Discharge relative to

1 the November 27, 1996 Judgment of Conviction entered
2 in the instant case, officials of said Department
3 have refused to provide such documentation to the
4 Petitioner. Therefore, the Petitioner submits that
5 the District Court should Order the State to file
6 and serve upon the Petitioner, a Return which
7 certifies the true cause of the Petitioner's present
8 restraint, and specifically whether the Petitioner is
9 presently restrained pursuant to the Court's November 27,
10 1996 Judgment of Conviction entered in the instant case
11 (CR96-1581). See, Motion For Order Directing The State-
12 To File A Return Certifying The True Cause Of The-
13 Defendant's Restraint, filed contemporaneously herewith.

14
15 C. Due Process And Equal Protection of Law, require
16 that in the unavailability of the relief contemplated
17 by the District Court's August 14, 2001 Writ of Habeas Corpus,
18 that other equitable relief be granted.

19
20 Clearly, where the Petitioner has been made
21 to serve each and every one of his six (6) decidedly
22 "onrours", "suspect and impalpable", sentences imposed
23 via the November 27, 1996 Judgment of Conviction to completion
24 and discharge, even if the District Court had maintained
25 jurisdiction to enter an Amended Judgment of Conviction
26 to repair the markedly disproportionate sentences imposed
27 via the November 27, 1996 Judgment of Conviction, the remedy
28 of a Re-sentencing Proceeding and the entry of an

1 Amended Judgment of Conviction, setting out new,
 2 fair and proportionate sentences, is at this juncture,
 3 completely unavailable to the Petitioner. Where, he has
 4 been made to serve each of the six (6) "onerous"
 5 sentences imposed via the November 27, 1996 Judgment of-
 6 Conviction to completion and discharge. Therefore,
 7 principles of equity require that alternative relief be
 8 granted the Defendant.

9 In such regard, the Petitioner submits that the
 10 only meaningful, and therefore equitable, relief
 11 which remains available to this Court at this
 12 juncture, would be the entry of an Order, that
 13 functions essentially as a Writ of Coram Nobis, which
 14 formally vacates the constitutionally infirm Judgment-
 15 of Conviction entered on November 27, 1996 with
 16 prejudice, pursuant to the Post-Conviction Court's
 17 Findings of Fact, Conclusions of Law, And Judgment, entered
 18 in Case No. CR96-P-1581 on August 14, 2001, and based upon
 19 the jurisdictional defect arising from the failure
 20 to conduct the Court ordered Re-sentencing Proceedings
 21 and to enter an Amended Judgment of Conviction
 22 within a reasonable time following the Court's August 14,
 23 2001 Writ of Habeas Corpus granting such relief, and
 24 certainly prior to the Petitioner's completion of, and
 25 discharge from the decidedly "onerous" sentences
 26 imposed upon him via the November 27, 1996 Judgment of-
 27 Conviction.

28 Additionally, the Petitioner submits that as

1 reparation for being made to serve said
2 decidedly "onerous" sentences to completion and
3 discharge, in violation of his independent state
4 and Federal Due Process and Equal Protection rights,
5 that the Court should further grant the Defendant
6 a Judgment of Acquittal in equity.

7 Clearly, the sentences reflected upon the
8 November 27, 1996 Judgment of Conviction are facially
9 illegal, subsequent to the District Court's August 14,
10 2001 Findings of Fact, Conclusions of Law, And Judgment
11 (Writ of Habeas Corpus), which had undeniably held
12 such sentences to be disproportionate. That is,
13 "outside the heartland of sentences for persons with
14 [the Defendant's] criminal record being sentenced for
15 forgery offenses." Therefore, the defective November
16 27, 1996 Judgment of Conviction cannot lie uncorrected
17 and same must necessarily be vacated. However,
18 in light of the untenable delay in conducting
19 Re-sentencing Proceedings causing the Defendant to serve
20 each and all of the Six (6) "onerous" sentences to
21 completion and discharge, this Court no longer
22 maintains jurisdiction to enter an Amended-
23 Judgment of Conviction. Nonetheless, even if jurisdiction
24 was maintained to amend the Judgment of Conviction to
25 reflect new, fair and proportionate sentences, such
26 a Judgment of Conviction is utterly an impossibility,
27 because the original "onerous" sentences have been served
28 to completion, and the Court surely cannot turn back

1 time. Therefore, not only would the court's
2 entry of an Amended Judgment of Conviction be
3 an ultra vires action, rendering same coram non
4 judice and void, but same would not be an
5 equitable remedy because same could not possibly
6 provide the remedy and relief of which the
7 Post-Conviction court had granted the Defendant.

8 Thus, under the operative circumstances involved,
9 this Court in the absence of jurisdiction to enter
10 an Amended Judgment of Conviction must: (1) recognize
11 the jurisdictional defect on the record; (2) vacate
12 the defective November 27, 1996 Judgment of Conviction
12 as constitutionally infirm where the sentences reflected
13 thereon, and imposed thereby have been determined to
14 be disproportionate and "onerous". Causing said
15 sentences to be facially illegal; and (3) dismiss the
16 case with prejudice where the court no longer maintains
17 jurisdiction to modify the sentences.

18 However, the Petitioner contends that a mere
19 Order vacating the November 27, 1996 Judgment of -
20 Conviction and dismissing the case with prejudice
21 would not be sufficient to equitably resolve the
22 matter and would leave the record unresolute.
23 However, a Judgment of Acquittal would function as
24 a final judgment under NRS 176.105, effective to
25 adjudicate all rights and liabilities of the parties,
26 and allow the Petitioner to avail himself to a plea
27 of former jeopardy should the need to do so ever arise.

1 Furthermore, the entry of a Judgment of Acquittal
2 would also function as a punitive sanction against
3 the state for its failure to cause re-sentencing
4 proceedings to be conducted relative to this
5 Court's August 14, 2001 Writ of Habeas Corpus, and to
6 secure a final written Amended Judgment of Conviction,
7 setting out the fair and proportionate sentences
8 contemplated by the 2001 Post-Conviction Court.
9 Such punitive sanction of the entry of a Judgment
10 of Acquittal which is the only meaningful sanction
11 still available having any substantial punitive effect.

12
13 D. A Judgment of Acquittal is due the
14 Petitioner where the state failed to prove, with
15 competent and admissible evidence, the essential
16 elements of the charged offenses beyond a reasonable
17 doubt; and where the jury's Guilty Verdicts were
18 necessarily predicated upon statutorily and
19 constitutionally prohibited and inadmissible
20 evidence, and improper considerations by the jury.

21
22 The Petitioner hereby incorporates by
23 reference into the instant Petition For Writ of
24 Coram Nobis, his Pre-sentencing Motion To set
25 Aside Jury Verdicts, previously filed on October 25,
26 2017, his claims for relief, arguments, and authority,
27 asserted therein.

1 (1.) The state's admission of Victim Hearsay
2 Testimony from numerous state's witnesses had
3 deprived the [Petitioner] of: his Sixth Amendment
4 rights to confront adverse witnesses against him,
5 to receive a Jury Trial and beyond a reasonable
6 doubt factual findings and Verdict(s); and his
7 fourteenth Amendment rights to receive due process
8 and equal protection of law, and a fair trial.
9

10 See, Pre-sentencing Motion To Set Aside
11 Jury Verdicts, filed October 25, 2017, at Page 3,
12 Line 8, through Page 26, Line 12.
13

14 (2.) The state's admission of evidence (state's
15 Exhibit #29) which was seized by state agents
16 without a duly authorized search warrant, had
17 deprived the [Petitioner] of: (a) his Fourteenth
18 Amendment rights to Due Process and Equal Protection
19 of Law, and to receive a Fair Trial; and (b) his
20 Sixth Amendment rights to Jury Trial, and to
21 receive beyond reasonable doubt factual findings
22 and Jury Verdict(s).
23

24 See, Pre-sentencing Motion To Set Aside
25 Jury Verdicts, filed October 25, 2017, at Page 26,
26 Line 14, through Page 30, Line 6,
27
28

(3) The State's Criminal Information, as same applies to the Count I, Burglary Charge, is at a material variance with the State's Criminal Complaint filed in the Reno Justice Court, the evidence admitted during the Preliminary Examination, and the findings of probable cause entered by the Reno Justice Court. Thus, the State's Criminal Information asserts material allegations not considered by the Reno Justice Court, and material allegations which the Defendant had not been duly noticed of through the State's Criminal Complaint, prior to the Preliminary Examination conducted in the Reno Justice Court. Depriving the Defendant of Due Process and Equal Protection of Law, and rendering the trial proceedings fundamentally unfair. In violation of Article 1 § 8 of the Nevada State Constitution, and the Fourteenth Amendment to the United States Constitution.

See, Pre-Sentencing Motion To Set Aside Jury Verdicts, filed October 25, 2017, at Page 30, Line 8, through Page 37, Line 3.

(4) The record substantially demonstrates the existence of judicial bias on the part of the Trial Court, which had rendered the trial proceedings fundamentally unfair, the jury's verdicts unworthy of confidence, and the sentence imposed to be decidedly onerous.

1 See, Pre-sentencing Motion To Set Aside
2 Jury Verdicts, filed October 25, 2017, at Page 37,
3 Line 5, through Page 39, Line 13.

4
5 These claims set out within said Pre-sentencing
6 Motion To Set Aside Jury Verdicts, which has not
7 been resolved by the Court and is therefore presently
8 pending resolution is meritorious and sufficiently
9 demonstrates that the jury's six (6) Guilty Verdicts
10 are unreliable due to substantial errors
11 effecting the trial mechanism, which entitle
12 the Petitioner to have the Jury's Guilty Verdicts
13 set aside as a matter of due process. Further,
14 demonstrating the propriety of not only an Order
15 setting aside the jury's Verdicts, but moreso, an
16 Order which vacates the November 27, 1996 Judgment of
17 Conviction with prejudice, and the entry of an
18 Judgment of Acquittal, where this Court no longer
19 maintains jurisdiction to enter an Amended Judgment
20 of Conviction or conduct a new trial, where the
21 Petitioner has been made to serve each of his six (6)
22 decidedly "onerous" sentences to completion.

23
24 E. The State has effectively waived all
25 challenges to the validity and propriety of the
26 Post-Conviction Court's entry of its August 14, 2001
27 Writ of Habeas Corpus, in the context of Case No. CR96-P-1581

1 The record clearly demonstrates that
2 following the Post-conviction Court's August 14, 2001
3 entry of a writ of Habeas Corpus (see, Findings of Fact,
4 Conclusions of Law, And Judgment, Case No. CR96-P-1581),
5 which granted the Petitioner a Re-Sentencing Proceeding,
6 the state did not appeal from such Order and
7 Judgment of the Court. Thus, the state by their
8 silence has not only waived all challenges to such
9 Order and Judgment and the Court's exercise of
10 discretion thereby, but additionally, the state
11 had effectively confessed the errors found by
12 the Post-Conviction Court. Nonetheless, such
13 Order and Judgment of the Post-Conviction Court
14 was affirmed by the Nevada Supreme Court in
15 the context of the Petitioner's appeal from the
16 partial denial of his March 9, 2000 Post-Conviction
17 Petition For writ of Habeas Corpus. Therefore, such
18 Order and Judgment of the Post-Conviction Court
19 made in the context of Case No. CR96-P-1581, is now
20 Law of The Case, which must be followed in all
21 subsequent proceedings. Thus, the state is precluded
22 from challenging the validity and propriety of
23 the Post-Conviction Court's August 14, 2001 Order and
24 Judgment, or the propriety of the Court's exercise
25 of its discretion thereby. Where, the Petitioner's
26 March 9, 2000 Petition For writ of Habeas Corpus was
27 properly filed pursuant to the statutory provisions
28 of NRS Chapter 34, and the Post-Conviction Court

1 was clearly vested with proper jurisdiction to
2 consider such Petition; and where there
3 exist a clear basis for estopple of such
4 challenges under principles of collateral and
5 judicial estopple, including but not limited to
6 Law of the Case Doctrine, the Doctrine of Issue Preclusion,
7 and Res Judicata.

8 Therefore, the Post-Conviction Court's August 14,
9 2001 Order and Judgment (Writ of Habeas Corpus)
10 must be construed as valid and binding under
11 the principles and usages of law. Despite what the
12 state's present opinions might be.

13
14 IV. Conclusion:

15
16 This Court should grant the instant
17 Petition For Writ of Coram Nobis, and order the
18 November 27, 1996 Judgment of Conviction vacated,
19 and the charges, one and all, dismissed with
20 prejudice. Additionally, the Court should enter
21 a Judgment of Acquittal: in equity where the
22 Petitioner was deprived of the substantial remedies
23 contemplated by the Post-Conviction Court, and made
24 to serve to completion each of the six (6) decidedly
25 "onerous" sentences imposed pursuant to the Court's
26 November 27, 1996 Judgment of Conviction; and as a
27 sanction against the state for its inexcusably
28 negligent failure to cause the Court ordered

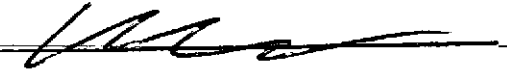
1 Re-sentencing Proceedings to be conducted, and
2 an Amended Judgment of Conviction setting out
3 the fair and proportionate sentences contemplated
4 by the Post-Conviction Court to be entered; or
5 as a consequence of the state's effective
6 abandonment of the prosecution for a period
7 of some seventeen (17) years subsequent to the
8 Post-Conviction Court's entry of its August 14, 2001
9 Order and Judgment (Writ of Habeas Corpus)

10
11 V. Verification:

12
13 Under penalty of perjury, I STEVEN FLOYD
14 VOSS, do hereby verify that I have read the
15 content of the foregoing document, and that
16 same is true and correct of my own personal
17 information, knowledge and belief.

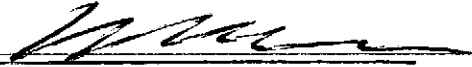
18 The foregoing document does not contain
19 the personal information or social security number
20 of any person.

21 DATED this 7th day of March 2018.

22 By: 
23 STEVEN FLOYD VOSS,
24 Petitioner, in pro. per.

CERTIFICATE OF SERVICE VIA U.S. MAIL

I, STEVEN FLOYD VOSS, do hereby certify
that on this 7th day of March 2018, that I
mailed a true and correct copy of the
foregoing document addressed to:
TERRENCE P. MCCARTHY, Esq. (DDA)
% Washoe County District Attorney
Post office Box # 11130
Reno, Nevada 89520-0027

By: 
STEVEN FLOYD VOSS

///

///

///

INDEX OF ATTACHED EXHIBITS

Exhibit # 1: Nevada Department of Corrections,
Inmate Request, Dated February 27, 2018,
responded on March 5, 2018.

EXHIBIT #1

EXHIBIT #1

INMATE REQUEST FORM

1.) INMATE NAME	DOC #	2.) HOUSING UNIT	3.) DATE
VOSS, STEVEN F.	52094	2C - 6E	03-27-2018

4.) REQUEST FORM TO: (CHECK BOX)

☒ CASEWORKER ☐ MEDICAL ☐ MENTAL HEALTH ☐ CANTEEN

☐ EDUCATION ☐ VISITING ☐ LAW LIBRARY ☐ DENTAL

☐ LAUNDRY ☐ PROPERTY ROOM ☐ SHIFT COMMAND ☐ OTHER _____

5.) NAME OF INDIVIDUAL TO CONTACT: Unit #2, Caseworker

6.) REQUEST: (PRINT BELOW) I am informed that on February 26, 2018, that I expired and discharged the last of the six (6) sentences imposed pursuant to the November 27, 1996 Judgment of Conviction entered in Washoe County District Court Case No. CR96-1581; and that at present date, I am restrained pursuant to Murder and Kidnapping convictions as set out within the January 30, 2004 Corrected Amended Judgment of Conviction entered in Washoe County District Court, Case No. CR97-2077.

Please verify whether such facts are true and correct.

7.) INMATE SIGNATURE [Signature] DOC # 52094

8.) RECEIVING STAFF SIGNATURE _____ DATE _____

9.) RESPONSE TO INMATE

CR 961581 expired 3/4/18. -

Voss is serving time currently under CR97-2077. -

10.) RESPONDING STAFF SIGNATURE CCJ J. Buchanan DATE 3/5/18

CR96-1581
STATE VS. STEVEN FLOYD VOSS
District Court
Washoe County
03/02/2018 01:24 PM
2490
C:\MSD

1 STEVEN FLOYD VOSS #5209Y

2 Northern Nevada Corrections Center

3 Post Office Box #7000

4 Carson City, Nevada 89702-7000

2018 MAR -9 PM 1:24

CLERK OF THE COURT
BY _____
DEPUTY

5
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF WASHOE

8
9 STEVEN FLOYD VOSS,

Case No. CR96-1581

10 Defendant / Petitioner,

Dept. No. 1

11 vs.

12 THE STATE OF NEVADA,

13 Respondent.

14
15
16 MOTION FOR ORDER DIRECTING THE RESPONDENT TO FILE A17 RETURN TO THE PETITIONER'S PETITION FOR WRIT OF18 CORAM NOBIS, WHICH SPECIFIES THE TRUE CAUSE OF19 THE STATE OF NEVADA'S PRESENT RESTRAINT OF THE PETITIONER,

20
21 COMES NOW Petitioner, on Petition For Writ of Coram
22 Nobis, and hereby through his proper person,
23 submits the instant Motion.

24 The instant Motion is made and predicated
25 upon the attached memorandum of points and authorities,
26 and all papers and pleadings on file herein. Including,
27 the Petitioner's Petition For Writ of Coram Nobis, and
28 Notice and Motion filed contemporaneously herewith.

MEMORANDUM OF POINTS AND AUTHORITIESI. Nature of Motion:

Through the instant Motion, the Petitioner seeks an Order of this Court which directs the Respondent (the State of Nevada), to file with this Court, and to serve upon the Petitioner, a Return, to the Petitioner's Petition For Writ of Coram Nobis filed contemporaneously herewith.

II. Argument:

The Court's granting of the instant Motion is warranted and necessary in the premises of the Petitioner's, Petition For Writ of Coram Nobis, filed contemporaneously herewith.

The Petitioner submits that the Court's granting of the instant Motion is warranted, and necessary in the premises of his Petition For Writ of Coram Nobis, filed contemporaneously herewith.

Specifically, in order for the Court to make a determination of the propriety of the Petitioner's Petition For Writ of Coram Nobis, the Court must first determine, whether or not, the Petitioner is no longer in custody pursuant to this Court's November 27, 1996 Judgment of Conviction entered in the

1 instant case. Whereas, a Petition for writ of
 2 Coram Nobis is a remedy which is only available
 3 to a person who is no longer in-custody pursuant to
 4 a judgment of the Trial Court. See, Harris v. State,
 5 130 Nev. , 239 P.3d 619 (2014) (citing Trujillo v. State,
 6 129 Nev. , 310 P. 3d 594, 595-596 (2013):

7 "Thus, any remedy that is available only to a
 8 person who is no longer under a sentence of
 9 imprisonment or death or allows a person to
 10 raise a claim that is outside the scope of a
 11 post-conviction petition for writ of habeas corpus
 12 is not subject to the exclusive-remedy language
 13 in NRS 34.724(2)(b) regardless of whether the
 14 remedy is or is not incident to the proceedings
 15 in the trial court. For example, the petition
 16 for a writ of coram nobis was not superseded
 17 by the post-conviction petition for a writ of
 18 habeas corpus because the petition for a writ
 19 of coram nobis is only available to a person who
 20 is no longer in custody on the conviction
 21 challenged." (Emphasis added)

22 Additional citations include: Hargrove, 100 Nev. 498, 686 P.2d
 23 222; Bryant, 102 Nev. 268, 721 P. 2d 364; and Barajas v. State,
 24 115 Nev. 446, 991 P. 2d 474 (1999).

25 Therefore, the question of whether the
 26 Petitioner is, or is not, presently in-custody pursuant
 27 to the Court's November 27, 1996 Judgment of Conviction (the
 28 Judgment relative to the "conviction[s] challenged"), is

1 inherently material to the Court's determination
2 of the propriety of the instant Petition For writ
3 of Coram Nobis.

4 Therefore, the State's filing of a Return
5 to the instant Petition For writ of Coram Nobis,
6 which specifies the true cause of the Petitioner's
7 present restraint, and specifically whether or
8 not the Petitioner remains restrained pursuant to
9 the November 27, 1996 Judgment of Conviction entered
10 in the instant case (CR96-1581), would clearly
11 assist the Court in determining whether the
12 Petitioner remains in-custody pursuant to the
13 challenged November 27, 1996 Judgment of Conviction;
14 and whether or not, the instant Petition For writ of
15 Coram Nobis is a procedurally correct vehicle
16 to challenge the Court's November 27, 1996 Judgment
17 of Conviction.

18 An Order To show Cause or writ, directed to
19 the person having custody of a person detained,
20 directing such custodian to certify the true cause
21 for the restraint of the person detained, is the
22 usual and customary means utilized by a Court
23 to determine the true cause of restraint, relative
24 to a petition for writ relief. Some statutory
25 examples of such usual and customary procedure are:
26 28 U.S.C. § 2243; and NRS 34.745 - NRS 34.770.

27

28

III. Conclusion:

The Court should grant the instant Motion, and enter an Order directing the State to file a Return certifying the true cause of the Petitioner's present restraint, and whether the Petitioner has been discharged from the six (6) sentences imposed in the instant case (Case# CR96-1581).

IV. Verification:

I, STEVEN FLOYD VOSS, do hereby verify, under penalty of perjury, that I have read the content of the foregoing Motion, and that same is true and correct of my own personal information, knowledge and belief.

The foregoing Motion does not contain the personal information or social security number of any person.

DATED this 7th day of March 2018.

By: Steven Floyd Voss

STEVEN FLOYD VOSS,
Petitioner, in pro. per.

CERTIFICATE OF SERVICE VIA U.S. MAIL

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I, STEVEN FLOYD VOSS, do hereby certify that
on this 7th day of March 2018, that I mailed
a true and correct copy of the foregoing document,
addressed to:

TERRENCE P. MCCARTHY, Esq. (DDA.)

% Washoe County District Attorney

Post Office Box # 11130

Reno, Nevada 89520-0027

By: _____

STEVEN FLOYD VOSS

///

///

///

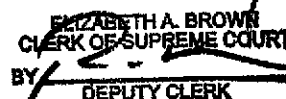
IN THE SUPREME COURT OF THE STATE OF NEVADA

STEVEN FLOYD VOSS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

CR96-1581
No. 75064 D1

FILED

APR 11 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK


ORDER DISMISSING APPEAL


This is a pro se appeal from a district court order denying a pre-sentencing motion to set aside jury verdict. Second Judicial District Court, Washoe County; Elliott A. Sattler, Judge.

Appellant filed a motion for a voluntary dismissal of this appeal. Cause appearing, appellant's motion is granted. See NRAP 42(b). Accordingly, we

ORDER this appeal DISMISSED.

 J.
Pickering

 J.
Gibbons

 J.
Hardesty

cc: Hon. Elliott A. Sattler, District Judge
Steven Floyd Voss
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

Return Of NEF**Recipients**

TERRENCE - Notification received on 2018-04-12 11:24:22.229.
MCCARTHY, ESQ.

DIV. OF PAROLE & - Notification received on 2018-04-12 11:24:21.308.
PROBATION

***** IMPORTANT NOTICE - READ THIS INFORMATION *****
PROOF OF SERVICE OF ELECTRONIC FILING

-

A filing has been submitted to the court RE: CR96-1581

Judge:

HONORABLE KATHLEEN DRAKULICH

Official File Stamp:

04-12-2018:11:22:35

Clerk Accepted:

04-12-2018:11:23:21

Court:

Second Judicial District Court - State of Nevada
Criminal

Case Title:

STATE VS. STEVEN FLOYD VOSS (D1)

Document(s) Submitted:

Supreme Ct Ord Dismiss Appeal

Filed By:

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

The following people were served electronically:

DIV. OF PAROLE & PROBATION
TERRENCE P. MCCARTHY, ESQ. for STATE
OF NEVADA

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

EGAN K. WALKER, ESQ. for STATE OF
NEVADA
STATE OF NEVADA for STATE OF NEVADA
STEVEN FLOYD VOSS for STEVEN FLOYD
VOSS

CR96-1581
STATE VS. STEVEN FLOYD VOSS
District Court
Washoe County
DC-09500086724-048
FLOYD VOSS 20 Pages
05/10/2018 10:05 AM
1110
SMG/FF

FILED

2018 MAY 10 AM 10:05

CLERK OF THE DISTRICT COURT
BY *SMW*
DEPUTY

1 STEVEN FLOYD VOSS #52094

2 Northern Nevada Correctional Center

3 Post Office Box # 7000

4 Carson City, Nevada 89702-7000

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF WASHOE

9 STEVEN FLOYD VOSS,

10 Petitioner,

Case No. CR96-1581

Dept. No. 1

11 VS.

12 THE STATE OF NEVADA,

13 Respondent,

16 (FIRST AMENDED)

17 PETITION FOR A WRIT OF ERROR CORAM NOBIS

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

22 The instant Petition is made and predicated
23 upon the attached memorandum of points and
24 authorities, attached exhibits, all papers and
25 pleadings on file in the above entitled case,
26 matters to be judicially noticed, and matters to
27 be aduced at evidentiary hearing.

INDEX OF ATTACHED EXHIBITS

Exhibit # 1: Nevada Department of Corrections,
Inmate Request, Dated February 27, 2018,
responded on March 5, 2018.

Exhibit # 2: JUDGMENT OF CONVICTION, Washoe
County District Court, Case No.
CR96-1581, entered on November
27, 1996

Exhibit # 3: FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND JUDGMENT, Washoe County District
Court, Case No. CR96-P-1581, entered
on August 14, 2001.

MEMORANDUM OF POINTS AND AUTHORITIESI. Nature of Petition:

Through the instant (Amended) Petition For
A Writ of Error Coram Nobis, the Defendant/Petitioner
hereby amends his prior pleading titled as
Petition For Writ of Coram Nobis And Motion For
Judgment of Acquittal Filed March 9, 2018, for the
first time as a matter of course, and the State
not having filed a Response in opposition to the
aforementioned prior pleading.

MEMORANDUM OF POINTS AND AUTHORITIESI. Nature of Petition and Motion:

The Petitioner through the instant pleadings seeks a Writ of Error Coram Nobis, dissolving the Court's November 27, 1996 Judgment of Conviction, which has previously been effectively vitiated by this Court's August 14, 2001 entry of a Writ of Habeas Corpus (Findings of Fact, Conclusions of Law, And Judgment); the state's failure to prosecute the case to its final culmination, by attaining a Re-Sentencing Proceeding pursuant to said August 14, 2001 Writ of Habeas Corpus, and thereby attaining an Amended Judgment of Conviction setting out the fair and proportionate sentences contemplated by said Writ of Habeas Corpus; and where the Petitioner had on February 26, 2018 served to completion and discharge each of the six (6) decidedly "onerous" sentences imposed pursuant to said November 27, 1996 Judgment of Conviction. Which functions to divest this Court of Jurisdiction to enter an Amended Judgment of Conviction contemplated by this Court's August 14, 2001 Writ of Habeas Corpus. Requiring, that a Judgment of Acquittal now be entered,

II. Procedural History:

A Criminal Complaint was filed in the Reno

1 Justice Court on June 28, 1996, alleging the crimes
2 of Burglary, Forgery, Uttering A Forged Instrument,
3 and Attempted Theft; and a Preliminary Hearing was
4 held on July 15, 1996, wherein a finding of probable cause
5 was found.

6 A Criminal Information was filed in the District
7 Court on July 16, 1996. The case proceeded to Trial on
8 October 7, 1996. On October 10, 1996 the jury had returned
9 Guilty Verdicts relative to each of the six counts
10 charged, sentencing proceedings were conducted on
11 November 27, 1996. The Court had imposed consecutive
12 maximum sentences in regard to each of the six counts
13 charged, and a written Judgment of Conviction was entered
14 on that same date. (see, attached Exhibit # 2)

15 A timely Notice of Appeal was filed on December 24,
16 1996 and a Direct Appeal was docketed in the Nevada
17 Supreme Court, Case No. 29783. Said Court had entered
18 an Order Dismissing Appeal on March 11, 1999.

19 On March 9, 2000 the Petitioner filed a proper
20 person Post-Conviction Petition For writ of Habeas Corpus
21 (Case No. CR96-P-1581). An Order Granting Evidentiary
22 Hearing And Appointment Of Post-Conviction Counsel was
23 entered on May 11, 2000. Whereby, Attorney Scott W. Edwards,
24 Esq., was appointed. An evidentiary hearing was held
25 on June 8, 2001. Wherein, the Court, from the bench,
26 had granted a writ of Habeas Corpus relative to the
27 Petitioner's Ground six claims. The Court thereby
28 granting the Petitioner a Re-Sentencing Hearing.

1 Thereafter, on August 14, 2001 the Court had
2 entered Findings of Fact, Conclusions of Law, And
3 Judgment (see, attached Exhibit # 3) wherein, the
4 Court held as follows:

5 " Voss's claim that his sentence was based, at least
6 in part, on Judge Stone's belief that Voss caused the
7 murder or disappearance of Beverly Baxter has
8 merit. It is supported by the record. Even though
9 Voss has not been charged for the murder of
10 Ms. Baxter, Judge Stone made reference in his
11 rendition of sentence, to his belief that she
12 would not be found alive. He then imposed the
13 maximum sentence on Voss, a sentence clearly
14 outside the heartland of sentences for a person
15 with Voss's criminal record being sentenced for
16 forgery offenses... Because Judge Stone based
17 Voss's onerous sentence, at least in part, on the
18 suspect and impalpable ground that Voss had
19 murdered Ms. Baxter, Voss is entitled to a new
20 sentencing hearing. It is hereby the judgment and
21 order of this Court that Voss's Petition for writ of
22 Habeas Corpus (Post-Conviction) is granted... Id. at
23 Page 6, Line 9, through Page 7, Line 8,

24 On August 20, 2001 the Petitioner filed a timely
25 Notice of Appeal from the partial denial of his March 9,
26 2000 habeas Petition. An appeal was docketed in the
27 Nevada Supreme Court, Case No. 35373. Said Court had entered an
28 Order of Affirmance on January 17, 2002, affirming the District Court's

1 August 14, 2001 Findings of Fact, Conclusions of Law, And Judgment
2 entered in Case No. CR96-P-1581.

3 Nonetheless, to present date, the Petitioner has not
4 received the substantial benefits of (a) the Court ordered
5 Re-Sentencing Proceeding; (b) Fair and Proportionate
6 sentencing; or (c) the entry of a written and final
7 Amended Judgment of Conviction, which memorializes such
8 Fair and Proportionate sentences, as contemplated by this
9 Court's August 14, 2001 Writ of Habeas Corpus (Findings of Fact-
10 Conclusions of Law, And Judgment). Moreover, the Petitioner can
11 never receive the substantial benefits contemplated by the
12 Post-Conviction Court, because on March 4, 2018 the
13 Defendant had served to completion and discharge the
14 last of the six (6) "onerous" sentences imposed by the
15 November 27, 1996 Judgment of Conviction.

16 17 III. Arguments:

18
19 A. The ultimate responsibility to achieve a
20 culmination of the prosecution resulting in the entry
21 of an Amended Judgment of Conviction rests squarely on
22 the State,

23
24 The burden of achieving a final written
25 Amended Judgment of Conviction, pursuant to the District
26 Court's August 14, 2001 Writ of Habeas Corpus, falls squarely
27 on the State as the Master of the case. Whereas, a
28 criminal defendant quite simply is not called upon

1 to make certain that he is legally convicted or
 2 sentenced. See, State v. Lovelless, 62 Nev. 17, 24, 136
 3 P. 2d 236, 239 (1949); Barker v. Wingo, 407 U.S. 514, 530-532
 4 (1972); and progeny. Therefore, there can be no
 5 legitimate argument that the state's failure to cause
 6 the commencement of Re-sentencing proceedings and to
 7 achieve the Court's entry of a written and final Judgment of
 8 Conviction pursuant to the District Court's August 14, 2001
 9 Writ of Habeas Corpus, is not attributable to the state.

10 NRS 176.015(1), provides that:

11 " [The] sentence must be imposed without
 12 unreasonable delay."

13 The state has clearly failed to meet its burden of imposing
 14 a prompt sentence, one without "unreasonable delay." Where,
 15 no resentencing proceedings have been conducted, and no
 16 Amended Judgment of Conviction has been entered in the
 17 seventeen (17) or so years since the District Court's entry
 18 of its August 14, 2001 Writ of Habeas Corpus. Such a
 19 duration of delay which is presumptively prejudicial
 20 under the Sixth Amendment's Speedy Trial Clause - See,
 21 Barker v. Wingo, 407 U.S. 514 (1972).

22
 23 B. The District Court no longer maintains jurisdiction
 24 to enter an Amended Judgment of Conviction pursuant to
 25 the Court's August 14, 2001 Writ of Habeas Corpus.

26
 27 The District Court no longer maintains its
 28 jurisdiction to enter an Amended Judgment of Conviction

1 to correct the decidedly "onerous" sentences previously
2 imposed upon the Petitioner via the Court's prior
3 November 27, 1996 Judgment of Conviction. Where: (1) despite
4 the District Court's entry of its August 14, 2001 Writ of -
5 Habeas Corpus, the Court had neglected to formally vacate
6 the November 27, 1996 Judgment of Conviction; and (2)
7 the Petitioner has served to completion and discharge
8 each of the six (6) consecutive sentences imposed via
9 the November 27, 1996 Judgment of Conviction. It is an
10 undisputable fact supported by the record that despite
11 the District Court's entry of its August 14, 2001 Writ of -
12 Habeas Corpus which recognized the constitutional
13 infirmity of the sentences imposed via the November 27,
14 1996 Judgment of Conviction, that at no time prior to
15 the Petitioner's completion and discharge from such
16 decidedly "onerous" sentences on March 4, 2018,
17 did the District Court vacate the November 27, 1996
18 Judgment of Conviction. Thus, there can be no reasonable
19 argument that the Petitioner has not been maintained in
20 continuous custody pursuant to the November 27, 1996
21 Judgment of Conviction, from such date of November 27, 1996
22 (with credit for his pre-trial confinement) up to the date
23 of March 4, 2018 when he was discharged from the last
24 of the six (6) sentences imposed by said Judgment of Conviction
25 by the Nevada Department of Corrections. See, attached
26 Exhibit #1. The Petitioner hereby identifies that despite
27 his request to the Nevada Department of Corrections to
28 be provided a Certificate of Discharge relative to

1 the November 27, 1996 Judgment of Conviction entered
 2 in the instant case, officials of said Department
 3 have refused to provide such documentation to the
 4 Petitioner. Therefore, the Petitioner submits that
 5 the District Court should Order the State to file
 6 and serve upon the Petitioner, a Return which
 7 certifies the true cause of the Petitioner's present
 8 restraint, and specifically whether the Petitioner is
 9 presently restrained pursuant to the Court's November 27,
 10 1996 Judgment of Conviction entered in the instant case
 11 (CR96-1581). See, Motion For Order Directing The State-
 12 To File A Return Certifying The True Cause of The-
 13 Defendant's Restraint, filed contemporaneously herewith.

14
 15 C. Due Process And Equal Protection of Law, require
 16 that in the unavailability of the relief contemplated
 17 by the District Court's August 14, 2001 Writ of Habeas Corpus,
 18 that other equitable relief be granted.

19
 20 Clearly, where the Petitioner has been made
 21 to serve each and every one of his six (6) decidedly
 22 "onrous", "suspect and impalpable", sentences imposed
 23 via the November 27, 1996 Judgment of Conviction to completion
 24 and discharge, even if the District Court had maintained
 25 jurisdiction to enter an Amended Judgment of Conviction
 26 to repair the markedly disproportionate sentences imposed
 27 via the November 27, 1996 Judgment of Conviction, the remedy
 28 of a Re-sentencing Proceeding and the entry of an

1 Amended Judgment of Conviction, setting out new,
 2 fair and proportionate sentences, is at this juncture,
 3 completely unavailable to the Petitioner. Where, he has
 4 been made to serve each of the six (6) "onerous"
 5 sentences imposed via the November 27, 1996 Judgment of-
 6 Conviction to completion and discharge. Therefore,
 7 principles of equity require that alternative relief be
 8 granted the Defendant.

9 In such regard, the Petitioner submits that the
 10 only meaningful, and therefore equitable, relief
 11 which remains available to this Court at this
 12 juncture, would be the entry of an Order, that
 13 functions essentially as a Writ of Coram Nobis. Which
 14 formally vacates the constitutionally infirm Judgment-
 15 of Conviction entered on November 27, 1996 with
 16 prejudice, pursuant to the Post-Conviction Court's
 17 Findings of Fact, Conclusions of Law, And Judgment, entered
 18 in case No. CR96-P-1581 on August 14, 2001, and based upon
 19 the jurisdictional defect arising from the failure
 20 to conduct the Court ordered Re-Sentencing Proceedings
 21 and to enter an Amended Judgment of Conviction
 22 within a reasonable time following the Court's August 14,
 23 2001 Writ of Habeas Corpus granting such relief, and
 24 certainly prior to the Petitioner's completion of, and
 25 discharge from the decidedly "onerous" sentences
 26 imposed upon him via the November 27, 1996 Judgment of-
 27 Conviction.

28 Additionally, the Petitioner submits that as

1 reparation for being made to serve said
2 decidedly "onerous" sentences to completion and
3 discharge, in violation of his independent state
4 and Federal Due Process and Equal Protection rights,
5 that the Court should further grant the Defendant
6 a Judgment of Acquittal in equity.

7 Clearly, the sentences reflected upon the
8 November 27, 1996 Judgment of Conviction are facially
9 illegal, subsequent to the District Court's August 14,
10 2001 Findings of Fact, Conclusions of Law, And Judgment
11 (Writ of Habeas Corpus), which had undeniably held
12 such sentences to be disproportionate. That is,
13 "outside the heartland of sentences for persons with
14 [the Defendant's] criminal record being sentenced for
15 forgery offenses." Therefore, the defective November
16 27, 1996 Judgment of Conviction cannot lie uncorrected
17 and same must necessarily be vacated. However,
18 in light of the untenable delay in conducting
19 Re-Sentencing Proceedings causing the Defendant to serve
20 each and all of the six (6) "onerous" sentences to
21 completion and discharge, this Court no longer
22 maintains jurisdiction to enter an Amended-
23 Judgment of Conviction. Nonetheless, even if jurisdiction
24 was maintained to amend the Judgment of Conviction to
25 reflect new, fair and proportionate sentences, such
26 a Judgment of Conviction is utterly an impossibility,
27 because the original "onerous" sentences have been served
28 to completion, and the Court surely cannot turn back

1 time. Therefore, not only would the Court's
2 entry of an Amended Judgment of Conviction be
3 an ultra vires action, rendering same coram non
4 judge and void, but same would not be an
5 equitable remedy because same could not possibly
6 provide the remedy and relief of which the
7 Post-Conviction Court had granted the Defendant.

8 Thus, under the operative circumstances involved,
9 this Court in the absence of jurisdiction to enter
10 an Amended Judgment of Conviction must: (1) recognize
11 the jurisdictional defect on the record; (2) vacate
12 the defective November 27, 1996 Judgment of Conviction
12 as constitutionally infirm where the sentences reflected
13 thereon, and imposed thereby have been determined to
14 be disproportionate and "onerous", causing said
15 sentences to be facially illegal; and (3) dismiss the
16 case with prejudice where the Court no longer maintains
17 jurisdiction to modify the sentences.

18 However, the Petitioner contends that a mere
19 Order vacating the November 27, 1996 Judgment of -
20 Conviction and dismissing the case with prejudice
21 would not be sufficient to equitably resolve the
22 matter and would leave the record unresolute.
23 However, a Judgment of Acquittal would function as
24 a final judgment under NRS 176.105, effective to
25 adjudicate all rights and liabilities of the parties,
26 and allow the Petitioner to avail himself to a plea
27 of former jeopardy should the need to do so ever arise.

1 Furthermore, the entry of a Judgment of Acquittal
2 would also function as a punitive sanction against
3 the state for its failure to cause re-sentencing
4 proceedings to be conducted relative to this
5 Court's August 14, 2001 Writ of Habeas Corpus, and to
6 secure a final written Amended Judgment of Conviction,
7 setting out the fair and proportionate sentences
8 contemplated by the 2001 Post-Conviction Court.
9 Such punitive sanction of the entry of a Judgment
10 of Acquittal which is the only meaningful sanction
11 still available having any substantial punitive effect.

12
13 D. A Judgment of Acquittal is due the
14 Petitioner where the state failed to prove, with
15 competent and admissible evidence, the essential
16 elements of the charged offenses beyond a reasonable
17 doubt; and where the Jury's Guilty Verdicts were
18 necessarily predicated upon statutorily and
19 constitutionally prohibited and inadmissible
20 evidence, and improper considerations by the jury.

21
22 The Petitioner hereby incorporates by
23 reference into the instant Petition For Writ of
24 Coram Nobis, his Pre-sentencing Motion To Set
25 Aside Jury Verdicts, previously filed on October 25,
26 2017, his claims for relief, arguments, and authority,
27 asserted therein.

1 (1) The state's admission of Victim Hearsay
2 Testimony from numerous State's witnesses had
3 deprived the [Petitioner] of: his Sixth Amendment
4 rights to confront adverse witnesses against him,
5 to receive a Jury Trial and beyond a reasonable
6 doubt factual findings and Verdict(s); and his
7 Fourteenth Amendment rights to receive due process
8 and equal protection of law, and a fair trial.

9
10 See, Pre-sentencing Motion To Set Aside
11 Jury Verdicts, filed October 25, 2017, at Page 3,
12 Line 8, through Page 26, Line 12.

13
14 (2) The state's admission of evidence (state's
15 Exhibit #29) which was seized by state agents
16 without a duly authorized search warrant, had
17 deprived the [Petitioner] of: (a) his Fourteenth
18 Amendment rights to Due Process and Equal Protection
19 of Law, and to receive a Fair Trial; and (b) his
20 Sixth Amendment rights to Jury Trial, and to
21 receive beyond reasonable doubt factual findings
22 and Jury Verdict(s).

23
24 See, Pre-sentencing Motion To Set Aside
25 Jury Verdicts, filed October 25, 2017, at Page 26,
26 Line 14, through Page 30, Line 6,

1 (3) The State's Criminal Information, as same
2 applies to the Count I, Burglary Charge, is at a
3 material variance with the State's Criminal Complaint
4 filed in the Reno Justice Court, the evidence admitted
5 during the Preliminary Examination, and the findings
6 of probable cause entered by the Reno Justice Court.
7 Thus, the State's Criminal Information asserts
8 material allegations not considered by the Reno
9 Justice Court, and material allegations which the
10 Defendant had not been duly noticed of through the
11 State's Criminal Complaint, prior to the Preliminary
12 Examination conducted in the Reno Justice Court.
13 Depriving the Defendant of Due Process and Equal
14 Protection of Law, and rendering the trial proceedings
15 fundamentally unfair. In violation of Article 1 § 8
16 of the Nevada State Constitution, and the Fourteenth
17 Amendment to the United States Constitution.

18
19 See, Pre-Sentencing Motion To Set Aside
20 Jury Verdicts, filed October 25, 2017, at Page 30,
21 Line 8, through Page 37, Line 3.

22
23 (4) The record substantially demonstrates the
24 existence of judicial bias on the part of the Trial
25 Court, which had rendered the trial proceedings
26 fundamentally unfair, the jury's verdicts unworthy
27 of confidence, and the sentence imposed to be decidedly
28 onerous.

1 See, Pre-sentencing Motion To Set Aside
2 Jury Verdicts, filed October 25, 2017, at Page 37,
3 Line 5, through Page 39, Line 13.

4
5 These claims set out within said Pre-sentencing
6 Motion To Set Aside Jury Verdicts, which has not
7 been resolved by the Court, and is therefore presently
8 pending resolution, is meritorious and sufficiently
9 demonstrates that the jury's six (6) Guilty Verdicts
10 are unreliable due to substantial errors
11 effecting the trial mechanism, which entitle
12 the Petitioner to have the Jury's Guilty Verdicts
13 set aside as a matter of due process. Further,
14 demonstrating the propriety of not only an Order
15 setting aside the jury's Verdicts, but moreso, an
16 Order which vacates the November 27, 1996 Judgment of
17 Conviction with prejudice, and the entry of an
18 Judgment of Acquittal, where this Court no longer
19 maintains jurisdiction to enter an Amended Judgment
20 of Conviction or conduct a new trial, where the
21 Petitioner has been made to serve each of his six (6)
22 decidedly "onerous" sentences to completion.

23
24 E. The State has effectively waived all
25 challenges to the validity and propriety of the
26 Post-Conviction Court's entry of its August 14, 2001
27 Writ of Habeas Corpus, in the context of Case No. CR96-P-1581

1 The record clearly demonstrates that
2 following the Post-conviction Court's August 14, 2001
3 entry of a writ of Habeas Corpus (see, Findings of Fact,
4 Conclusions of Law, and Judgment, Case No. CR96-P-1581),
5 which granted the Petitioner a Re-Sentencing Proceeding,
6 the state did not appeal from such Order and
7 Judgment of the Court. Thus, the state by their
8 silence has not only waived all challenges to such
9 Order and Judgment and the Court's exercise of
10 discretion thereby, but additionally, the state
11 had effectively confessed the errors found by
12 the Post-Conviction Court. Nonetheless, such
13 Order and Judgment of the Post-Conviction Court
14 was affirmed by the Nevada Supreme Court in
15 the context of the Petitioner's appeal from the
16 partial denial of his March 9, 2000 Post-Conviction
17 Petition For Writ of Habeas Corpus. Therefore, such
18 Order and Judgment of the Post-Conviction Court
19 made in the context of Case No. CR96-P-1581, is now
20 Law of The Case, which must be followed in all
21 subsequent proceedings. Thus, the state is precluded
22 from challenging the validity and propriety of
23 the Post-Conviction Court's August 14, 2001 Order and
24 Judgment, or the propriety of the Court's exercise
25 of its discretion thereby. Where, the Petitioner's
26 March 9, 2000 Petition For Writ of Habeas Corpus was
27 properly filed pursuant to the statutory provisions
28 of NRS Chapter 34, and the Post-Conviction Court

1 was clearly vested with proper jurisdiction to
2 consider such Petition; and where there
3 exists a clear basis for estopple of such
4 challenges under principles of collateral and
5 judicial estopple, including but not limited to
6 Law of the Case Doctrine, the Doctrine of Issue Preclusion,
7 and Res Judicata.

8 Therefore, the Post-Conviction Court's August 14,
9 2001 Order and Judgment (Writ of Habeas Corpus)
10 must be construed as valid and binding under
11 the principles and usages of law. Despite what the
12 State's present opinions might be.

13
14 IV. Conclusion:

15
16 This Court should grant the instant
17 Petition For Writ of Coram Nobis, and order the
18 November 27, 1996 Judgment of Conviction vacated,
19 and the charges, one and all, dismissed with
20 prejudice. Additionally, the Court should enter
21 a Judgment of Acquittal: in equity where the
22 Petitioner was deprived of the substantial remedies
23 contemplated by the Post-Conviction Court, and made
24 to serve to completion each of the six (6) decidedly
25 "onerous" sentences imposed pursuant to the Court's
26 November 27, 1996 Judgment of Conviction; and as a
27 sanction against the state for its inexcusably
28 negligent failure to cause the Court ordered

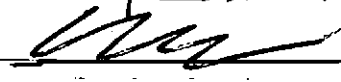
1 Re-sentencing Proceedings to be conducted, and
2 an Amended Judgment of Conviction setting out
3 the fair and proportionate sentences contemplated
4 by the Post-Conviction Court to be entered; or
5 as a consequence of the state's effective
6 abandonment of the prosecution for a period
7 of some seventeen (17) years subsequent to the
8 Post-Conviction Court's entry of its August 14, 2001
9 Order and Judgment (Writ of Habeas Corpus)

10
11 IV. Verification:

12
13 Under penalty of perjury, I STEVEN FLOYD
14 VOSS, do hereby verify that I have read the
15 content of the foregoing document, and that
16 same is true and correct of my own personal
17 information, knowledge and belief.

18 The foregoing document does not contain
19 the personal information or social security number
20 of any person.


21 DATED this 8th day of May 2018.

22 By: 

23 STEVEN FLOYD VOSS,
24 Petitioner, in pro. per.

CERTIFICATE OF SERVICE VIA U.S. MAIL

I, STEVEN FLOYD VOSS, do hereby certify
that on this 8th day of May 2018, that I
mailed a true and correct copy of the
foregoing document addressed to:
TERRENCE P. MCCARTHY, Esq. (DDA)
% Washoe County District Attorney
Post office Box # 11130
Reno, Nevada 89520-0027

By: 
STEVEN FLOYD VOSS

///

///

///

CR96-1581 DC-09900086724-049
STATE VS. STEVEN FLOYD VOSS 2 Pages
District Court 05/10/2018 10:05 AM
Washoe County 1110
S:\01 EF

EXHIBIT #1

EXHIBIT #1

INMATE REQUEST FORM

1.) INMATE NAME	DOC #	2.) HOUSING UNIT	3.) DATE
VOSS, STEVEN F.	52094	2C - 6E	08-27-2018

4.) REQUEST FORM TO: (CHECK BOX)

☒ CASEWORKER ☐ MEDICAL ☐ LAW LIBRARY ☐ CANTEEN

☐ EDUCATION ☐ VISITING ☐ SHIFT COMMAND

☐ LAUNDRY ☐ PROPERTY ROOM ☐ OTHER _____

5.) NAME OF INDIVIDUAL TO CONTACT: Unit #2, Caseworker

6.) REQUEST: (PRINT BELOW) I am informed that on February 26, 2018, that
I expired and discharged the last of the six (6) sentences imposed
pursuant to the November 27, 1996 Judgment of Conviction entered in Washoe
County District Court Case No. CR96-1581; and that at present date,
I am restrained pursuant to Murder and Kidnapping Convictions
as set out within the January 30, 2004 Corrected Amended Judgment
of Conviction entered in Washoe County District Court, Case No. CR97-2077.
Please verify whether such facts are true and correct.

7.) INMATE SIGNATURE [Signature] DOC # 52094

8.) RECEIVING STAFF SIGNATURE _____ DATE _____

9.) RESPONSE TO INMATE

CR 961581 expired 3/4/18. —
Voss is serving time currently under CR97-2077. —

10.) RESPONDING STAFF SIGNATURE CEIS J. Buchanan DATE 3/5/18

CR96-1581 DC-09600086724-050
STATE VS. STEVEN FLOYD VOSS 4 Pages
District Court 05/10/2018 10:05 AM
Washoe County 1110
SUN F5

EXHIBIT #2

EXHIBIT #2

No. CR 96-1581

Dept. No. 10

FILED

11-27-96

JUDI BAILEY, Clerk

By

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

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

STATE OF NEVADA,

Plaintiff,

vs.

STEVEN FLOYD VOSS
Defendant.

Reporter: R. Walker

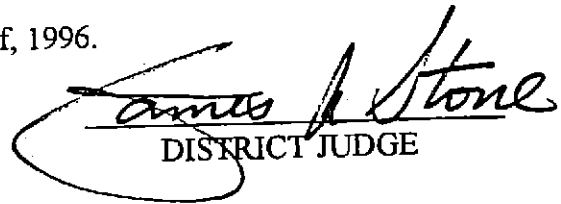
J U D G M E N T

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

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

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

Dated 27th this November day of, 1996.


DISTRICT JUDGE

CERTIFICATE OF MAILING

THE UNDERSIGNED HEREBY CERTIFIES THAT ON AUGUST 14, 2001, SHE
DEPOSITED FOR MAILING A COPY OF THE ATTACHED ORDER TO THE FOLLOWING:

WASHOE COUNTY DISTRICT ATTORNEY'S OFFICE
APPELLATE DIVISION
(INTEROFFICE MAIL)

ATTORNEY GENERAL'S OFFICE
100 N. CARSON STREET
CARSON CITY, NV 89701-4717

SCOTT W. EDWARDS, ESQ
1030 HOLCOMB AVE
RENO, NV 89502

STEVEN FLOYD VOSS #52094
P O BOX 359
LOVELOCK, NV 89419

A handwritten signature in black ink, appearing to read 'Pat Meacham', is written over a horizontal line.

PAT MEACHAM
CRIMINAL CLERK

CR96-1581 DC-0990008724-051
STATE VS. STEVEN FLOYD VOSS 10 Pages
District Court 05/10/2018 10:05 AM
Washoe County 1110
FILE

EXHIBIT #3

EXHIBIT #3

ORIGINAL

FILED

2001 AUG -9 AM 10: 09

AMY HARVEY, CLERK

BY DEPUTY

1
2
3
4
5
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE

8 * * *

9 STEVEN FLOYD VOSS,

10 Petitioner,

11 v.

Case No. CR96P1581

12 THE STATE OF NEVADA,

Dept. No. 10

13 Respondent.
14 _____/

15 FINDINGS OF FACT, CONCLUSIONS OF LAW
16 AND JUDGMENT

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

22 FINDINGS OF FACT

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

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

1 Office was appointed to represent him.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 not credible.

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

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

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

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

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

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

26 ii. In the habeas proceeding, Voss called

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

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

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

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

18 CONCLUSIONS OF LAW

19 1. Voss was not deprived of the effective assistance of counsel.

20 2. The State did not withhold exculpatory evidence within the
21 contemplation of either Brady or Kyles and their progeny.

22 3. Voss's right to due process as construed in Grooms v. State,
23 96 Nev. 142, 605 P.2d 1145 (1980), and similar cases condemning
24 convictions in which the accused was observed by potential jurors
25 or seated jurors in jail garb was not violated.

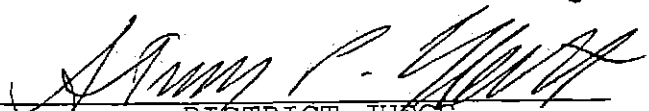
26 4. Because Judge Stone based Voss's onerous sentence, at least

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

4 JUDGMENT

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

9 DATED this 6 day of August, 2001.

10
11 
12 DISTRICT JUDGE

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Washoe County District Attorney's Office and that, on this date, I deposited for mailing through the U.S. Mail Service at Reno, Washoe County, Nevada, postage prepaid, a true copy of the foregoing document, addressed to:

Scott W. Edwards, Esq.
1030 Holcomb Avenue
Reno, Nevada 89502

DATED: August 9, 2001.

Linda Jackling

CERTIFICATE OF MAILING

THE UNDERSIGNED HEREBY CERTIFIES THAT ON AUGUST 14, 2001, SHE
DEPOSITED FOR MAILING A COPY OF THE ATTACHED ORDER TO THE FOLLOWING:

WASHOE COUNTY DISTRICT ATTORNEY'S OFFICE
APPELLATE DIVISION
(INTEROFFICE MAIL)

ATTORNEY GENERAL'S OFFICE
100 N. CARSON STREET
CARSON CITY, NV 89701-4717

SCOTT W. EDWARDS, ESQ
1030 HOLCOMB AVE
RENO, NV 89502

STEVEN FLOYD VOSS #52094
P O BOX 359
LOVELOCK, NV 89419

A handwritten signature in black ink, consisting of a large, stylized 'P' followed by a horizontal line and a small flourish.

PAT MEACHAM
CRIMINAL CLERK

FILED

CR96-1581 STEVEN FLOYD VOSS 9 Pages
 District Court 05/10/2018 10:05 AM
 Washoe County 1120
 CHAN 22

1 STEVEN FLOYD VOSS # 52094

2 Northern Nevada Correctional Center

2018 MAY 10 AM 10:05

3 Post office Box # 7000

4 Carson City, Nevada 89702-7000

JACQUELINE BRYANT
 CLERK OF THE COURT
 BY *[Signature]*
 DEPUTY

5
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF WASHOE

8
9 THE STATE OF NEVADA,

Case No. CR96-1581

10 Plaintiff,

Dept. No 1

11 vs.

12 STEVEN FLOYD VOSS,

13 Defendant,

14
15 (First Amended)16 MOTION TO CONVERT PROCEEDINGS TO A PETITION17 FOR A WRIT OF ERROR CORAM NOBIS

18
19 COMES NOW Defendant, STEVEN FLOYD VOSS, by
20 and through his proper person, and hereby
21 submits the instant Motion.

22 The instant Motion is made and predicated
23 upon the attached memorandum of points and
24 authorities, and all papers and pleadings on file
25 in the above entitled case, as well as matters
26 which may be judicially noticed by the Court.

INDEX OF ATTACHED EXHIBITS

Exhibit #1: JUDGMENT OF CONVICTION, Washoe County District Court, Case No. CR96-1581, entered on November 27, 1996.

Exhibit #2: FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JUDGMENT, Washoe County District Court, Case No. CR96-P-1581, entered on August 14, 2001.

Exhibit #3: INMATE REQUEST FORM, Nevada Department of Corrections, Form DOC 3012, dated February 27, 2018. (responded on March 5, 2018).

MEMORANDUM OF POINTS AND AUTHORITIESI. Nature of Motion:

Through the instant (Amended) Motion To Convert Proceedings To A Petition For Writ Of Error Coram Nobis, the Defendant / Petitioner hereby amends his prior pleading titled as Notice And Motion filed March 9, 2018, for the first time as a matter of course, and the state not having filed a Response in opposition to the

1 aforementioned prior pleading.

2 Therefore, the Defendant / Petitioner hereby
3 gives Notice that on March 4, 2018 he had
4 served to completion and discharge by the
5 Nevada Department of Corrections, each of the
6 six (6), decidedly "onerous", sentences imposed
7 upon him in the instant case, via this Court's
8 now infamous November 27, 1996 Judgment of Conviction
9 (Attached Exhibit # 1). Thus, the Defendant
10 no longer being under restraint pursuant to said
11 Judgment of Conviction, hereby moves the Court
12 to convert the presently pending Re-sentencing
13 Proceedings and Motions relative to this Court's
14 prior August 14, 2001 Judgment and Order (Writ of
15 Habeas Corpus) (See, Findings of Fact Conclusions of Law,
16 And Judgment (Attached Exhibit # 2)), to a Petition
17 For Writ of Error Coram Nobis. Where, this
18 Court no longer maintains jurisdiction to conduct
19 the Re-sentencing Proceedings Ordered pursuant to said
20 August 14, 2001 Judgment and Order, due to the
21 Defendant / Petitioner's completion of and discharge from
22 each of the six (6), decidedly "onerous" sentences imposed
23 via the November 27, 1996 Judgment of Conviction.

24

25 II. Arguments:

26

27 A. This Court, subsequent to March 4, 2018,
28 no longer maintains jurisdiction or discretion

1 to conduct Re-Sentencing Proceedings pursuant
2 to the Court's August 14, 2001 Order and Judgment
3 (Writ of Habeas Corpus).

4
5 On August 14, 2001 this Court had entered its
6 Findings of Fact, Conclusions of Law, And Judgment
7 (attached Exhibit #2), relative to the Defendant's
8 March 9, 2000 Post-Conviction Petition For Writ of Habeas
9 Corpus. Wherein, the Court had granted a writ of-
10 Habeas Corpus, entitling the Defendant to receive a
11 Re-Sentencing Proceeding. However, as of the present
12 date, such Court ordered Re-Sentencing Proceeding
13 has not been conducted; the November 27, 1996
14 Judgment of Conviction has not been formally vacated,
15 and no Amended Judgment of Conviction has been
16 entered, to apply the relief of fair and proportionate
17 sentences contemplated by the 2001 Post-Conviction
18 Court's August 14, 2001 Order and Judgment (attached
19 Exhibit #2); and as of March 4, 2018 the Defendant
20 has served to completion and discharge each of
21 the SIX (6) decidedly "onerous" sentences imposed
22 pursuant to the Court's November 27, 1996 Judgment of-
23 Conviction (attached Exhibit #1). Where the Judgment
24 of Conviction has not been arrested or formally vacated
25 subsequent to the Court's August 14, 2001 Order and
26 Judgment. (See, attached Exhibit #3). Therefore,
27 the Defendant concludes that where he has served
28 to completion and discharge each of the the six (6)

1 decidedly "onerous" sentences imposed pursuant
2 to the Court's November 27, 1996 Judgment of Conviction,
3 that this Court no longer maintains jurisdiction
4 to conduct the previously ordered Re-sentencing
5 Proceedings, or to enter an Amended Judgment-
6 of Conviction which modifies the previously imposed
7 sentences.

8
9 B. This Court, however, does maintain
10 jurisdiction and discretion to entertain and
11 to grant equitable relief via a proceeding of
12 a Petition For A Writ of Error Coram Nobis.

13
14 The common law remedy of a Petition For A
15 Writ of Error Coram Nobis has never been abolished,
16 abrogated, or superceded by state statutory
17 law. Therefore, such remedy remains available
18 to a criminal Defendant who is not in-custody
19 pursuant to a Judgment of Conviction. Whereby,
20 a criminal Defendant may challenge his
21 Judgment of Conviction subsequent to his
22 discharge from the sentence(s) imposed thereby.

23 Thus, the "exclusive remedy" requirement
24 of NRS 34.724 (2)(b), is wholly inapplicable to the
25 remedy of a Petition For A Writ of Coram Nobis.
26 Because, such a Petition (remedy) is only
27 available to a person who is no longer in custody
28 pursuant to the challenged conviction or sentence.

1 See, Trujillo v. State, 129 Nev. _____, 310 P. 3d 594,
2 595-596 (2013), cited in Harris v. State, 130 Nev. _____,
3 329 P. 3d 619 (2014).

4
5 C. The Defendant's claims for relief specified
6 within his Petition For A writ of Coram Nobis,
7 (filed contemporaneously herewith), are
8 meritorious and warrant relief.

9
10 It is clear on the face of this Court's August 14,
11 2001 Findings of Fact, Conclusions of Law, And Judgment
12 (attached Exhibit #2), that each of the six (6)
13 decidedly "onerous" sentences imposed pursuant to
14 this Court's November 27, 1996 Judgment of Conviction,
15 fall "outside the heartland of sentences for a
16 person with [the Defendant's] criminal record
17 being sentenced for forgery offenses..." ; and
18 that therefore, the Defendant is entitled,
19 essentially as a matter of Due Process and
20 Equal Protection of Law, to receive a Re-Sentencing
21 Proceeding and an Amended Judgment of Conviction
22 which sets out fair and proportionate sentences
23 relative to each of the six (6) counts charged,

24 However, the Defendant has not received such
25 Court ordered Re-Sentencing Proceeding or the
26 substantial benefits therefrom. Therefore, this
27 Court no longer maintains jurisdiction to conduct
28 the previously ordered Re-Sentencing Proceeding.

1 Where, the Defendant has served to completion
2 and discharge each of the six (6) decidedly
3 "onerous" sentences imposed pursuant to said
4 November 27, 1996 Judgment of Conviction, Thus,
5 the Court now lacks jurisdiction and discretion
6 to enter an Amended Judgment of Conviction
7 setting out the fair and proportionate sentences
8 contemplated by the Post-Conviction Court's
9 August 14, 2001 Order and Judgment (attached
10 Exhibit # 2). Further, even if the Court's
11 jurisdiction and discretion were maintained to
12 present juncture, the Defendant cannot at this
13 juncture receive the substantial relief of the
14 fair and proportionate sentences contemplated
15 by the Post-Conviction Court. Therefore, the
16 Defendant is entitled to receive equitable
17 relief, such as to have the Court's November 27,
18 1996 Judgment of Conviction vacated with prejudice
19 as a matter of Due Process, and to have a
20 Judgment of Acquittal entered relative to each
21 of the six (6) counts charged, as requested by
22 the Defendant via his Petition for A writ of Error
23 Coram Nobis. Such relief which is necessary to
24 allow the Defendant to avail himself to a plea of
25 former jeopardy should the need to do so ever
26 arise.

III. Conclusion:

The Court should take judicial notice of the relevant noticable facts, and grant the instant Motion. Thereby, converting the presently pending Re-Sentencing Proceedings to a Proceeding of a Petition For Writ of Coram Nobis.

IV. Verification:

Under penalty of perjury, the undersigned hereby verifies that he has read the content of the foregoing Motion, and that same is true and correct of his own personal information, knowledge and belief.

The foregoing Motion does not contain the personal information or Social Security Number of any person.

DATED this 8th day of May 2018.

By: 


STEVEN FLOYD VOSS,

Defendant in pro. per.

CERTIFICATE OF SERVICE VIA U.S. MAIL

I, STEVEN FLOYD VOSS, do hereby certify that,
on this 8th day of May 2018, that I mailed
a true and correct copy of the foregoing
Motion, addressed to:

TERRENCE P. MCCARTHY, Esq. (DDA)
% Washoe County District Attorney
Post Office Box # 11130
Reno, Nevada 89520-0027

By: 
STEVEN FLOYD VOSS

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