

IN THE SUPREME COURT OF THE STATE OF NEVADA

QUINZALE MASON

Appellant,

v.

THE STATE OF NEVADA

Respondent.

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Elizabeth A. Brown
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CASE NO. 77623

Appeal from the Denial of a Petition for Writ of Habeas Corpus
Second Judicial District Court, Washoe County
The Honorable Elliott A. Sattler, Department 10

APPELLANT'S APPENDIX

VOL. V

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CERTIFICATE OF SERVICE

I certify that I, Lyn E. Beggs, Esq., am counsel for the Appellant in this matter, and that on this date I electronically filed the foregoing Appellant's Appendix with the Clerk of the Court by using the ECF system which will send a notice of filing to all parties pursuant to the master list:

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DATED this 24th day of June, 2019.

/s/ LYN E. BEGGS
LYN E. BEGGS, ESQ.

1 A Correct.

2 Q Was it your idea or was it Mr. Mason's idea
3 that maybe there was an alibi defense that could have
4 been used in front of the jury?

5 A No, it was Mr. Mason's idea.

6 Q He came up with that?

7 A Yeah, he informed me that a fellow that they
8 called Sco was with him at the time of the incident.

9 Q So you were very interested in that
10 information?

11 A Sure.

12 Q Because that's a complete defense -- right? --
13 if the jury believes it?

14 A Yeah, if the jury believed the alibi theory,
15 then it would have been a complete defense. It would
16 have been contradictory to put an alibi witness there
17 that was saying that Mr. Mason wasn't even on the
18 scene, because the two adult eyewitnesses that were --
19 one was on the balcony of the apartment building and
20 the other one was the child's mother. And she was
21 sitting down on the first floor underneath the walkway
22 watching her child play when this incident took place.
23 And they both had, you know, a closeup view of
24 Mr. Mason. But, you know, I had precious little else.

1 If I would have had an alibi witness, it would have
2 helped immensely.

3 Q So the two witnesses that you just referred to
4 positively identified Mr. Mason?

5 A Oh, absolutely.

6 Q Both to the police --

7 A And at trial.

8 Q -- and at trial?

9 And really the only issue, would you agree, with
10 their testimony was to the extent that they could
11 actually see who shot the gun?

12 A Well, the factual scenario was that Mr. Holly
13 who was the shootee was there playing with a dog in the
14 parking lot in front of the apartment building and the
15 other two were watching him play with the dog and, you
16 know, just looking out over the neighborhood itself.

17 Mr. Holly [sic] purportedly drove up in the car
18 that both of those people were familiar with seeing him
19 drive and he got out of the car and immediately -- this
20 is the story that they told. Okay. I'm recounting the
21 witnesses' testimony -- pointed a gun at Mr. Holly who
22 immediately started running and zig-zagging to get out
23 of the way. And there was a question of how many
24 rounds were actually fired. But, you know, that's a

1 shocking event. And there wasn't really any question
2 in the witnesses' mind who it was.

3 Q Right. My recollection was that although they
4 saw Mr. Mason at the crime scene, they identified him,
5 they never actually saw him shoot the gun, although
6 they heard him say some things, "I got you now," and
7 they heard that --

8 A Heard the --

9 Q -- as Holly was running away.

10 A Correct.

11 Q Fair characterization?

12 A Yes.

13 Q Okay. So, in any event, you gave Mr. Mason the
14 discovery and you went over it with him?

15 A Yes.

16 Q Meaning what? You read it out loud or you
17 explained to him, "Look, this is what these reports
18 say"?

19 A Well, what I -- when I prepare for trial, it
20 was important to go up and spend enough time with my
21 client to go down each page of the report if an issue
22 presented itself there and we clarify what his -- what
23 his thoughts were and what my thoughts were. If it
24 coincided with proof of an element of an offense, I

1 would explain that.

2 Q So you went up to see Mr. Mason?

3 A Several times.

4 Q Several times?

5 A Correct.

6 Q And you went over the discovery with him. He's
7 the one that brought up the idea of alibi?

8 A He said, "Well, I was with Sco." And that's
9 when I started pursuing the alibi theory.

10 Q But you said that he couldn't give you an
11 address, he couldn't give you a phone number. Is that
12 true?

13 A Well, nor the investigator apparently. If I
14 recall right, Don Nichols was my assigned investigator
15 during that period of time. Don was very thorough.
16 I'm pretty sure that he went up and talked to
17 Mr. Mason. But in our office they were both very, very
18 busy. So the investigators rarely take the attorney
19 with them when they're going to meet with a client.
20 They just go up and meet with them to try and get as
21 much information as they can.

22 Q Do you have a recollection of whether you asked
23 Mr. Mason for some type of location or identifying
24 information to locate --

1 A No, I know I asked him that, because it was an
2 important issue.

3 Q Right. And he couldn't give you an address?

4 A Couldn't give me an address, couldn't give
5 me -- he didn't even have a neighborhood that I
6 could --

7 Q He didn't even give you a general area where
8 you could go find him?

9 A No.

10 Q Didn't give you a description of the house?

11 A No. Just Sco was all we knew.

12 Q So essentially he gave you nothing other than
13 the name of a person, Sco?

14 A Correct.

15 Q And did you say, "Look, Mr. Mason, this isn't
16 going to work very well. We need more information"?
17 How did that play out?

18 A Several times I prompted him. I said, "Well,
19 we have to get some information. Do you know anybody
20 that knows Sco or knows where he lives?"

21 I mean, he had a girlfriend. That was her car that
22 he drove, because he didn't have a car of his own. So
23 I asked, you know, "Does your girlfriend know Sco?
24 Does anybody in that neighborhood know him and know

1 where he could be located?"

2 And there was never any information, well, that was
3 transferred to us.

4 Q But your testimony was that Mr. Mason also told
5 you that he and Sco were only acquaintances?

6 A Well, I don't remember the exact words that
7 were used. My understanding is that they were good
8 acquaintances, but they weren't day-to-day, you know,
9 companions or friends.

10 Q Really?

11 A Well, that's -- I'm stating more my impression
12 from discussions with Mr. Mason.

13 Q Did you see the fellow who just testified?

14 A Well, I saw the fellow that was apparently a
15 witness, yeah.

16 Q So his name was Mr. Neal. He's Cisco or Sco.
17 He just testified that he saw Mr. Mason -- well, first
18 he testified that he saw him every single day in the
19 summer of 2014 and then he said it was almost every
20 single day. Does that comport with your
21 recollection --

22 A No.

23 Q -- of what Mr. Mason told you?

24 A No. I got the impression that they were more

1 casual friends and they didn't hang around each other
2 constantly. If that would have been the case and he
3 saw him every day, I'm sure Mr. Mason would have
4 transferred some knowledge of the whereabouts to me.
5 You know, it's not a question of -- you know, I don't
6 like losing trials, and this one was difficult at best
7 to try and get an advantage for the defense. So we
8 would have followed up pronto if we would have been
9 given any information to contact him.

10 **Q At some point did you or your investigator**
11 **approach Mr. Mason and say, "Look, we can't establish**
12 **your alibi. It's not working"?**

13 A Well, I can't speak for the investigator, but I
14 told him that. I said we can't do an alibi defense if
15 we don't have the witness here.

16 **Q What was his reaction?**

17 A Well, I guess if it was -- if he was angry or
18 had some unusual reaction to it, I don't remember it,
19 but I don't remember what his reaction was.

20 **Q So you don't recall him saying, "Look,**
21 **Mr. Hylin, you got to get your investigator out there.**
22 **You got to start doing your job. You got to find this**
23 **person"? None of that?**

24 A No. Well, he already knew that we were trying

1 to find him.

2 Q I don't know that you would do this, but did
3 you ask Mr. Mason if he could do something on his end
4 to try to find Sco or get --

5 A Yeah, I wanted him to contact his girlfriend
6 and see if we couldn't get some information, because
7 she was out of custody. He was in custody the whole
8 time, so, you know, he's limited as to what he can do
9 except over the telephone. And I'm not even sure -- I
10 can't recall how long his girlfriend stuck with him, if
11 it was the whole time until trial or what it was.

12 Q So it's your testimony that you asked Mr. Mason
13 to contact his girlfriend to see if she --

14 A Anybody.

15 Q Anybody?

16 A Anybody that would have any information about
17 how we could get ahold of Sco.

18 Q Did he say he would do that?

19 A I'm sure he did. He was very cooperative. He
20 wasn't obstinate.

21 Q Do you recall him giving you any more
22 information that you might track down in establishing
23 an alibi?

24 A No.

1 **Q Okay. So you go to trial. Does he protest or**
2 **argue with you like, "Mr. Hylin, I'm not ready to go to**
3 **trial. We haven't found the alibi witness"?**

4 A I don't recall that. I mean, he knew we hadn't
5 found the alibi witness by the time we got to trial.
6 You know, I'm not even sure a motion to continue would
7 have been in order, because we had nothing. I couldn't
8 even represent to the court that, "Well, we're hot on
9 his trail, Your Honor," or whatever the argument might
10 have been, because we had no information, only the
11 nickname of Sco.

12 **Q In fact, Mr. Young moved to strike your notice**
13 **of alibi because it lacked the sufficient or the**
14 **necessary detail; right?**

15 A Correct. And I couldn't really give -- you
16 know, the alibi notice statute requires you to give
17 some sort of synopsis of what they will testify to.
18 Well, I did that in a general sense saying that
19 Mr. Mason purportedly was with this fellow at the time
20 of the incident, but that's all I could say. I didn't
21 have any real facts.

22 **Q Okay. Thank you, Mr. Hylin.**

23 THE COURT: Redirect based on the
24 cross-examination, Ms. Beggs.

1 MS. BEGGS: Yes, thank you, Your Honor.

2 REDIRECT EXAMINATION

3 BY MS. BEGGS:

4 Q Mr. Hylin, you indicated that Mr. Mason was
5 pretty cooperative with you during the trial
6 preparation?

7 A Yeah, I thought we got along quite well.

8 Q And did you have any difficulties communicating
9 with him?

10 A Well, not that I recall. I mean, I've had a
11 lot of difficult clients, but he wasn't one of them.

12 Q Okay. You indicated that you asked Mr. Mason
13 to contact his girlfriend?

14 A Well, my recollection is that they were
15 communicating. And I just asked him -- I said, "Well,
16 see if she can't get me some information about this
17 guy."

18 Q Did you or your investigator contact his
19 girlfriend?

20 A I didn't. The investigator may have.

21 Q You don't know for certain?

22 A I don't know for certain.

23 Q Did you ever contact Mr. Mason's mother that
24 was with him the day he was arrested?

1 A Boy, that seems familiar. I may have talked to
2 her.

3 Q Was she able -- did you ask her about Cisco or
4 Sco?

5 A I don't recall.

6 Q Do you recall that the testimony of law
7 enforcement was that they followed Ms. Spurlock,
8 Mr. Mason's girlfriend, Ebony Spurlock, to an address
9 in Sun Valley to pick him up? Do you recall that?

10 A You know, I don't recall how they traced him
11 down to there. My recollection is that the car was not
12 parked in front of the house that he was found at --
13 that he was suspected of being at. I'm sorry.

14 Q Do you recall that he was arrested in the car
15 with his mother and girlfriend and I believe --

16 A I believe you're correct.

17 Q And they had just picked him up at this
18 residence in Sun Valley?

19 A That I don't remember.

20 Q And you never, at least to your knowledge,
21 remember taking any action to find out who resided at
22 the location he was picked up from?

23 A I didn't, no.

24 Q Did you think that was germane to the case?

1 A No, not really.

2 Q You didn't think that where he was prior to his
3 arrest was relevant to a potential defense?

4 A Well, I think he was trying to hide there, but,
5 you know, that's my thoughts. I'm not even sure I
6 expressed that to him.

7 Q That was your opinion?

8 A Correct.

9 Q Did you have any --

10 A So, you know, flight or other problems
11 certainly wouldn't have helped my alibi or other -- any
12 other defense I had.

13 Q That's based, though, on supposition or some
14 sort of factual basis?

15 A No, that's based on my analysis. If he was
16 trying to hide out at that residence in Sun Valley --
17 and, you know, they ultimately detected him there
18 anyway. You know, I didn't want any flight issues.

19 Q Do you know when he got to that residence?

20 A I don't remember now. I may have then.

21 Q Do you know why he was at the residence other
22 than your supposition that he may have been hiding?

23 A Other than my supposition, no.

24 Q Were there any -- do you recall if there were

1 **any plea offers in this case?**

2 MR. PLATER: I object, Judge. I don't see the
3 relevance of that. It's outside the scope.

4 THE COURT: What would the relevance of that be?
5 How would it relate to the grounds in the supplemental
6 petition?

7 MS. BEGGS: Well, may I rephrase the question, Your
8 Honor?

9 THE COURT: Sure. I'll sustain the objection. You
10 can rephrase the question.

11 BY MS. BEGGS:

12 Q Mr. Hylin, you indicated in response to
13 Mr. Plater's questions that Mr. Mason wasn't concerned
14 about proceeding to trial even though you hadn't
15 located his alibi witness. Is that a fair assessment
16 of your testimony?

17 A You mean he wasn't concerned about going to
18 trial?

19 Q Well, let me rephrase it. Was Mr. Mason
20 insistent about going to trial?

21 A Well, he insisted that he wasn't guilty. So
22 the only way to, you know, press that issue is to go to
23 trial. And the State didn't offer anything -- you
24 know, I don't recall any offers or anything. I know

1 that it was objected to, but I don't think there were
2 any significant deals offered in this case, so the only
3 thing left to do was go to trial.

4 Q So I just want to make sure that I understand.
5 So your investigator -- based on your testimony, is it
6 your investigator that spoke with Mr. Mason most of all
7 about Cisco or potentially locating Sco?

8 A Well, I don't know how often he brought it up,
9 but, you know, his primary investigative function was
10 to find Sco.

11 Q But you don't know what activities he did?

12 A I don't know what he did to do it or not do it.
13 I spoke of it often with Mr. Mason.

14 Q So Mr. Mason gave you nothing?

15 A Well, he gave me the name.

16 Q Did he describe the house where Cisco lived?

17 A No. As a matter of fact, the initial
18 impression I got was he lived in that neighborhood, but
19 apparently that wasn't so.

20 Q Did you get the impression that Mr. Mason just
21 simply didn't know or that he was being reticent to
22 provide you with that information?

23 A I don't think he knew. That was my impression.

24 Q Did it strike you as odd that he would have

1 **absolutely no information about this individual?**

2 A Well, I don't think it was that strange. I
3 think a lot of people know people, you know, that they
4 consider casual friends but they don't even know their
5 last names or where they live or anything else. So I
6 didn't attribute any evasive behavior on Mr. Mason's
7 part.

8 Q I asked you -- did you ever talk with
9 **Ms. Spurlock prior to trial, the girlfriend?**

10 A I probably did. I just don't have any
11 independent recollection of it. It would have been
12 over the telephone. It was not in person.

13 Q **Okay. Thank you so much.**

14 MS. BEGGS: Nothing further, Your Honor.

15 THE COURT: Recross based on the redirect.

16 RE CROSS EXAMINATION

17 BY MR. PLATER:

18 Q **Well, I take it if you talked to Ms. Spurlock,**
19 **she didn't give you any evidence that you could use as**
20 **an alibi; right?**

21 A No. I mean, we would have -- if we could have
22 found the guy and put a subpoena on him and had him
23 show up to trial, that was great. That's why I filed
24 the alibi notice. You know, I didn't file that

1 spuriously. I wanted to preserve the issue if we found
2 him close in to trial.

3 Q What I mean is my understanding is that
4 Mr. Mason was arrested at Ms. Spurlock's residence.

5 A At Ms. Spurlock's residence?

6 Q Is that not true?

7 MS. BEGGS: I'm going to object.

8 THE COURT: Hold on a second, Mr. Hylin.

9 MS. BEGGS: I don't believe that's a correct
10 recitation of the facts.

11 THE COURT: I don't think that's accurate, so I'll
12 sustain the objection.

13 MR. PLATER: Okay. I'm done. Thanks.

14 EXAMINATION

15 BY THE COURT:

16 Q Mr. Hylin, let me just ask you a question or
17 two.

18 Mr. Neal just testified that Ebony Spurlock is his
19 cousin, is Mr. Neal's cousin, and that then Ebony
20 Spurlock is also dating Mr. Mason. Did Mr. Mason ever
21 say, "It's my girlfriend's cousin. Go talk to my
22 girlfriend," or anything along those lines?

23 A I don't recall that. Well, that would have
24 been a simple way to find him.

1 Q But he never made that statement to you either?

2 A No.

3 THE COURT: Any questions based on my questions,
4 Ms. Beggs?

5 MS. BEGGS: Yes.

6 FURTHER REDIRECT EXAMINATION

7 BY MS. BEGGS:

8 Q Mr. Hylin, do you remember specifically your
9 question -- or, pardon me -- your conversation with
10 Ms. Spurlock?

11 A No.

12 Q Do you remember what questions you asked her?

13 A No.

14 Q Do you remember the basis of the conversation
15 with her?

16 A Well, a lot of it would have focused on the
17 car. It was her car. But other than that, I don't
18 have any recollection of what we talked about.

19 Q Do you have any independent recollection of
20 asking her if she knew Cisco?

21 A No.

22 Q Would you find it odd if you had that she
23 wouldn't have said, "That's my cousin"?

24 A Well, if I would have asked and she said, "It's

1 my cousin," I would have been all over it.

2 Q But you don't have any independent recollection
3 of asking her that?

4 A No.

5 Q Thank you. Nothing further.

6 THE COURT: Mr. Plater, any additional questions?

7 MR. PLATER: No, thank you.

8 THE COURT: And if either the State or the
9 petitioner believed that that wasn't Mr. Neal's
10 testimony, but that's -- that was my notes and my
11 impression of his testimony is Ebony Spurlock is his
12 cousin, Ebony Spurlock was dating the petitioner. So
13 that's why I asked the question.

14 Thank you, Mr. Hylin. You may be excused.

15 THE WITNESS: Thank you, Your Honor.

16 MR. PLATER: Have a nice day, Carl.

17 MS. BEGGS: Thanks, Carl.

18 THE COURT: Any additional witnesses, Ms. Beggs?

19 MS. BEGGS: Not at this time, Your Honor.

20 THE COURT: Okay. So does the State intend on
21 calling any witnesses?

22 MR. PLATER: No, thank you, Your Honor.

23 THE COURT: All right. Let's move into argument.

24 Ms. Beggs, regarding the second ground for relief

1 in the supplemental petition alleging that the
2 petitioner's counsel was ineffective and violated his
3 Fifth, Sixth and Fourteenth Amendment rights by not
4 investigating and finding the alibi witness who we now
5 know is Cisco Neal.

6 MS. BEGGS: Your Honor, the challenge in any of
7 these cases is there is, you know, obviously a time
8 delay between the actual trial or the trial proceedings
9 and the time that we actually get to present a habeas
10 case. So Mr. Neal, who has to my knowledge no basis to
11 perjure himself before this court and I think was
12 rather forthright in regard to his marijuana usage, I
13 don't have any reason to suspect that his testimony
14 this morning is other than true.

15 That being the case, Your Honor, I find it hard to
16 comprehend, and I know that Mr. Plater may use this
17 argument just in the opposite, that an individual that
18 was related to the girlfriend of Mr. Mason, who had
19 known him for some time, that no information came to
20 the attention of Mr. Hylin regarding this person.

21 The other part of Mr. Neal's testimony this morning
22 was that he did in fact live on Lone Cedar Lane. I
23 find it incredulous, quite frankly, that the location
24 where Mr. Mason was picked up by his girlfriend and

1 mother in a gold sedan, which was at issue here, no one
2 bothered to do any investigation of whose house that
3 was.

4 THE COURT: But, Ms. Beggs, isn't the converse
5 actually more plausible and, that is, that the
6 petitioner, Mr. Mason, never said to anyone, including
7 Mr. Hylin, based on the testimony that we've heard
8 today, "Cisco lives at the house where I was arrested"?
9 That's a reasonable conclusion.

10 So Mr. Hylin -- and I'm not making the State's
11 argument. I'll certainly hear from Mr. Plater. But
12 Mr. Hylin says, "I repeatedly asked the petitioner
13 where or how could I find Sco."

14 The petitioner never says, "It's at the house where
15 I was arrested."

16 That would be the easiest possible way to find him.
17 If anything, we heard that the petitioner repeatedly
18 just gave him no information, couldn't even narrow it
19 down to a neighborhood or a general area.

20 And if the Court is to believe Mr. Neal's general
21 testimony and, that is, contemporaneously with the
22 events in question, the petitioner was at his house on
23 a regular basis, daily playing video games, often
24 spending the night one or two times during the week.

1 It just makes sense that Mr. Mason would have said, "I
2 can't give you an address, but it was where I was
3 arrested," or, "It's in this general area." We don't
4 have any of that.

5 MS. BEGGS: Well, Your Honor, first and foremost,
6 Mr. Mason was not arrested at that address. So I just
7 want to make sure --

8 THE COURT: Right. In the general area I should
9 say.

10 MS. BEGGS: He was arrested in the vehicle with the
11 occupants of the car that picked him up. But I think,
12 Your Honor, that's where my frustration with this case
13 comes up is we have Mr. Mason being picked up at a
14 residence in the car that he allegedly was in when he
15 shot -- fired a gun the prior day, but no one bothers
16 to check on the address.

17 Now, Mr. Plater mentioned the discovery. Well, I
18 have Mr. Mason who doesn't know Cisco's last name. He
19 certainly isn't going to be able to give the street
20 address. But it just seems like there is this gapping
21 hole that was never reviewed by the defense side and
22 the information was basically right there.

23 Now, Your Honor, I did not have Mr. Mason testify
24 today, because what happens, you know, primarily in

1 these cases is the client says one thing and the
2 defense attorney says another thing and it's, you know,
3 who do you believe. But I am hard pressed to believe
4 that Mr. Mason could provide not one shred of
5 information to Mr. Hylin regarding this case, that
6 Mr. Hylin did not speak with his girlfriend that picked
7 him up at that residence or his mother that was with
8 Ms. Spurlock when he was picked up at that residence.

9 It just seems to me, Your Honor, that while, yes, I
10 would certainly say that a defendant is a participant
11 in creating their defense, to basically, you know, say
12 to the client, "Well, you're the one who needs to
13 provide us this information," when there is information
14 that the defense team could have followed up on -- and,
15 quite frankly, it sounds like they just simply didn't.
16 You know, we don't know what the investigator asked.
17 And certainly, you know, we could subpoena Mr. Nichols
18 to come in and testify regarding his conversations with
19 Mr. Mason.

20 But at the end of the day, Your Honor, I do go back
21 to the fact that we found Cisco. This was not a
22 difficult thing to do. We brought Mr. Neal here today
23 to testify for you. I have no -- like I say, there's
24 no reason that Mr. Neal would come in here to perjure

1 himself before this court. He has had a clean criminal
2 record for a decade and a half almost. He has four
3 children. He has a good job. There's absolutely no
4 reason for him to come in today and lie to this court
5 in any way, Your Honor.

6 So, I mean, at the end of the day, I suppose that
7 is the question, that at the time of habeas we are able
8 to present this witness to you, but yet the defense
9 counsel at the time of trial with all these extraneous
10 witnesses who even picked Mr. Mason up at this
11 gentleman's home could not find any shred of evidence
12 of who this person was just seems to me incredulous.

13 And we believe that Mr. Hylin's performance was
14 deficient in this regard, Your Honor, and certainly we
15 have met the prejudice prong if the Court finds the
16 first as Mr. Mason was clearly prejudiced by not having
17 this individual.

18 Now, it would certainly be up to the jury to
19 determine the credibility of Mr. Neal. Certainly we
20 can't argue that. But I know that Mr. Neal could not
21 state with certainty that, yes, I remember he was
22 picked up on the morning of August 10th by Ebony in the
23 gold sedan. However, we're also asking a gentleman to
24 recall something on a very specific day four years ago,

1 four plus years ago. And I think, quite frankly, Your
2 Honor, that is maybe asking just a tad too much. But I
3 think in general the facts fit the fact that Ebony,
4 driving a gold sedan, with Mr. Mason's mother and his
5 aunt, which was the testimony provided at trial, picked
6 him up at the residence at Lone Cedar at which he was
7 arrested.

8 I just -- that seems specific enough in my mind to
9 support that had he been identified at the time of
10 trial, which took place six months after the incident,
11 that there is a likelihood, a reasonable likelihood,
12 that if that testimony had been presented that the
13 outcome in this case could have been different.

14 Your Honor, I'm happy to answer any other questions
15 the Court may have, but otherwise I would submit it.

16 THE COURT: Thank you, Ms. Beggs. I don't have any
17 additional questions.

18 Mr. Plater.

19 MR. PLATER: Judge, you know what the Strickland
20 standard is. The claim is that Mr. Hylin was
21 ineffective because he didn't find the information that
22 would have amounted to an alibi defense at trial.
23 Under Strickland they have to show that Mr. Hylin was
24 deficient in his conduct in representing the

1 petitioner, they have to show prejudice, as a result of
2 the deficiency the outcome of the trial would have been
3 different.

4 So what they're telling you is if Mr. Neal had
5 testified today in front of this jury, you would have
6 found -- the jury would have acquitted him based on his
7 testimony alone. And I agree, probably most everything
8 he said was true, or let's assume it's all true. It
9 doesn't establish an alibi, Judge. It didn't even come
10 close to establishing an alibi.

11 He said he saw Mr. Mason every day -- then it was
12 maybe every other day -- in the summer. If that's all
13 true, it doesn't mean that Mr. Mason wasn't at this
14 crime scene at a particular moment, fired a couple
15 shots and then left, like he did. And everything else
16 could be true.

17 Even if he was in a gold car with the other person
18 on this particular day, which we don't know -- that
19 hasn't been established, that on this particular day he
20 was in this car. It still doesn't mean he could
21 have -- he could not have committed the crime.

22 So all the other discussion and argument about what
23 Mr. Hylin did or didn't do in terms of investigation is
24 irrelevant, because they didn't show the alibi defense

1 today. You have to bring the alibi defense in and
2 prove to you that the jury would have reached a
3 different decision had Mr. Neal testified. I don't
4 think that comes close today to meeting that standard.

5 But there is no evidence that Mr. Neal -- or that
6 Mr. Hylin didn't do this investigation. That's pure
7 speculation. Mr. Hylin said, "I don't remember if I
8 did some of these things, but some of the particular
9 things that we're talking about would have been done by
10 my investigator."

11 So just because the facts of the particular
12 investigation weren't proved doesn't mean that they
13 didn't occur. If you want to show what happened in the
14 investigation with more particularity, get the
15 investigator, Mr. Nichols, in here, and examine him.
16 But it's absolute speculation to say that he didn't do
17 some of these things in terms of the investigation. So
18 I think you should deny the petition, Judge.

19 THE COURT: Thank you, Mr. Plater.

20 Ms. Beggs, anything to add?

21 MS. BEGGS: Your Honor, just to clarify. This case
22 had a fact pattern that was over two days. August
23 9th was the date of the shooting; August 10th was the
24 date that Mr. Mason was arrested. He was arrested in

1 the vehicle driven by Ms. Spurlock, his mother and his
2 aunt which was the gold car that Ms. Spurlock owned.
3 It was at the very central -- it was a very central
4 aspect of this case.

5 Mr. Neal's testimony basically was that Mr. Mason
6 would normally -- and, again, I agree with Mr. Plater
7 that he can't specify how Mr. Mason would have gotten
8 to his home on that day, but that they would start
9 playing video games early in the morning. He stayed
10 the night several occasions. On this time he did, the
11 day before he was picked up by Ms. Spurlock.

12 So, Your Honor, I do think that there is a
13 reasonable likelihood that had that been presented to
14 the jury that the jury would have -- there would have
15 been a different outcome in this case. And, Your
16 Honor, I can't -- because of the timeframe that we're
17 looking at here, I certainly can't ask Mr. Neal to say
18 with any certainty that would not be, you know, maybe
19 suspect that, yes, Mr. Mason arrived at my home at
20 9 a.m. on, you know, August 9th. Quite frankly, I
21 think at this juncture in time, unless he has a stellar
22 memory, I think we would all find that a tad suspect.

23 So he provided as specific testimony as he could
24 today. But the issue goes back, Your Honor, to not

1 what Mr. Neal's testimony is today but what his
2 testimony would have been in February of 2015. Much
3 closer in time to the events in question, he most
4 likely would have been able to give some more specific
5 information, and I do believe that there would have
6 been a viable alibi defense in this case.

7 THE COURT: Thank you, Ms. Beggs.

8 The Court has considered the testimony of both
9 Mr. Hylin and Mr. Neal. The Court is also very
10 familiar with the facts and circumstances of the case,
11 because I presided over the trial and I also ruled on
12 the alibi defense and excluded any potential for that
13 alibi defense to come in.

14 The Court will deny the petition, because the Court
15 finds that the petitioner has failed to establish
16 either prong of the Strickland analysis. The Court
17 will make its findings of fact on the record and direct
18 counsel for the State to prepare the written order.

19 The Court notes -- and I think the parties, of
20 course, are aware of this -- that the standard under
21 Strickland versus Washington, which is 466 U.S. 688, 104
22 Supreme Court 2052, a 1994 case, is that the petitioner
23 must show two things: No. 1, that the counsel's
24 performance was deficient and, No. 2, that the

1 deficient performance resulted in prejudice to the
2 petitioner.

3 The Nevada Supreme Court has adopted the Strickland
4 standard and applied it in numerous cases, including
5 Kirksey versus State, which is 112 Nevada 980, 923 P.2d
6 1102, a 1996 case.

7 In Dawson versus State, which is 108 Nevada 112, at
8 page 115, 825 P.2d 593, at page 595, a 1992 case, the
9 Nevada Supreme Court states, quote, "Deficient
10 assistance requires a showing that counsel's
11 representation fell below an objective standard of
12 reasonableness."

13 In the same case on the same cited page, the Nevada
14 Supreme Court states, quote, "In order to eliminate the
15 distorting effect of hindsight, courts indulge in a
16 strong presumption that counsel's representation falls
17 within the broad range of reasonable assistance."

18 The Court also notes in Kirksey at page 987 of the
19 Nevada Reporter and at page 1107 of the Pacific Second
20 Reporter that a court may consider the two test
21 elements in any order and need not consider both prongs
22 if the defendant makes an insufficient showing on
23 either one.

24 The Court specifically finds that the petitioner

1 has failed to meet either prong. And, therefore, based
2 on its analysis, the Court would not grant the
3 petition.

4 Regarding the assistance prong, the Court finds
5 that Mr. Hylin's performance did not fall below an
6 objective standard of reasonableness in any way. In
7 State versus Love, which is 109 Nevada 1136, 865 P.2d
8 322, a 1993 case -- and parenthetically I would note a
9 case cited by the petitioner in the supplemental
10 petition -- the Nevada Supreme Court says, quote,
11 "Defense counsel has a duty to make reasonable
12 investigations or to make a reasonable decision that
13 makes particular investigations unnecessary." That's
14 at page 1138 of the Nevada Reporter and 323 of the
15 Pacific Second Reporter.

16 Here, Mr. Hylin's investigation and the
17 investigation of his investigator was completely
18 reasonable. The Court believes the testimony of
19 Mr. Hylin. And the Court would note that the testimony
20 is unrefuted and, that is, that the petitioner never
21 told him where to find Cisco, he never told him -- or
22 Sco -- he never told him where he lived, he never gave
23 a telephone number, he could not provide a general area
24 where this person lives.

1 I believe that Mr. Neal's testimony today was
2 credible. He didn't provide much information to the
3 Court, but it was credible.

4 One would have to assume that had Mr. Mason
5 actually provided any information to Mr. Hylin, he
6 would have acted upon it. By "he" I mean Mr. Hylin.
7 But the Court finds Mr. Hylin's testimony to be
8 completely believable and unrefuted and, that is, that
9 the petitioner never once told him where to find
10 Mr. Neal.

11 And clearly the petitioner would have known where
12 to find Mr. Neal. He had been at his house repeatedly.
13 He was dating his cousin. He had been in his company
14 and slept over at his house. He might not have been
15 able to give a physical address, that is, at this
16 specific house number on Lone Cedar Drive is where you
17 will locate Sco, but he certainly could have given at
18 least some general information, and he never did.

19 The Court has to comment, Ms. Beggs, on your
20 statement that you didn't call Mr. Mason because
21 oftentimes the petitioner says one thing and his
22 defense counsel says another thing. And so I didn't
23 hear from Mr. Mason. I'm not suggesting that Mr. Mason
24 would have swayed my opinion in one way or another. I

1 don't know. But by not calling the petitioner, it's
2 just -- I'm left with the unrefuted testimony of
3 Mr. Hylin. And I found Mr. Hylin to be credible and,
4 that is, the petitioner never told him a single thing
5 about how to find Mr. Neal.

6 And there's no question in my mind that had the
7 petitioner really wanted to call him, he would have
8 been able to quickly identify, as I said, a general
9 area where he lived in Sun Valley. He didn't.
10 Numerous people who could contact him, including Ebony
11 Spurlock, he didn't. So we're just left with the
12 allegation that somehow Mr. Hylin and the Washoe County
13 Public Defender's Office was deficient because they
14 didn't locate him.

15 The Court believes that Mr. Hylin did every
16 reasonable thing possible in trying to locate Mr. Neal.
17 And the Court simply believes that the petitioner never
18 told him, because that's what Mr. Hylin said. "He
19 never gave me enough information. All I had was Sco or
20 Cisco and nothing more."

21 And it's not unreasonable, it certainly doesn't
22 fall below an objective standard of reasonableness, not
23 to be able to find someone, regardless of whether or
24 not now Mr. Neal is able to be located.

1 So the Court finds that the petitioner failed to
2 meet the first prong of the Strickland analysis. The
3 Court will make an observation as well regarding the
4 second prong. The Court could simply stop at this
5 point, because the petitioner has failed to meet the
6 first prong, but the Court would also note that the
7 petitioner has failed to meet the second prong.

8 The second prong is that the outcome would have
9 somehow been different. The Court finds that the
10 testimony of Mr. Neal, simply put, is not an alibi.
11 Mr. Neal provided no information that would have
12 changed the outcome of this case. The Court cannot as
13 I sit here today speculate on what Mr. Neal may have
14 said at the trial. That's basically what the
15 petitioner wants me to do, to assume that somehow
16 Mr. Neal would have provided an alibi had he been
17 located closer to trial.

18 What I heard today from Mr. Neal was in fact not an
19 alibi defense. There was absolutely no testimony from
20 Mr. Neal that the petitioner was with him on August
21 9th of 2018.

22 One moment. I have to pull up the Amended
23 Information to make sure I've got the date correct.
24 There it is.

1 Yes, the date of the offense was August 9th of
2 2014. I might have just misspoken there.

3 So Mr. Neal provides no testimony whatsoever that
4 the petitioner was with him on the date or at the time
5 of the offense.

6 I don't have a case in front of me that
7 specifically defines what an alibi is. NRS 174.233, I
8 think, is the alibi statute. It doesn't say what an
9 alibi is. It simply says that the State -- or, excuse
10 me -- a party has to provide notice of an alibi
11 defense.

12 One moment.

13 I'm looking at NRS 174.233 now, and it doesn't say
14 what an alibi defense is. It simply discusses if a
15 defendant intends to offer evidence of an alibi. But
16 it's just axiomatic in criminal law that an alibi is "I
17 wasn't there at the time of the offense, I was
18 somewhere else, and this person will be able to testify
19 that I was not physically present," because people
20 can't be two places at once. That's just the nature of
21 our existence.

22 And so what I heard today from Mr. Neal wasn't an
23 alibi. It was simply that Mr. Mason frequently was in
24 his company around the time that these events occurred.

1 It wasn't that Mr. Neal was in his company while the
2 shooting took place and, therefore, Mr. Neal, had he
3 testified, would have provided an alibi, that is, that
4 Mr. Mason was somewhere else. And, therefore, the
5 Court finds that the petitioner has also failed to meet
6 the second prong of the Strickland analysis and, that
7 is, prejudice. There would be no prejudice, because
8 Mr. Neal simply was not an alibi witness based on what
9 I heard today. And the Court will not speculate what
10 Mr. Neal may have said at the time of the event.

11 The Court is also cognizant of the fact that
12 Mr. Neal in all candor states that he smokes a lot of
13 marijuana and his memory isn't that good. And so
14 there's just no way that the Court can conclude that
15 Mr. Neal's testimony was an alibi.

16 And as I sit here today, if I would have heard what
17 Mr. Neal said today back in 2015, I wouldn't have
18 allowed him to testify as an alibi witness pursuant to
19 NRS 174.233.

20 So based on that, the Court finds that the
21 petitioner has failed to meet the second prong of the
22 Strickland analysis as well. And the Court will deny
23 the supplemental petition, ground number two, for those
24 reasons.

1 I'm just looking back, Ms. Beggs, at the petition,
2 the supplemental petition to make sure there's nothing
3 that I missed. One moment.

4 I thought this sentence was in the ground two, but
5 it specifically states in ground two on page 7 at lines
6 14 through 16, quote, "Should the Court grant an
7 evidentiary hearing on this issue, petitioner will
8 testify regarding the information he provided to his
9 defense counsel to locate Cisco," close quote.

10 Clearly the petitioner had no obligation to testify
11 at the evidentiary hearing, but as I said a moment ago,
12 when he didn't testify, all the Court is left with was
13 Mr. Hylin's unrefuted testimony that the petitioner
14 never gave him that type of information.

15 And finally regarding that issue, I would note that
16 the Court often is called on, not only in these types
17 of hearings but in all types of hearings, to balance
18 the testimony and to weigh the testimony oftentimes
19 when it is conflicting and to make conclusions about
20 the credibility of the witnesses offering competing
21 testimony on the same issue.

22 So to simply suggest that because Mr. Hylin
23 testified to one thing and the petitioner would have
24 said something different and, therefore, we don't even

1 call the petitioner, the Court doesn't find that
2 persuasive. The Court certainly would have been able
3 to weigh the competing testimony had it heard any, and
4 it has not. And for those reasons the Court will deny
5 the petition and direct the State to prepare the order
6 of the Court with the findings of fact and the
7 conclusions of law.

8 Mr. Plater, do you need anything else from the
9 Court in order to prepare the order?

10 MR. PLATER: No, thank you.

11 THE COURT: Court is in recess.

12 (The proceedings were concluded.)

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1 STATE OF NEVADA)
2) ss.
3 COUNTY OF WASHOE)
4

5 I, LORI URMSTON, Certified Court Reporter, in and
6 for the State of Nevada, do hereby certify:

7 That the foregoing proceedings were taken by me
8 at the time and place therein set forth; that the
9 proceedings were recorded stenographically by me and
10 thereafter transcribed via computer under my
11 supervision; that the foregoing is a full, true and
12 correct transcription of the proceedings to the best
13 of my knowledge, skill and ability.

14 I further certify that I am not a relative nor an
15 employee of any attorney or any of the parties, nor am
16 I financially or otherwise interested in this action.

17 I declare under penalty of perjury under the laws
18 of the State of Nevada that the foregoing statements
19 are true and correct.

20 DATED: At Reno, Nevada, this 6th day of
21 February, 2019.

22 
23 LORI URMSTON, CCR #51

24 LORI URMSTON, CCR #51

1 **CODE 2540**

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

8 **STATE OF NEVADA,**

9 **Plaintiff,**

Case No: CR14-1830

10 **vs.**

Dept. No: 10

11 **QUINZALE MASON,**

12 **Defendant.**

13 **/**

14 **NOTICE OF ENTRY OF ORDER**
15

16 PLEASE TAKE NOTICE that on November 21, 2018 the Court entered a decision
17 or order in this matter, a true and correct copy of which is attached hereto.

18 You may appeal to the Supreme Court from the decision or Order of the Court. If
19 you wish to appeal, you must file a Notice of Appeal with the Clerk of this Court within
20 thirty-three (33) days after the date this notice is mailed to you.
21

22 Dated November 21, 2018.
23

24 JACQUELINE BRYANT

25 Clerk of the Court

26 /s/N. Mason

27 Deputy Clerk
28

1 **CERTIFICATE OF SERVICE**

2 Case No. CR14-1830

3 Pursuant to NRCP 5 (b), I certify that I am an employee of the Second
4 Judicial District Court; that on November 21, 2018, I electronically filed the Notice of Entry
5 of Order with the Court System which will send a notice of electronic filing to the following:

6
7 ZACH YOUNG, ESQ. for STATE OF NEVADA

8 JOSEPH R. PLATER, III, ESQ. for STATE OF NEVADA

9 CARL F. HYLIN, ESQ. for QUINZALE MASON

10 TRAVIS B. LUCIA, ESQ. for STATE OF NEVADA

11 DIV. OF PAROLE & PROBATION

12 JOHN REESE PETTY, ESQ. for QUINZALE MASON

13 LYN E. BEGGS, ESQ. for QUINZALE MASON

14
15 I further certify that on November 21, 2018, I deposited in the Washoe
16 County mailing system for postage and mailing with the U.S. Postal Service in Reno,
17 Nevada, a true copy of the attached document, addressed to:

18
19 Attorney General's Office
20 100 N. Carson Street
21 Carson City, NV 89701-4717

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

24 Dated November 21, 2018.

25 _____
26 /s/N. Mason
27 Deputy Clerk
28

1 CODE No. 3370

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

8 * * *

9 QUINZALE MASON,

10 Petitioner,

11 v.

Case No. CR14-1830

12 THE STATE OF NEVADA,

Dept. No. 10

13 Respondent.

14 _____/

15 ORDER

16 This matter comes before the Court on Mason's post-conviction petition for a writ of
17 habeas corpus. The Court held an evidentiary hearing on the petition on October 31, 2018.
18 Based on the evidence and testimony the parties presented at the hearing and their arguments,
19 the Court makes the following findings of fact and conclusions of law.

- 20 1. A jury convicted Mason of battery with a deadly weapon, assault with a
21 deadly weapon, and being a felon in possession of a firearm. The Court entered a
22 judgment of conviction for all three offenses on March 24, 2015.
- 23 2. The Nevada Supreme Court affirmed the judgment of conviction on June 16, 2016. On
24 March 2, 2017, Mason filed a timely post-conviction petition for a writ of habeas corpus,
25 and appointed counsel filed a supplemental petition on December 8, 2017.

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- 1 3. The State moved the Court to dismiss the petition and the supplemental petition on
2 January 10, 2018; Mason opposed the State's motion on January 24, 2018; and the State
3 replied to Mason's opposition on January 31, 2018. The parties appeared before the
4 Court on May 25, 2018, and argued their respective positions regarding the motion to
5 dismiss.
- 6 4. On June 7, 2018, the Court dismissed all of the claims in the original and supplemental
7 petitions, except for the second claim of the supplemental petition. The Court held a
8 hearing on the second claim of the second supplemental petition on October 31, 2018.
- 9 5. In the second claim, Mason contends that his trial counsel, Carl Hylin, failed to
10 investigate and present evidence of an alibi defense at trial. To prevail on a claim of
11 ineffective assistance of trial counsel, a defendant must show that counsel's performance
12 fell below an objective standard of reasonableness and that counsel's deficient
13 performance prejudiced the defense. *Strickland v. Washington*, 466 U.S. 668, 687-88
14 (1984); *Kirksey v. State*, 112 Nev. 980, 987, 923 P.2d 1102, 1107(1996) (adopting the
15 *Strickland* test). Trial counsel's performance is prejudicial if "a reasonable probability
16 [exists] that, but for counsel's unprofessional errors, the result of the proceeding would
17 have been different." *Id.* at 694. A petitioner must prove the facts underlying his
18 ineffective-assistance claims by a preponderance of the evidence. *Means v. State*, 120
19 Nev. 1001, 1012, 102 P.3d 25, 33 (2004). Both prongs of the ineffective-assistance
20 inquiry must be shown. *Strickland*, 466 U.S. at 697.
- 21 6. "Counsel's performance is measured by an objective standard of reasonableness which
22 takes into consideration prevailing professional norms and the totality of the
23 circumstances." *Homick v. State*, 112 Nev. 304, 310, 913 P.2d 1280, 1285 (1996) (citing
24 *Strickland*, 466 U.S. at 688). "[I]n examining a counsel's defense after it has proved
25 unsuccessful, it is easy for a court to conclude that certain acts or omissions by counsel
26 were unreasonable." *Id.* (citing *Strickland*, 466 U.S. at 689). "Therefore, there is a

1 presumption that trial counsel was effective and ‘fully discharged’ his duties.” *Id.* (citing
2 *Davis v. State*, 107 Nev. 600, 601, 817 P.2d 1169, 1170 (1991)). “This presumption can
3 only be overcome by ‘strong and convincing proof to the contrary.’ ” *Id.* (quoting *Davis*,
4 107 Nev. at 602, 817 P.2d at 1170) (quoting *Lenz v. State*, 97 Nev. 65, 66, 624 P.2d 15, 16
5 (1981))). Accordingly, counsel’s strategic or tactical decisions will be “ ‘virtually
6 unchallengeable absent extraordinary circumstances.’ ” *Doleman v. State*, 112 Nev. 843,
7 848, 921 P.2d 278, 280 (1996) (quoting *Howard v. State*, 106 Nev. 713, 722, 800 P.2d
8 175, 180 (1990)).

9 7. Mason presented two witnesses at the evidentiary hearing to prove Hylin was ineffective
10 for failing to present an alibi defense at trial—Cisco Neal and Hylin.

11 8. Neal testified he knew Mason well and played video games with him every day, or nearly
12 every day, during the summer of 2014 at Neal’s residence in Sun Valley, Nevada. Neal
13 explained that Mason’s friend or cousin dropped Mason off at Neal’s residence in the
14 summer of 2014, and Mason spent the night at Neal’s residence about two times a week
15 during this period of time. Different people, including Neal’s cousin, Ebony, picked
16 Mason up from Neal’s residence.

17 9. The crimes in this case were committed on August 9, 2014. Neal testified he did not
18 know where he was or what he was doing on August 9, 2014. Nor could he testify where
19 Mason was or what he was doing on August, 9, 2014. Neal testified that his memory has
20 been compromised by smoking marijuana on a daily basis. The Court finds Neal
21 credible.

22 10. Hylin testified that he went over the discovery, the nature of the charges, and all
23 possible defenses with Mason. Hylin testified that according to his custom and practice
24 he left a copy of the discovery with Mason at the Washoe County Detention Center.

25 ///

- 1 11. According to Hylin, Mason told him that he was not at the crime scene on August 9,
2 2014, and that a person named “CKO” (i.e., Neal) could provide an alibi for Mason on
3 the day of the crime. But Mason could not give Hylin the address or any description of
4 where Neal lived.
- 5 12. Hylin asked his investigator to try to locate Neal, but the investigator had no success.
6 Nevertheless, Hylin filed a notice of alibi to protect Mason’s right to present an alibi
7 defense at trial, in case Hylin and his investigation found credible evidence of an alibi.
8 The notice of alibi Hylin filed did not state specifically where Mason was when the crime
9 was committed. Thus, the State filed an objection to the notice before trial.
- 10 13. The Court denies Mason’s claim that Hylin was ineffective for failing to investigate and
11 present an alibi defense at trial. Hylin presented the information Mason gave him to an
12 investigator, but the investigator could not locate Neal. The Court finds Hylin credible,
13 and that he performed a reasonable investigation into Mason’s proposed alibi. Hylin’s
14 testimony that Mason failed to give him adequate information to locate Neal was
15 unrefuted.
- 16 14. Mason did not present any additional evidence at the evidentiary hearing that Hylin
17 could have used in trying to locate Neal. Mason thus failed to show by a preponderance
18 of the evidence that Hylin was deficient in investigating and presenting an alibi defense
19 based on Neal’s proposed testimony.
- 20 15. Mason also failed to show prejudice. Neal could not testify that he knew where
21 petitioner was on the day of the crime. Thus, Neal’s testimony—if it had been presented
22 at trial—would not have changed the outcome of the trial.
- 23 16. There was also overwhelming evidence of Mason’s guilt. At trial, the State proved that
24 Anthony Holly lived in the same apartment complex as Mason. Trial Transcript,
25 February 9, 2015, p.90. On August, 9, 2014, Holly joined in on a game of craps with
26 several people, including Mason. *Id.* at 91-95. Holly and Mason got into a verbal

1 argument over the game, and Holly left the area. *Id.* at 51, 95-97. A couple hours later,
2 Holly was outside “playing with the neighbor’s dog at the edge of the parking lot” when
3 Mason pulled up in a car and said something like, “ ‘I got you now,’ ” or “ ‘I got yo ass.’ ”
4 *Id.* at 98-99. Holly took off running, and Mason shot at Holly several times. *Id.* at 98-
5 100, 101. Several people were in the area, including two children and their two dogs. *Id.*
6 at 104.

7 17. Huey Paul Stanley, Jr. lived near Holly and Mason. *Id.* at 30-31; 37-39. Stanley was
8 sitting outside with his wife watching Holly play with the neighbor’s dog when he saw
9 Mason park his car. *Id.* at 40-42. Stanley heard Mason say “ ‘Ah-hah, I got you now’ ”;
10 seconds later he heard gunshots—“pow, pow, pow”—coming from Mason’s direction.
11 *Id.* at 45-45, 52. Stanley saw Holly “ducking, going back and forth trying to figure out
12 which way to get out.” *Id.* at 45-46. Stanley then heard his neighbor, Delphine Martin,
13 “screaming that her baby got shot.” *Id.* at 48.

14 18. Reno Police Officer Benjamin Lancaster arrived, and found a little girl, Cecilia M., shot
15 in her lower right leg. *Id.* at 71-72, 74, 75. *Id.* He wrapped the leg with gauze and
16 applied pressure until medical personnel arrived. *Id.* He found two 9 millimeter
17 casings on scene. *Id.* at 83-84, 87; Trial Transcript, February 10, 2015, p.251.

18 19. At the hospital, Dr. Cinelli found that the “[d]istortion of the metal fragment[] [in
19 Cecilia’s leg was] typical with a ricochet.” Trial Transcript, February 10, 2015, pp. 31,
20 34.

21 20. When police later arrested Mason, he stated he was on his way “ ‘to the station to turn
22 [him]self in.’ ” *Id.*, 330, 339. The strength of the evidence that the State presented at
23 trial further supports the Court’s conclusion that Mason failed to prove that he was
24 prejudiced from Hylin’s alleged ineffectiveness.

25 ///

26 ///

1 21. After considering all the evidence the parties presented, the Court finds that petitioner
2 received the effective assistance of counsel as set forth in *Strickland*. The Court denies
3 the post-conviction petition for a writ of habeas corpus.

4 DATED this 21 day of November, 2018.

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7 ELLIOTT A. SATTLER
8 DISTRICT JUDGE
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2 *Lyn E. Beggs, Esq.*
3 *Law Offices of Lyn E. Beggs, PLLC*
4 *Nevada State Bar No. 6248*
5 *316 California Ave., #863*
6 *Reno, NV 89509*
7 *(775) 432-1918*
8 *ATTORNEY FOR PETITIONER*

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

11 QUINZAEL MASON,

12 Petitioner,

Case No: CR14-1830

13 vs.

Dept. 10

14 THE STATE OF NEVADA,

15 Respondent.
16 _____/

17 NOTICE OF APPEAL

18 NOTICE IS HEREBY GIVEN that Petitioner QUINZALE MASON hereby appeals
19 to the Supreme Court of the State of Nevada from the Order filed on November 12, 2018
20 denying all ground for relief raised in Petitioner's Petition for Writ of Habeas Corpus (Post
21 Conviction) and Supplemental Petition for Writ of Habeas Corpus filed in the above
22 referenced case with Notice of Entry of Order being filed contemporaneously.

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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 this 5^h day of December, 2018.

/s/ LYN E. BEGGS
Lyn E. Beggs, Esq.
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(775) 432-1918
ATTORNEY FOR PETITIONER

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Joseph R. Plater, III , Esq.
Washoe County District Attorney's Office
Appellate Division

/s/ LYN E. BEGGS