

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID LEVOYD REED,

petitioner

vs.

THE 8<sup>th</sup> JUDICIAL DISTRICT

COURT OF THE STATE OF NEVADA, IN and

FOR THE COUNTY OF CLARK, Dept. 19

Respondent.

Case No: C-18-329762-1

Dept No. 19

FILED

JUN 03 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

PETITION FOR WRIT OF MANDAMUS

COMES NOW, Petitioner, DAVID LEVOYD REED, pro per,  
and respectfully moves this Honorable Court to issue a Petition  
for Writ of MANDAMUS, being filed contemporaneously herewith,  
directing THE 8<sup>th</sup> JUDICIAL DISTRICT COURT, Department #17 District  
Court JUDGE MICHAEL P. VILLANI, and Department #19, District  
Court JUDGE WILLIAM D. KEPHART, to reverse and vacate  
his decision and order, and/or actions in denying petitioner  
DAVID LEVOYD REED'S MOTION TO RECUSE 8<sup>th</sup> JUDICIAL DIST CT.  
Judge William Kephart, Dept. 19.

This motion is made and based pursuant to the supporting  
POINTS and AUTHORITIES attached hereto, N.R.S. 34.150 through  
N.R.S. 34.310, N.R.A.P., Rule 21, N.R.S. 1230, N.R.S. 1235 as well  
as all papers, pleadings, and documents on file herein.

RECEIVED

MAY 24 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
DEPUTY CLERK

POINTS AND AUTHORITIES  
I. STATEMENT OF FACTS

① November 29, 2017 petitioner appeared before Judge Kephart in case No. C17-327407-1.

Petitioner was allowed to pro se after A Farretta canvass was conducted.

The court gave the state until Dec 13, 2017 to file its opposition to petitioner's pro per motion to suppress filed in open court Nov. 29, 2017.

Further, petitioner was given until December 27, 2017 to reply to state's opposition and a hearing was set for January 10, 2018.

Additionally, petitioner requested to be remanded into the physical custody of C.C.D.C. (See Exhibit 1 Court minutes)

② December 19, 2017, six days after state's opposition, to (petitioner's motion to suppress) was due, petitioner mailed from High Desert State Prison, a motion for appointment of counsel, and a motion to inspect all favorable evidence, hearing set for January 22, 2018. (See Exhibit 2)

③ ~~December 29, 2017, exactly sixteen days after~~

③ December 29, 2017, exactly sixteen days after the state's opposition was due, clerk of the 8th Jud Dist. Ct. electronically stamped the motion for appointment of counsel. (See Exhibit 2)

④ January 10, 2018, hearing for motion to suppress, upon the court's inquiry, the state lied, willfully, and knowingly, with reckless disregard....

... for the truth, said, "that she did not file opposition to motion to suppress based on Defendant's desire to have counsel appointed, and Defendant concerns with representing himself."

The court said, "Based on his review of Defendant's motion he agrees with State."

(See Exhibit <sup>3</sup> 3)

⑤ FEBRUARY 7, 2018 court stated he cannot remand Defendant to C.D.C. (See Exhibit <sup>4</sup> 4)

⑥ April 25, 2018 petitioner was not transported to court for motion to withdraw counsel. (See Exhibit <sup>5</sup> 5)

⑦ July 9, 2018 petitioner was not transported to motion to withdraw counsel, not transported 7/23/18 or 7/<sup>25</sup>~~25~~/18. (See Exhibit <sup>6</sup> 6)

⑧ MARCH 6, 2019 petitioner filed motion to disqualify judicial officer William Kephart, (See Exhibit <sup>7</sup> 7)

⑨ MAY 17, 2019 petitioner finally received decision and order from motion to disqualify the court.

⑩ April 5, 2019 The 8<sup>th</sup> Jud. Dist. Ct. issued an order and decision denying petitioner's motion to disqualify the court.

⑪ MARCH 6, 2019 petitioner filed open court motion to dismiss indictment and a petition for writ of habeas corpus.

Court ordered State's opposition due on or before April 17, 2019, Defendant's Reply due on or before May 8, 2019, hearing set...

... For MAY 15, 2019.

12. April 8, 2019, petitioner was not transported to court for MOTION OF DEFENDANT TO INSPECT ALL EVIDENCE FAVORABLE TO HIM.

13. April 19, 2019 petitioner spoke with an assistant in the office of the special public defenders, and was told that, "A status check would be held ON April 24, 2019, specifically pertaining to petitioner not being transported to court ON April 8, 2019 For MOTION TO INSPECT EVIDENCE.

14. April 24, 2019, petitioner appeared before Judge Kephart and was told by the court that Judge Michael P. Villani, found no grounds to disqualify the court. The court further began to speak specifically about The MOTION TO DISMISS INDICTMENT and said, "that there are issues in the motion which should be brought by way of writ; and ordered an evidentiary hearing specifically for the PETITION FOR WRIT OF HABEAS CORPUS also filed in open court MARCH 6, 2019.

15. MARCH 6, 2019 petitioner filed an open court <sup>21</sup> "ACCUSED MOTION TO DISMISS INDICTMENT AND A <sup>21</sup> "PETITION FOR WRIT OF HABEAS CORPUS". The court ordered the state's opposition due on or before April 17, 2019, Defendants reply due on or before MAY 8, 2019, and set hearing for MAY 15, 2019.

April 24, 2019 At the status check, the court conducted hearing for the motion to ~~inspect~~.



... TO DISMISS INDICTMENT, without the petitioner ever receiving the State's opposition, which was subsequently handed to him at court on April 24, 2019.

April 24, 2019 is exactly two weeks before the Petitioner's Reply to State opposition was due and three weeks before the hearing previously set by the court.

Petitioner objected to the court electing to treat his "MOTION" as A HABEAS.

(16.) MAY 17, 2019, Petitioner received minutes from the clerk of 8<sup>th</sup> Jud. Dist. Ct. that is incomplete on the last page 45 of 45 which does not reflect the record. (See exhibit 8)

(17.) April 8, 2019 The court minutes wrongfully reflect petitioner being present ~~to~~ at the hearing, which a briefing schedule was set and the court allowed the District Attorney to provide discovery to the Special Public Defenders, despite MC being pro se. (See exhibit 9)

(18.) MAY 22, 2017 Petitioner was released from his judgement of conviction to an actual address in Clark County, Nevada.

(19.) September 20, 2017 Petitioner was arrested.

(20.) November 14, 2017, just three days before preliminary hearing Petitioner was transported to High Desert State Prison.

(21.) November 17, 2017 despite an order...

... for production of inmate being filed, petitioner was not transported to court, for charges stemming in this indictment.

Petitioner has not been transported to A total of 12 court dates as A PRE TRIAL Detainee without A CONVICTION BEING ILLEGALLY HELD IN A STATE PRISON.

(22) PETITIONER herein is seeking to have this court order the 8th Judicial District Court, the HONORABLE MICHAEL P VILLANI Reverse and Vacate his APRIL 5, 2019 Decision and ORDER Denying petitioner's motion to Recuse JUDICIAL OFFICER WILLIAM KERNER as his order was not consistent with NRS 1.230#1.

#### II. LEGAL ARGUMENT

Petitions for extraordinary writs are addressed to the sound discretion of the Supreme Court of Nevada and may issue when there is no plain, speedy, and adequate remedy at law. See, State v. Second Jud. Dist. Ct. - ex. rel. County of Washoe, 11 P.3d 1209, — Nev. — (2000).

As shown above, Petitioner filed motion to Disqualify the court in accordance with NRS 1.230 #1 and based on proof of actual biased and prejudice. (see Exhibit A, B, C.)

On page four of Judge Michael Villani's Decision and order he misconstrued what he was reading, and believes the petitioner was complaining about a hearing being postponed.

Petitioner alleged the court to be biased. ...

... Based on Judge Kephart saying, "Based on his review of DEFENDENTS MOTION, HE (Court) agrees with the States reason for not responding to the MOTION TO Suppress which was clearly Filed sixteen days after the States opposition was due.

The state clearly said, she had not responded due to the motion for appointment of counsel that was not even mailed out of high desert state prison until six days after the states opposition was due, which would destroy the reason given for the state not responding. (See Exhibit # 1, 2, 3) also, District Court Rule 15 and woods v. Nevada, SUPREME COURT OF NEVADA, 291 P.3d 1284; 2013 (No. 57481)

Additionally, the court said, "He does not have the authority to order the jail where they keep people.

NRS 174.495 provides: If the defendant is in custody, the order must direct the defendant's removal and the defendant must be forthwith removed by the Sheriff of the county where the defendant is imprisoned, to the custody of the sheriff of the county to which the action is being removed.

Further, Article 6 Section 1, of the Nevada Constitution (nev. const.), vests the judicial power in the State District and Justice Courts. Section 6 gives the District Courts original jurisdiction in all criminal cases ...

\*\*\* Moore v. Orr, 30 Nev. 458, 98 p. 398 (1908)

November 29, 2017, February 7, 2018 the court said he cannot remand petitioner into the physical custody of C.C.D.C. despite petitioner not being a convicted person. Further violating the petitioner's 14<sup>th</sup> Amend. right which prohibits the denial of life, or liberty without due process.

Petitioner asserts that the 8<sup>th</sup> Judicial Dist. Ct. is allowing the State to use the Nevada Dept. of Corrs as an instrument, to eviscerate his 5<sup>th</sup> 6<sup>th</sup> 14<sup>th</sup> 1<sup>st</sup> 8<sup>th</sup> Amend.

Including allowing the state to circumvent Dist. Ct. Rule 21, (case # 17FN7024X) (C-17-327407-1) (C-18-329762-1) all cases stemming from this indictment.

Petitioner further asserts, he has been prejudiced by allowing and agreeing with the State's reason for not responding to the Motion to Suppress and Petition for writ of ~~Habeas~~ Corpus filed Nov. 29, 2017, which could have reasonably had the petitioner released, as well as First, ordering the Defendant's Reply to State opposition to Motion to Dismiss Indictment, MAY 8, 2019, Yet allowing the State to move the hearing to April 24, 2019 not giving the petitioner due process, as well as conducting an ~~EX-PARTIS~~ Hearing April 8, 2019 and lying saying petitioner was present, while I have ....



... been held in prison under duress and coercion without a conviction or violation.

### III. Conclusion

Petitioner prays this Honorable Court reverse and vacate the 8th Jud. Dist Ct. Decision and order Denying Motion To Recuse Judge Kephart, and order the court to <sup>HEAR</sup> ~~reconsider~~ the Accused Motion To Dismiss Indictment on ITS MERITS as it is specifically a Motion AND WAS Filed IN ACCORDANCE WITH NRS 174.105 and NOT allow the court to try AND turn MY Motion INTO A writ, which would be time-barred

Respectfully Submitted,  
David / Levoro Reed  
David / Levoro Reed

CERTIFICATE OF SERVICE

I, DAVID LEVOY REED, hereby certify that I am the petitioner in this matter and I am representing myself in propria persona.

On this 21 day of MAY, 2019, I served copies of the PETITION FOR WRIT OF MANDAMUS

in case number: C18-329762-1 and placed said motion(s) in U.S. First Class Mail, postage pre-paid:

Address:

Sent to: SUPREME COURT OF NEVADA  
OFFICE of the CLERK  
201 S. CARSON STREET, Suite 201  
CARSON CITY, NV 89701

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he is the petitioner in the above-entitled action, and he, the defendant has read the above CERTIFICATE OF SERVICE and that the information contained therein is true and correct. 28 U.S.C. §1746, 18 U.S.C. §1621.

Executed at HIGH DESERT STATE PRISON  
on this 21 day of MAY, 2019.

DAVID LEVOY REED

DOP# 79594

PETITIONER -- In Proper Person

Exhibit 1-A

Electronically Filed  
4/5/2019 2:59 PM  
Steven D. Grierson  
CLERK OF THE COURT

*Steven D. Grierson*

1 DAO

2 EIGHTH JUDICIAL DISTRICT COURT

3 CLARK COUNTY, NEVADA

4  
5 STATE OF NEVADA,

6 Plaintiff,

7 vs.

Case No. C-18-329762-1

8 DAVID REED,

Dept. No. XIX

9 Defendant.

10 DECISION AND ORDER

11 David Reed filed a Motion to Recuse 8<sup>th</sup> Judicial Dist. Ct. Judge William Kephart due to  
12 Bias or Prejudice, alleging that Judge Kephart harbored bias or prejudice against Mr. Reed and has  
13 shown partiality to the State. Upon review of Mr. Reed's Motion, I am denying Mr. Reed's request  
14 to remove Judge Kephart.

15 **I. Factual and Procedural Background**

16 On March 6, 2019, Mr. Reed filed a Motion requesting removal of Judge Kephart from his  
17 case. Particularly, Mr. Reed suggested that Judge Kephart might be biased and that there was  
18 collusion between Judge Kephart and the attorney for the State.

19 On March 13, 2019, Judge Kephart filed a Response detailing the history of the case and  
20 discussing the reasons behind some of Judge Kephart's decisions and the allegations of bias and  
21 collusion contained within Mr. Reed's affidavit.

22 **II. Discussion**

23 NRS 1.230 provides the statutory grounds for disqualifying district Court judges. The statute  
24 in pertinent part provides:

- 25 1. A judge shall not act in an action or proceeding when the judge entertains actual  
26 bias or prejudice for or against one of the parties to the action.  
27 2. A judge shall not act as such in an action or proceeding when implied bias exists  
28 in any of the following respects:  
(a) When the judge is a party to or interested in the action or proceeding.

MICHAEL P. VILLANI  
DISTRICT JUDGE  
DEPARTMENT XVII

- 1 (b) When the judge is related to either party by consanguinity or affinity within the  
2 third degree.  
3 (c) When the judge has been attorney or counsel for either of the parties in the  
4 particular action or proceeding before the court.  
5 (d) When the judge is related to an attorney or counselor for either of the parties by  
6 consanguinity or affinity within the third degree. This paragraph does not apply  
7 to the presentation of ex parte or contested matters, except in fixing fees for an  
8 attorney so related to the judge.

9 The Revised Nevada Code of Judicial Conduct provides substantive grounds for judicial  
10 disqualification. Pursuant to NCJC 2.11(A):

11 (A) A judge shall disqualify himself or herself in any proceeding in which the  
12 judge's impartiality might reasonably be questioned, including but not limited to the  
13 following circumstances:

14 (1) The judge has a personal bias or prejudice concerning a party or a party's  
15 lawyer, or personal knowledge of facts that are in dispute in the proceeding.

16 A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might  
17 be reasonably questioned. Ybarra v. State, 127 Nev. 47, 50-51 (2011). The test for whether a judge's  
18 impartiality might be reasonably questioned is objective and courts must decide whether a  
19 reasonable person, knowing all the facts, would harbor reasonable doubts about a judge's  
20 impartiality. Id. at 51.

21 The burden is on the party asserting the challenge to establish sufficient factual and legal  
22 grounds warranting disqualification. Las Vegas Downtown Redevelopment Agency v. District  
23 Court, 116 Nev. 640, 643 (2000). A judge has a duty to preside to the conclusion of all proceedings,  
24 in the absence of some statute, rule of court, ethical standard, or compelling reason otherwise. Id. at  
25 643. A judge is presumed to be unbiased. Millen v. District Court, 122 Nev. 1245, 1254 (2006). A  
26 judge is presumed to be impartial, and the burden is on the party asserting the challenge to establish  
27 sufficient factual grounds warranting disqualification. Yabarra, 127 Nev. at 51.

28 The Nevada Supreme Court has stated "rulings and actions of a judge during the course of  
official judicial proceedings do not establish legally cognizable grounds for disqualifications." In re  
Pet. To recall Dunleavy, 104 Nev. 784, 789 (1988). The personal bias necessary to disqualify must  
"stem from an extrajudicial source and result in an opinion on the merits on some basis other than  
what the judge learned from participation in the case." Id. at 790 "To permit an allegation of bias,



1 partially founded upon a justice's performance of his [or her] constitutionally mandated  
2 responsibilities, to disqualify that justice from discharging those duties would nullify the court's  
3 authority and permit manipulation of justice, as well as the court." Id.

4 The Nevada Supreme Court has noted that while the general rule is that what a judge learns  
5 in his or her official capacity does not result in disqualification, "an opinion formed by a judge on  
6 the basis of facts introduced or events occurring in the course of the current proceedings, or of prior  
7 proceedings, constitutes a basis for a bias or partiality motion where the opinion displays 'a deep-  
8 seated favoritism or antagonism that would make fair judgment impossible.'" Cameron v. State, 114  
9 Nev. 1281, 1283 (1998). However, "remarks of a judge made in the context of a court proceeding  
10 are not considered indicative of improper bias or prejudice unless they show that the judge has  
11 closed his or her mind to the presentation of all the Evidence." Id.

12 In Mr. Reed's Affidavit Seeking Disqualification of Judge Kephart Due to Bias or Prejudice,  
13 he stated that Judge Kephart demonstrated bias against Mr. Reed through Judge Kephart's behavior  
14 in the courtroom. Mr. Reed cited Judge Kephart not looking at Mr. Reed's evidence and using  
15 condescending language as further proof of bias. Mr. Reed alleged that Judge Kephart postponed a  
16 motion to suppress hearing to give the State more time to respond. Mr. Reed also states that there  
17 was collusion between Judge Kephart and opposing counsel. Mr. Reed also states that he requested  
18 to be remanded into CCDC (rather than being held in NDOC) and the Court stated that he cannot  
19 remand Defendant to CCDC. Mr. Reed uses this to conclude that Judge Kephart holds some  
20 prejudice against him.

21 Judge Kephart denies any pre-conceived bias and denies any sort of collusion. Judge Kephart  
22 states that Mr. Reed is being held in NDOC on a separate Parole Violation Hearing for a different  
23 case and Judge Kephart cannot order Mr. Reed to be housed at CCDC while he is under the control  
24 of NDOC. Further, Judge Kephart provided several accommodations to Mr. Reed to retain counsel.  
25 Mr. Reed has had the following entities representing his interests: The Clark County Public  
26 Defender's Office, Rochelle T. Ngyuen, Esq. who was appointed by Drew Christensen, The Special  
27 Public Defenders Office, and now himself as Pro Se with Melissa Oliver, Esq. from the Clark  
28 County Special Public Defender's Office as stand by counsel.

1 The Court has reviewed the allegations set forth in Mr. Reed's Affidavit, court minutes,  
2 JAVS recordings, and the information contained within Judge Kephart's Response. Mr. Reed's  
3 argument that Judge Kephart's behavior in the courtroom is evidence of bias is unpersuasive. I  
4 cannot consider blanket, unsupported statements such as general demeanor as evidence of real bias.  
5 Mr. Reed's argument that Judge Kephart did not hear Mr. Reed's Pro Per Motion to Suppress on  
6 January 10, 2018 does not show partiality to the State. Judge Kephart postponed said hearing  
7 because Defendant had an upcoming motion to appoint counsel pending before the Court and the  
8 Court had concerns about Mr. Reed representing himself. Mr. Reed further alleges ex parte hearings  
9 were held because he was not transported for two hearings on April 25, 2018 and July 9, 2018. This  
10 allegation is belied by the record as attorneys for both parties were present at the April 25, 2018  
11 hearing where Ms. Nguyen made representations on behalf of Mr. Reed. On July 9, 2018 hearing,  
12 Mr. Reed was Pro Per and the hearing was continued for his presence. Mr. Reed was present at the  
13 next hearing on August 29, 2018. Mr. Reed further alleges on August 29, 2018 that an ex parte  
14 communication took place in Judge Kephart's Chambers. Upon review of the court minutes and  
15 JAVS, this allegation is belied by the record as Mr. Reed's former attorney and the District Attorney  
16 were both present on this date. Judge Kephart definitively denies any ex parte communication, and  
17 Mr. Reed failed to provide evidence that such communication actually occurred. Judge Kephart  
18 denies any allegation of bias, negating the seemingly unsupported allegation of such bias. Here, the  
19 facts in no way demonstrate the extreme bias or prejudice against Mr. Reed that would be necessary  
20 for disqualification, which is the scope of our current inquiry. Judge Kephart conducted himself in a  
21 patient manner despite Mr. Reed's misconduct and explained the status of his cases to him.

22 I find that the Mr. Reed failed to establish a basis sufficient for the disqualification of Judge  
23 Kephart. Judge Kephart's Affidavit reflects his ability to continue to be fair and impartial to Mr.  
24 Reed in this matter. The facts presented by Mr. Reed do not support a finding that a reasonable  
25 person might reasonably question the judge's impartiality under NCJC 2.11.  
26  
27  
28

1 **III. Conclusion**

2 Mr. Reed has not provided the evidence of bias necessary to recuse Judge Kephart.  
3 Therefore, Mr. Brown's request to remove Judge Kephart is denied.  
4

5 DATED this day of April 5, 2019.

6 


7 MICHAEL P. VILLANI  
8 DISTRICT COURT JUDGE  
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MICHAEL P. VILLANI  
DISTRICT JUDGE  
DEPARTMENT XVII

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the date of filing, a copy of this Order was electronically served through the Eighth Judicial District Court EFP system or, if no e-mail was provided, by facsimile, U.S. Mail and/or placed in the Clerk's Office attorney folder(s) for:

Name	Party
David Levoyd Reed, #1696429 CCDC 330 S. Casino Center Blvd. Las Vegas, NV 89101	Defendant
DA's Office	Counsel for State
The Honorable Judge William Kephart	Judge

  
CHRISTINA GREENE  
JUDICIAL EXECUTIVE ASSISTANT, DEPARTMENT XVII

**AFFIRMATION**

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Decision and Order filed in District Court case number C329762 DOES NOT contain the social security number of any person.

/s/ Michael P. Villani  
District Court Judge

Date: 4/5/2019

MICHAEL P. VILLANI  
DISTRICT JUDGE  
DEPARTMENT XVII



# EXHIBIT 1

minutes NOV. 29, 2017

ORDERED STATES Response Due ON  
OR Before Dec. 13, 2017  
Hearing Jan. 10, 2018

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

November 29, 2017

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C-17-327407-1      State of Nevada  
                                 vs  
                                 David Reed

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November 29, 2017      08:30 AM      All Pending Motions

HEARD BY:      Kephart, William D.      COURTROOM: RJC Courtroom 03E

COURT CLERK: Everett, Tia

RECORDER:      Erickson, Christine

REPORTER:

## PARTIES PRESENT:

Jessica W. Murphy      Attorney for Defendant

Bernard B. Zadrowski      Attorney for Plaintiff

David Reed      Defendant

State of Nevada      Plaintiff

## JOURNAL ENTRIES

DEFENDANT'S WRITTEN PRO PER MOTION TO PRO SE .. CALENDAR CALL

Amended Information FILED IN OPEN COURT.

Mr. Zadrowski advised an Amended Information has been filed this morning in order correct the dates in the information. Ms. Murphy advised she has received the Amended Information; however, based on the Defendant's request to dismiss counsel she believes the Court should canvass Defendant. Colloquy regarding Defendant's complaints about counsel. Court stated based on the Faretta Canvass, Defendant's request to dismiss counsel and represent himself GRANTED. Court noted based on the Defendant's request for the Court to hear the Pro Per Motion to Suppress filed by Defendant; COURT ORDERED, trial date VACATED and RESET; Defendant's Motion to Suppress SET for Hearing; State's Opposition shall be due on or before 12/13/2017 and Defendant's Reply shall be due on or before 12/27/2017. Defendant requested he be remanded to the Clark County Detention Center (CCDC) in order to file the necessary motions to prepare for trial. FURTHER ORDERED, Defendant REMANDED INTO CUSTODY in the Clark County Detention Center (CCDC); although the Court stated he does not have the authority to order the jail where they keep people. Ms. Murphy advised she has a copy of the Preliminary Hearing Transcript for Defendant. Court directed Ms. Murphy to provide the copy to the Correction Officer.

NIC (COC)

1/10/2018 8:30 AM PRE TRIAL CONFERENCE ... DEFENDANT'S PRO PER MOTION TO SUPPRESS

2/07/2018 8:30 AM CALENDAR CALL

2/12/2018 10:00 AM JURY TRIAL

## Exhibit 2: PRIMA FACIE

MOTION TO INSPECT EVIDENCE  
AND, APPOINTMENT OF COUNSEL  
ELECTRONICALLY FILED 16 days AFTER  
State's opposition to motion to suppress  
due.

DISTRICT COURT  
CLARK COUNTY, NEVADA

Please Return Filed *up*  
Electronically Filed  
12/22/2017 10:06 AM  
Steven D. Grierson  
CLERK OF THE COURT  
*Stamb. Grierson*

THE STATE OF NEVADA

Plaintiff,

VS.

DAVID LEVOYD REED

#79594

defendant

CASE NO: C-17-327407-1

Dept. NO: XIX

January 22, 2018 at 8:30 am

DEFENDANTS WRITTEN PRO PER  
MOTION FOR APPOINTMENT OF COUNSEL.

COMES NOW, defendant, DAVID LEVOYD REED, herew above respectfully  
moves this Honorable Court for an Appointment of Counsel

This motion is made and based upon any pleadings  
and papers contained herein, STATEMENT OF FACTS, POINTS AND  
AUTHORITIES, any pleadings and papers attached hereto, and any  
oral Declaration at the time of the hearing for this  
matter, if desired by this Honorable Court.

Dated: this 18 day of DECEMBER. 2017

BY: DAVID LEVOYD REED

# 79594

Defendant In Proper Personam.



DISTRICT COURT  
CLARK COUNTY, NEVADA

FILED  
12/29/2017 11:56 AM  
CLERK OF THE COURT

*David B. [Signature]*

STATE OF NEVADA

Plaintiff,

vs.

DAVID LEVOY REED

Defendant

Case No.: C-17-327407-1

Dept. No.: 19

Docket No.: \_\_\_\_\_

January 22, 2018 at 8:30 am

MOTION OF DEFENDANT TO INSPECT  
ALL EVIDENCE FAVORABLE TO HIM

COMES NOW, the Defendant, DAVID LEVOY REED, by and through himself in Pro Per, Moves the Honorable Court for an order requiring the plaintiff to reveal, produce and, permit material favorable to a defense of this case. [including all books, papers, records, documents and objects, Videos, Body Camera footage, Dash-cam, and all facts or information of whatever source or form in the possession of, or known to, the plaintiff or any of its agents].

Which material and information are or may become of benefit to the defendant, either on the merits of the case or on the question of credibility of witness.

Further, defendant requests the court to enter an order requiring the plaintiff to furnish defendant with a list of witnesses, A list of video footage (Body cam, Dash-cam). A list of all officers involved in the investigation. All documents relating to the investigation of this case or of this defendant which will be

page 1

RECEIVED

DEC 29 2017

CLERK OF THE COURT

RECEIVED

DEC 26 2017

CLERK OF THE COURT

# EXHIBIT 3

HEARING FOR MOTION TO SUPPRESS  
STATE 11E ABOUT WHY THEY HAD NOT  
RESPONDED, COURT AGREES

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**January 10, 2018**

C-17-327407-1      State of Nevada  
                                 vs  
                                 David Reed

**January 10, 2018      8:30 AM      All Pending Motions**

**HEARD BY:** Kephart, William D.

**COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Tia Everett

**RECORDER:** Christine Erickson

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Derjavina, Ekaterina	Attorney
	Reed, David	Defendant
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

**- PRE TRIAL CONFERENCE ... DEFENDANT'S PRO PER MOTION TO SUPPRESS**

Upon Court's inquiry, Ms. Derjavina advised she has not filed an opposition at this time based on Defendant's pending motion to appoint counsel currently set for 1/22/2018 which indicates Defendant's concerns with being able to represent himself and not wanting to represent himself. Court stated based on his review of the Defendant's motions, the Court agrees with the State. Upon Court's inquiry, Defendant stated he would like to retain private counsel; however, he is in Nevada Department of Corrections and is unable to retain counsel. Colloquy regarding Defendant representing himself. COURT ORDERED, Public Defender APPOINTED and all pending motions SET for 1/22/2018.

**CUSTODY (COC-NDC)**

**PRINT DATE:** 10/01/2018

**Page** 10 of 20

**Minutes Date:** October 25, 2017

# Exhibit # 4

Minutes FEB 7, COURT  
SAY HE CANNOT REMAND ME  
TO COUNTY AS A PRE TRIAL  
DETAINEE



#8-B

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****February 07, 2018**

C-17-327407-1      State of Nevada  
                                 vs  
                                 David Reed

**February 07, 2018      8:30 AM      Status Check**

**HEARD BY:** Kephart, William D.**COURTROOM:** RJC Courtroom 03E**COURT CLERK:** Tia Everett**RECORDER:** Christine Erickson**REPORTER:****PARTIES**

<b>PRESENT:</b>	Beverly, Leah C	Attorney
	Brouwers, Shana S.	Attorney
	Navarro, Melissa C.	Attorney
	Reed, David	Defendant
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Court noted the matter continued in order for the Public Defender to confirm as counsel. Ms. Brouwers advised Ms. Murphy was stand by counsel for this matter and Ms. Plunkett was going to substitute in as counsel; however, Ms. Plunkett will not be substituting in as counsel and Defendant's Pro Per Motions need to be set. Court reviewed issues at last date. Ms. Navarro advised she spoke with Mr. Rusley yesterday regarding this case and if Ms. Plunkett is not substituting in as counsel the Public Defender will confirm as counsel and will review Defendant's motions and file the appropriate supplements. Defendant stated he would like additional time to hire Ms. Plunkett. COURT ORDERED, matter CONTINUED for Defendant to retain counsel. Defendant requested to be remanded to CCDC. Court stated he cannot remand Defendant to CCDC. Ms. Navarro advised she will reach out to Ms. Plunkett as a profession courtesy to let her know Defendant wishes to retain her as counsel.

Exhibit #5 FORMER ATTORNEY

ABLE TO LIE ON RECORD AND

COURT VACATED MOTION TO WITHDRAW  
ON HER WORDS ALONE DESPITE ME FILING  
THE MOTION TO WITHDRAW

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 25, 2018**

---

C-18-329762-1      State of Nevada  
                                 vs  
                                 David Reed

---

**April 25, 2018      8:30 AM      Motion to Dismiss**

**HEARD BY:** Kephart, William D.

**COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Tia Everett

**RECORDER:** Christine Erickson

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Nguyen, Rochelle T.	Attorney
	State of Nevada	Plaintiff
	Zadrowski, Bernard B.	Attorney

**JOURNAL ENTRIES**

- Court noted Defendant not present an in custody with the Nevada Department of Corrections (NDC). Court Noted Defendant filed a Motion to Dismiss Current Counsel. Ms. Nguyen advised she spoke with the Defendant after he filed the motion and stated she and Defendant came to an understanding and assumed Defendant would be present today. Court directed counsel to meet with Defendant and he will continue the Motion to the Pre Trial Conference date in order for Defendant to be present. COURT ORDERED, matter CONTINUED.

**CUSTODY (COC-NDC)**

**CONTINUED TO:** 8/29/18 8:30 AM

Exhibit # 6

NOT TAKEN TO COURT

JULY 9, 2018

JULY 23, 2018

JULY 25, 2018

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****July 09, 2018**

C-18-329762-1      State of Nevada  
                                 vs  
                                 David Reed

**July 09, 2018      8:30 AM      All Pending Motions**

**HEARD BY:** Kephart, William D.**COURTROOM:** RJC Courtroom 16B**COURT CLERK:** Tia Everett**RECORDER:** Christine Erickson**REPORTER:****PARTIES**

<b>PRESENT:</b>	Holthus, Mary Kay	Attorney
	Sanft, Michael W.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- DEFENDANT'S PRO PER MOTION AND ORDER FOR TRANSPORTATION OF INMATE FOR COURT APPEARANCE OR, IN THE ALTERNATIVE, FOR APPEARANCE BY TELEPHONE OR VIDEO CONFERENCE ... DEFENDANT'S PRO PER MOTION FOR PRODUCTION OF DOCUMENTS, PAPERS, PLEADINGS AND TANGIBLE PROPERTY OF DEFENDANT ... DEFENDANT'S PRO PER MOTION TO DISMISS COUNSEL AND APPOINTMENT OF NEW COUNSEL

Mr. Sanft advised he is appearing on behalf of Ms. Nguyen who is out of the jurisdiction and Defendant is seeking to dismiss Ms. Nguyen. Ms. Holthus advised Ms. Clowers is handling this case and requested matter be continued for Ms. Nguyen and Ms. Clowers to be present. COURT SO ORDERED.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**July 23, 2018**

C-18-329762-1      State of Nevada  
                                 vs  
                                 David Reed

**July 23, 2018      8:30 AM      All Pending Motions**

**HEARD BY:** Kephart, William D.      **COURTROOM:** RJC Courtroom 16B

**COURT CLERK:** Tia Everett

**RECORDER:** Christine Erickson

**REPORTER:**

**PARTIES**

**PRESENT:**      Derjavina, Ekaterina      Attorney  
                                 State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- DEFENDANT'S PRO PER MOTION AND ORDER FOR TRANSPORTATION OF INMATE FOR COURT APPEARANCE OR, IN THE ALTERNATIVE, FOR APPEARANCE BY TELEPHONE OR VIDEO CONFERENCE ... DEFENDANT'S PRO PER MOTION FOR PRODUCTION OF DOCUMENTS, PAPERS, PLEADINGS AND TANGIBLE PROPERTY OF DEFENDANT... DEFENDANT'S PRO PER MOTION TO DISMISS COUNSEL AND APPOINTMENT OF NEW COUNSEL

COURT ORDERED, matters CONTINUED for Ms. Nguyen to be present.

CONTINUED TO: 7/25/2018 8:30 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**July 25, 2018**

C-18-329762-1      State of Nevada  
                                 vs  
                                 David Reed

**July 25, 2018                      8:30 AM                      All Pending Motions**

**HEARD BY:**   Kephart, William D.

**COURTROOM:**   RJC Courtroom 16B

**COURT CLERK:**   Natalie Ortega  
                                 Kory Schlitz

**RECORDER:**   Christine Erickson

**REPORTER:**

**PARTIES**

**PRESENT:**      Kern, Samuel R.                      Attorney  
                                 State of Nevada                      Plaintiff

**JOURNAL ENTRIES**

- DEFENDANT'S PRO PER MOTION AND ORDER FOR TRANSPORTATION OF INMATE FOR COURT APPEARANCE OR, IN THE ALTERNATIVE FOR APPEARANCE BY TELEPHONE OR VIDEO CONFERENCE... DEFENDANT'S PRO PER MOTION FOR PRODUCTION OF DOCUMENTS, PAPERS, PLEADINGS AND TANGIBLE PROPERTY OF DEFENDANT... DEFENDANT'S PRO PER MOTION TO DISMISS COUNSEL AND APPOINTMENT OF NEW COUNSEL...

Defendant not present and in custody with the Nevada Department of Corrections. COURT ORDERED, matters CONTINUED.

CUSTODY (COC-NDC)

CONTINUED TO: 8/29/18 8:30 A.M.

PRINT DATE:    10/02/2018

Page 21 of 30

Minutes Date:    February 08, 2018

1 AFFIDAVIT OF DAVID L. REED  
2 TO DISQUALIFY JUDICIAL OFFICER  
3 WILLIAM KEFHART

PLEASE RETURN FILED IN OPEN COURT  
STEVEN D. GRIERSON  
CLERK OF THE COURT

MAR 06 2019

4 STATE OF NEVADA

Dated this: 30  
August 2018

BY: Shannon M. Emmons  
SHANNON M. EMMONS, DEPUTY

5 COUNTY OF CLARK

6 Exhibit # 7 David L. Reed T.D.C.

8 I DAVID LEVOYD REED Respectfully write this AFFIDAVIT  
9 IN ACCORDANCE WITH N.R.S. 1.230 AND N.R.S. 1.235  
10 GOVERNED BY THE CONSTITUTION OF THE STATE OF NEVADA

- 11
- 12 1.) AFFIANT IS CURRENTLY WITHOUT COUNSEL AND THEREFORE  
13 CANNOT ACCOMPANY THIS AFFIDAVIT WITH A CERTIFICATE  
14 OF AN ATTORNEY.
- 15 2.) UNDER THE PENALTY OF PERJURY PURSUANT TO N.R.S. 29.010;  
16 53.045 ; 208.165, AFFIANT WRITE THIS AFFIDAVIT IN GOOD  
17 FAITH AND NOT INTERPOSED FOR DELAY OF ANY TRIAL OR HEARING.

18 DECLARATION OF AFFIANT DAVID L. REED

- 19 1.) I WAS BOUNDED OVER FROM JUSTICE COURT OCTOBER 23, 2017  
20 FROM LOWER CASE NUMBER 17FI7958X - CROSS REFERENCE CASE C327407-1.
- 21 2.) ON NOVEMBER 1, 2017 I ALONG WITH COUNSEL JESSICA MURPHY  
22 APPEARED IN FRONT OF JUDGE WILLIAM KEFHART FOR A PRE-TRIAL  
23 CONFERENCE.
- 24 3.) AFTER INVOKING MY RIGHT TO A 60 DAY SPEEDY TRIAL, I APPEARED FOR CALENDAR  
25 CALL ON NOVEMBER 29, 2017; AND FOR PETITION FOR WRIT OF HABEAS CORPUS; MOTION TO SUPPRESS;  
26 AND PRE PER MOTION TO PRO SE.
- 7 4.) DURING A LENGTHY FARRETTA CANVASS, I WAS ASKED BY JUDGE  
28 KEFHART WHY I WANTED TO REPRESENT MYSELF.

All pre-Trial Motions filed and a lack of communication with Appointed Counsel.

At this hearing (11/29-17) I informed the court on more than one occasion of having no legal training.

I informed the court that I was currently being held in the Nevada Department of Corrections without a violation or without my parole being revoked.

I further informed the court that I was currently being housed in Reception (Fish Tank) and my lack of "access to the court", and of my desire to be remanded into the Clark County Detention Center.

Judge William Kephart said, "I am remanded but he does not have the Authority to order the jail where they keep people."

In regards to my "motion to suppress", Judge Kephart initially gave the state four (4) weeks to respond, and gave me (defendant) two (2) weeks to respond to the state's opposition. I objected by reminding the court of my lack of legal training and no legal library. Judge Kephart vacated the trial date and ordered the state's opposition due on or before December 13, 2017, and defendant's reply due on or before December 27, 2017.

#5) On January 10, 2018 at the "motion to suppress" hearing, upon the court's inquiry, Judge Kephart asked, "the state if they had responded to defendant's 'motion to suppress'?"

The state's response by way of Ekaterina Derjagina, advised she "has not filed an opposition at this time based on defendant's pending 'motion to appoint counsel currently

2019

Darrell Reed T.O.C.  
8/30/18

2 concerns with being able to represent himself and not  
3 wanting to represent himself."

4 Judge Kephart said, "Based on his review of  
5 defendant's motions he agree with the state."

6 Instead of actually acknowledging the "Motion TO Suppress"  
7 that the hearing was about, and after the state's reason given for not  
8 responding to Defendant's Motion. Judge Kephart chose to focus on  
9 The "Motion TO inspect All EVIDENCE" even asking why I filed it,  
10 which I replied by saying, "I should have a right to the discovery."  
11 Judge Kephart said he's "not going to have me digging in vaults."  
12 I was not afforded the right to be heard in accordance to  
13 N.R.s 47.160. I was continuously cut off and talked over by Judge  
14 Kephart while trying to respond to the questions that were mainly  
15 about the "motion to inspect" and "Appointment of counsel", when  
16 that hearing was not until Jan. 22, 2018 and the current hearing  
17 was the suppression hearing.

18 Under Oath of the Constitution of the United  
19 States Judicial Officer William Kephart on record knowingly committed  
20 Perjury by agreeing with the State's reason for not responding to  
21 Defendant's Motion TO suppress, for the reason given on line's #4 and #5  
22 of this page, and sworn Declaration. (see exhibit #1)

23 (b.) In fact, on the face of Defendant's written Pro Per Motion For Appointment  
24 of counsel, line #21 clearly show that the Motion was dated the 18<sup>th</sup> day of  
25 December 2017, (see exhibit #2) which is five days after state's opposition was due.  
26 <sup>PRIMA FACIE</sup>

27 Both the "Motion TO inspect All evidence" and "Motion TO Appoint" was stamped  
28 as received, December 26, 2017, and electronically filed December 29, 2017  
which is sixteen (16) days after the state's opposition was due.

30F9

David Reed T.M.C.  
8/30/18



2 Judicial Canon 2 says, A judge shall accord to every person  
3 who has a legal interests in a proceeding or that person's  
4 lawyer, the right to be heard according to law.

5 8.) If Judge Kephart actually read the "Motion To Appoint  
6 Counsel", he would have seen that I provided competent  
7 legal Authority as to why I needed counsel appointed, based  
8 on the points and authorities and even more so in the Declaration

9 I wrote under the penalty of perjury, in which I  
10 asserted my right as a Pre Trial Detainee, "being  
11 that I have not been tried or convicted of any crime since  
12 being released on May 22, 2017. Nor has my parole been revoked.

13 (see exhibit #2 pg 4) (line #20/21) My Declaration goes on to say  
14 that I was unnecessarily Assailed on video in C.C.D.C. Court  
15 holding for exercising my protected conduct by informing  
16 Transportation C/O Nelson that I had been Remanded.

17 Furthermore, Declaring how I was remanded physically on  
18 case # 17FN2024X in the initial case ~~that~~ that led to this  
19 current indictment (C-18-324762-1) and (C-17-321407-1) and not even  
20 given one business day to even talk to a lawyer before  
21 N.D.C. Transported me right back to prison. (see exhibit # 2 pg's)

22 9.) Jan. 22, 2018. Upon Courts inquiry state advised they had  
23 not filed oppositions to All pending motions. (see exhibit # 3)

24 10.) Feb. 7, 2018, I requested to be remanded into C.C.D.C.  
25 The court stated, "He cannot remand me." (see exhibit # 4)

26 10.) On February 28, 2018 I was Grand Jury Indicted by  
27 Judge Kephart, (C-18-324762-1) and arraigned without counsel by Judge  
28 Kephart, despite Judge Kephart re appointing the public

2 I was arraigned on Feb. 28, 2018 by Judge Kephart without  
3 prior notice from the state even though I was just in judge  
4 Kephart's courtroom Feb. 7, 2018, the state filed an indictment  
5 the next day denying me my 6th Amendment right of the  
6 Confrontation Clause and Compulsory Clause.

7 ON March 7, 2018. In open court the state dismissed  
8 case # C-17-327407-1 4 1/2 months after my preliminary hearing  
9 which I was in custody on two separate case #s for the  
10 same charges.

11 ON 3/14/2018 I was arraigned again in case # C-18-329762-1  
12 with appointed counsel Rochelle Ngyuen present who asked that I  
13 be remanded. Judge Kephart again said, "I was remanded  
14 but did not have a motion filed by the clerk.  
15 My interpretation of N.Rs. 174.325 and NRS 174.495 is of the court  
16 having the authority to remand me (see exhibit # 1 exhibit # 4)

17 11.) ON 4/25/18 I was not transported to hearing for appointment  
18 of new counsel, in which an ex-parte hearing was conducted and  
19 my attorney of record was able to lie on record about our communication.

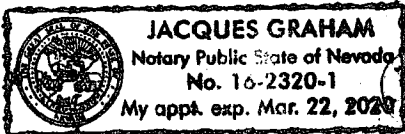
20 ON July 9, 2018 I was not transported to second filed "Motion For  
21 Appointment of counsel" despite filing a "motion for transportation".  
22 I was not transported to court on July 25, 2018.

23 # 12) August 24, 2018 I appeared in front of Judicial Officer  
24 William Kephart, for PRE-TRIAL conference and all pending motions.

25 13) While sitting in the jury box, I saw appointed counsel  
26 Rochelle Ngyuen walk into the courtroom, get A.D.A. Ekaterina  
27 Derjagina and both promptly exit the court room.

State of Nevada  
Clark County

This instrument was executed before me on Sept. 7, 2018 by David Reed.



09 5089

David Reed T.O.C.

8/30/18

Approximately 8 minutes later, A.D.A. Ekaterina Berjulina entered alone. Approximately 20 minutes later appointed counsel came in to speak with me, which she said, "She twice sent my transcripts and discovery I have still yet to receive, almost 6 mos. After her being appointed, and despite filing a motion to receive them. I further, provided proof to her of me being a pretrial detainee being that I am on parole, in hopes of her telling the court. (see exhibit #5)

14.) As soon as my case was called the state asked if they could approach the judges chambers.

The ex-parte meeting lasted about 5 minutes, in which I did hear Rochelle Nguyen mention my parole status and Judge Kephart saying it was expensive.

After the ex parte meeting at the judges chambers, Judge Kephart appeared to be agitated and listed all the motions I filed and made a biased statement actually calling me "delusional" for implying collusion between appointed counsel and the state. Also, saying my motions was not supported by legal authority. Both motions to Dismiss are in fact supported by relevant legal authorities as well as a sworn declaration, that specifically mentions times, dates, and locations in which I am alleging collusion. (~~see exhibit #5~~)

Judge Kephart implied that I was a difficult client, with the lawyers.

I asserted I just wanted a fair trial and in both motions that were granted to dismiss counsel and appoint new counsel. The points and authorities I cited are based on me wanting effective assistance of counsel.

David Reed T.D.C.

1 Citing new rules of professional conduct 1.01, 1.4, 1.3, 1.4  
2 18 U.S.C. § 1621 - ~~42~~ U.S.C. § 1980, CUYLER V. SULLIVAN, 100 S.Ct. 1708 (1980)  
3 EVIHS V. LUCEY, 1055 S.Ct. 530 (1985), CRANDEL V. BARNELL NO. 92-5530  
4 D.C. NO. CV-90-0419 WSR(s) (9th Cir. 1994)

5 Judge Kephart said that I was basically filing  
6 motions to choose my counsel and asked me if  
7 I wanted to represent myself which I emphatically  
8 said no, I just want A fair trial. He also told me  
9 if I kept it up I would end up representing myself.

10 I again tried to explain to Judge Kephart of  
11 just wanting A fair trial and I don't believe I am  
12 receiving A fair process, especially being that I am  
13 being housed in the Nevada Dept. of Corrections,  
14 which is being used to violate my 5th, 6th, 12th  
15 and 14th Amendment rights.

16 I attempted to offer the court proof that I  
17 was being denied my liberty without due process  
18 by being held in PRISON without A trial or  
19 conviction. "Judge Kephart said, "he is not presiding  
20 over that case." Then proceeded to read off 19 felony  
21 charges as if I was being arraigned.

22 It is upon my reasonable belief that I can't  
23 receive A fair trial in Judge Kephart's court, being that  
24 I have not received A fair process thus far and  
25 having provided proof of my 5th and 6th Amendment  
26 rights being circumvented and eviscerated by the  
27 State and Judge Kephart, using and allowing  
28 the Nevada Dept. of Corrections to do so.

7 of 9 David Reed T.D.C. 8/31/18

supported in this affidavit. It is upon my  
reasonable belief and based upon Supreme court  
rulings that Judicial Officer William Kephart  
has shown biased towards me and shown partiality  
to the State by allowing them to <sup>(#1)</sup> evade  
my 6th Amendment right by dismissing Case No  
C 17-327407 after engaging in prosecutorial misconduct  
on 11/29/17 by filing A false Amend. Information,  
by agreeing with the states perjured testimony  
on 1/10/18. <sup>(#2)</sup> by allowing me to be illegally held  
in prison <sup>(#3)</sup> by neglecting to protect my rights and  
the Constitution while under oath. <sup>(#4)</sup> By saying he  
don't have the Authority to remove me.

After Judicial proceedings have been initiated, the  
6th Amendment Attaches and dismissal of An indictment  
does not bring the end of that, if I was again  
indicted on charges stemming from the dismissed indicted.

Since Judicial proceedings have attached I have  
had my 6th Amendment Rights disregarded and denied.

15.) ON August 29, 2018 I handed an Affidavit to Attorney  
Sams, which he took and tried to give to the clerk in  
Judge Kephart's court, she refused to accept it.

I again tried to hand the affidavit to other Attorneys  
and bailiffs who all refused to leave it at the Judges Chambers  
in accordance with NRS 1.235#4

16.) For the Reasons supported in this  
Affidavit. I respectfully move the court by way of  
Judicial officer William Kephart to Excercise



1 This Supervisory powers and #1 dismiss case  
2 No. C-18-329762-1 for a continued violation of my  
3 Constitutional and Statutory rights including 5<sup>th</sup>  
4 and 6<sup>th</sup> Amend. #2 Dismiss case No. C-18-329762-1  
5 to preserve Judicial Integrity, and to deter future  
6 illegal misconduct. OR #3 Respond in accordance  
7 with N.R.s. 1.235 #5 (a)(b).

8 I AM currently being held in prison  
9 under duress without my consent, therefore I  
10 don't have the freedom of movement to deliver this  
11 Affidavit myself. Further, I attempted to no avail to comply  
12 with N.R.s 1.235 #1 and #4 I AM mailing an original  
13 copy of this affidavit to the Clerk of the Court  
14 to STEVEN D. GIBSON.

15 Furthermore, if Judicial Officer William Refforts  
16 Court is a "NISI PRISI COURT" I object to case  
17 # C-18-329762-1 being a legal indictment.  
18

19 All of which is contrary to the form, force and  
20 effect of Statutes in such cases made and  
21 provided and against the peace and dignity of the  
22 State of Nevada, I DAVID LEVOLD REED make this  
23 Declaration subject to the penalty of perjury.  
24

25 Dated this : 30<sup>th</sup> day of August 2018  
26  
27  
28

# EXHIBIT 1

Minutes Nov. 29, 2017

Minutes Jan. 10, 2018

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

## COURT MINUTES

November 29, 2017

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C-17-327407-1      State of Nevada  
                                 vs  
                                 David Reed

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November 29, 2017      08:30 AM      All Pending Motions

HEARD BY:      Kephart, William D.      COURTROOM: RJC Courtroom 03E

COURT CLERK: Everett, Tia

RECORDER:      Erickson, Christine

REPORTER:

## PARTIES PRESENT:

Jessica W. Murphy	Attorney for Defendant
Bernard B. Zadrowski	Attorney for Plaintiff
David Reed	Defendant
State of Nevada	Plaintiff

## JOURNAL ENTRIES

DEFENDANT'S WRITTEN PRO PER MOTION TO PRO SE .. CALENDAR CALL

Amended Information FILED IN OPEN COURT.

Mr. Zadrowski advised an Amended Information has been filed this morning in order correct the dates in the information. Ms. Murphy advised she has received the Amended Information; however, based on the Defendant's request to dismiss counsel she believes the Court should canvass Defendant. Colloquy regarding Defendant's complaints about counsel. Court stated based on the Faretta Canvass, Defendant's request to dismiss counsel and represent himself GRANTED. Court noted based on the Defendant's request for the Court to hear the Pro Per Motion to Suppress filed by Defendant; COURT ORDERED, trial date VACATED and RESET; Defendant's Motion to Suppress SET for Hearing; State's Opposition shall be due on or before 12/13/2017 and Defendant's Reply shall be due on or before 12/27/2017. Defendant requested he be remanded to the Clark County Detention Center (CCDC) in order to file the necessary motions to prepare for trial. FURTHER ORDERED, Defendant REMANDED INTO CUSTODY in the Clark County Detention Center (CCDC); although the Court stated he does not have the authority to order the jail where they keep people. Ms. Murphy advised she has a copy of the Preliminary Hearing Transcript for Defendant. Court directed Ms. Murphy to provide the copy to the Correction Officer.

NIC (COC)

1/10/2018 8:30 AM PRE TRIAL CONFERENCE ... DEFENDANT'S PRO PER MOTION TO SUPPRESS

2/07/2018 8:30 AM CALENDAR CALL

2/12/2018 10:00 AM JURY TRIAL

Felony/Gross Misdemeanor

COURT MINUTES

January 10, 2018

C-17-327407-1      State of Nevada  
                                 vs  
                                 David Reed

January 10, 2018      08:30 AM      All Pending Motions

HEARD BY:      Kephart, William D.      COURTROOM: RJC Courtroom 03E

COURT CLERK: Everett, Tia

RECORDER:      Erickson, Christine

REPORTER:

PARTIES PRESENT:

David Reed	Defendant
Ekaterina Derjavina	Attorney for Plaintiff
State of Nevada	Plaintiff

## JOURNAL ENTRIES

PRE TRIAL CONFERENCE ... DEFENDANT'S PRO PER MOTION TO SUPPRESS

Upon Court's inquiry, Ms. Derjavina advised she has not filed an opposition at this time based on Defendant's pending motion to appoint counsel currently set for 1/22/2018 which indicates Defendant's concerns with being able to represent himself and not wanting to represent himself. Court stated based on his review of the Defendant's motions, the Court agrees with the State. Upon Court's inquiry, Defendant stated he would like to retain private counsel; however, he is in Nevada Department of Corrections and is unable to retain counsel. Colloquy regarding Defendant representing himself. COURT ORDERED, Public Defender APPOINTED and all pending motions SET for 1/22/2018.

CUSTODY (COC-NDC)

This motion she's talking about was filed  
on 12/29/17 — 16 days after her  
opposition was due.

The motion wasn't received until Dec. 26, 2017.

~~CONFIDENTIAL~~  
partiality by Judge

# EXHIBIT 2

Defendants PRO PER

MOTION FOR APPOINTMENT  
OF COUNSEL

MOTION TO INSPECT



DISTRICT COURT  
CLARK COUNTY, NEVADA

Please RETURN Filed 12/22/2017 10:56 AM  
Electronically Filed  
STAMPED COPY  
Steven D. Grierson  
CLERK OF THE COURT  
*Steven D. Grierson*

THE STATE OF NEVADA

Plaintiff,

VS.

DAVID LEVOYD REED

#79594

defendant

CASE NO: C-17-327407-1

Dept. NO: XIX

January 22, 2018 at 8:30 am

DEFENDANTS WRITTEN PRO PER  
MOTION FOR APPOINTMENT OF COUNSEL.

COMES NOW, defendant, DAVID LEVOYD REED, herew above respectfully  
moves this Honorable Court for an Appointment of Counsel

This Motion is made and based upon any pleadings  
and papers contained herein, STATEMENT OF FACTS, POINTS AND  
AUTHORITIES, any pleadings and papers attached hereto, and any  
oral Declaration at the time of the hearing for this  
matter, if desired by this Honorable Court.

Dated: this 18 day of DECEMBER. 2017

BY: DAVID LEVOYD REED  
#79594

Defendant In Proper Personam.

ADDITIONAL FACTS OF THE CASE:

POINTS AND AUTHORITIES

RULE 1.1 COMPETENCE. A lawyer shall provide competent representation to a client. COMPETENT representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

"NEVADA RULES OF PROFESSIONAL CONDUCT" (NRPC)

RULE 1.3 DILIGENCE. A lawyer shall act with reasonable diligence and promptness in representing a client. "NRPC"

A defendant has an unqualified right to legal assistance, and assistance that expresses loyalty to the defendant.

The right to counsel is the right to effective assistance of counsel. Cuyler v. Sullivan 100 S.Ct. 1708 (1980) Frazier v. U.S. 18 F.3d 778 (9th Cir. 1994) the Constitution's guarantee of assistance of counsel cannot be satisfied by mere formal appointment.

Avery v. Alabama 306 U.S. 441, 446 (1940). Thus, the adversarial process protected by the Sixth Amendment requires that the accused have counsel acting in the role of an advocate.

Anders v. California 386 U.S. 738, 743 (1967) A Party whose counsel is unable to provide effective or adequate assistance is no better than one who has no counsel at all and any appeal would be a futile ~~gesture~~ gesture. EVIHS v. Lucey 105 S.Ct. 830 (1985) Douglas v. California 83 S.Ct. 814 (1963) Appointed counsel for the defendant did absolutely nothing for the defendant which alone is a viable claim to ineffective assistance. Defendant was adamant in wanting to invoke his 60 day speedy trial rights. Appointed defense

1 Counsel Jessica Murphy did absolutely nothing to prepare, including  
2 simply asking the defendant if he had an alibi. Defendant sent  
3 the appointed defense counsel a letter with a list of objectives in  
4 which to pursue the charges, defense counsel did not respond to the  
5 letter, make any calls or visits, or send an investigator to ask  
6 for the defendant. Violating Rule 1.1, Rule 1.2, Rule 1.3, and  
7 Rule 1.4 of the Nevada Rules of Professional Conduct.

8 Candel v. Bunnell NO. 92-5530 D.C. NO: CV-90-6419 WSR(S),  
9 (9th Cir. 1994) Defendant contends that although counsel had  
10 been appointed, the actions of counsel, or lack thereof, have  
11 created unfair prejudice and obstacles which do not comport with  
12 the fair procedures owed to the defendant.

13 THE PLURARITY OPINION IN EVITTs and Douglas's infra, made  
14 it very clear that; there is lacking that equality demanded by  
15 the Fourteenth Amendment, where the "rich man enjoys the benefit  
16 of counsel's examination into the record, research of the law and  
17 marshalling of the arguments on his behalf," while the indigent,  
18 burdened by a preliminary determination that his case is without  
19 merit is forced to shift for himself. 105 S.Ct. at 842, 83 S.Ct.  
20 at 816-17 Griffin v. Illinois 76 S.Ct. 585, 592-94 (1956)

21 Fundamental fairness requires the Abolition of prejudice  
22 which defendant is presently suffering. This is an actuality the  
23 law must address. Anything short of Abolition would further  
24 manifest injustice. The effective assistance of counsel is an  
25 individual's most fundamental right, for without it every other  
26 right he has to assert becomes affected.

27 ///

## DECLARATION OF PETITIONER

ON 11-29-17 I was granted a motion to dismiss Jessica Murphy as my defense Counsel, based on the POINTS AND AUTHORITIES, ORAL ARGUMENTS, and MERITS of the petition. 2. ON 11-29-17, I informed Judge that I was currently housed in the N.D.O.C.'s intake unit with absolutely no "access to the courts", including access to the law library, and legal calls. Informing the judge that I had to chew on a pencil in order to write because not even a pencil sharpener was available, having to split a 30 minute call with my cell-mate every other day, at times Attorneys are usually in court. I informed the court that I had no access to research any case law or prepare any legal documents. The Court is aware that I currently have 5 separate cases that I am fighting. I informed the court that I wanted to invoke my 60 day speedy trial, and the court made me choose to throw out my writ of HABEAS CORPUS. I informed the court that I had absolutely no legal training, having never attended law school. I informed the court that my mail (legal) was reaching the courts late, my legal mail has reached me 8 days late, 5 days late, my personal mail has not reached me at all. I informed the court that I should be remanded into the custody of C.C.D.C. and treated as a pre-trial detainee because I was not convicted of any new crimes, and because my parole had not been revoked.

1 CON'D DECLARATION

2 ON 11-29-17 IN District Court 19, I informed the court that  
3 due to A.B. SLO and in light of Montgomery v. Louisiana, 136  
4 S.Ct 718 (2016) and Welch v. United States, 136 S.Ct. 1257 (2016), I should  
5 not be in N.D.O.C. Custody. I asked the court to remand me  
6 and the judge remanded me, but left it up to the jail.  
7 I've been remanded by 4 different courts. The last court  
8 was North Las Vegas Justice Court 1. This judge made it an  
9 order, based on my oral arguments along with my public  
10 defenders of not being able to simply communicate with  
11 any of my public defenders, and not being able to seek  
12 a paid attorney to represent me, due to the conditions I've  
13 endured being in the custody of the N.D.O.C. I've wrote  
14 grievances, Kites, to no Avail. I've attempted to exhaust  
15 every legal remedy given to me, in order to have a  
16 fair trial. ON December 6, 2017 I was assaulted on  
17 camera in front of two other C/Os and 10 other N.DOC  
18 inmates by C/O Nelson, simply for informing him that I  
19 had been remanded to C.C.D.C. ON December 7, 2017 I  
20 was remanded into C.C.D.C. I was sent to general  
21 population December 8, 2017 we remained on locked  
22 down. the duration of Dec. 8<sup>th</sup>, Dec. 9<sup>th</sup>, and came out  
23 the morning and afternoon Sunday Dec 10<sup>th</sup>. December 11, 2017  
24 I was sent back to N.D.O.C. Not even having a chance  
25 to seek counsel, talk to the counsel already appointed to  
26 me. IN CONCLUSION.  
27 RULE 1.1 Competence. A lawyer shall provide competent representation  
28 to a client. Competent representation requires the legal knowledge

1 .. Continued

2 Skill, thoroughness and preparation reasonably necessary  
3 for the representation. "NEVADA RULES OF PROFESSIONAL CONDUCT"

4 ON 11-29-17, I informed the court that I lacked any  
5 legal skill, having not attended law school. It would  
6 violate rule 1-1 of the (NRPC) and astronomically further  
7 prejudice me, in allowing me to represent myself and  
8 not appoint new counsel that is qualified to represent  
9 me without prejudice.

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1 AFFIDAVIT OF: DAVID LEVON REED

2 STATE OF NEVADA )  
3 COUNTY OF CLARK ) ss:

4 TO WHOM IT MAY CONCERN:

5 I, David Levon Reed the undersigned, do hereby swear that  
6 all statements, facts and events within my foregoing Affidavit are  
7 true and correct of my own knowledge, information and belief, and  
8 as to those, I believe them to be True and Correct. Signed under the  
9 penalty of perjury, pursuant to, NRS. 29.010; 53.045; 208.165, and state  
10 the following:

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FURTHER YOUR AFFIANT SAYETH NAUGHT.

EXECUTED At: Indian Springs, Nevada, this 18 Day Of December

2017.

BY: DAVID LEVON REED  
# 79594  
Post Office Box 200 (sub) H-59  
Indian Springs, Nevada. 89070.  
Affiant, In Propria Personam:

Exhibit #3

Minutes JAN. 22, 2018

Felony/Gross Misdemeanor

COURT MINUTES

January 22, 2018

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C-17-327407-1      State of Nevada  
                                 vs  
                                 David Reed

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January 22, 2018      08:30 AM      All Pending Motions

HEARD BY:      Kephart, William D.      COURTROOM: RJC Courtroom 03E

COURT CLERK: Everett, Tia

RECORDER:      Erickson, Christine

REPORTER:

PARTIES PRESENT:

Alexis Anne Plunkett	Attorney for Defendant
David Reed	Defendant
Eric W Rusley	Attorney for Defendant
Shanon Clowers	Attorney for Plaintiff
State of Nevada	Plaintiff

**JOURNAL ENTRIES**

DEFENDANT'S PRO PER MOTION TO SUPPRESS ... DEFENDANT'S PRO PER MOTION OF DEFENDANT TO INSPECT ALL EVIDENCE FAVORABLE TO HIM ... DEFENDANT'S WRITTEN PRO PER MOTION FOR APPOINTMENT OF COUNSEL ... DEFENDANT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS

Ms. Plunkett advised she has only had contact with Defendant over the last few days as well as the Public Defender regarding the case and requested the matter be continued to 2/07/2018 in order to determine if Defendant's able to retain her as counsel. Upon Court's inquiry, Ms. Clowers advised the State has not filed oppositions to the motions. Mr. Rusley requested the trial date be vacated and the calendar call date be set as a status check to determine if Ms. Plunkett will confirm or the Public Defender will confirm; although neither side will be prepared for the current trial date. Upon Court's inquiry, Defendant agreed to vacate the trial date and set a status check date. COURT ORDERED, trial date VACATED and matter SET for Status Check.

CUSTODY (COC-NDC)

2/07/2018 8:30 AM STATUS CHECK: CONFIRMATION OF COUNSEL (ALEXIS PLUNKETT) (PD) / RESET MOTIONS

Exhibit # 4

minutes Feb. 7, 2008

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

## COURT MINUTES

February 07, 2018

C-17-327407-1      State of Nevada  
vs  
David Reed

February 07, 2018      08:30 AM      Status Check: Confirmation of Counsel / Trial Setting

HEARD BY:      Kephart, William D.      COURTROOM: RJC Courtroom 03E

COURT CLERK: Everett, Tia

RECORDER:      Erickson, Christine

REPORTER:

## PARTIES PRESENT:

David Reed	Defendant
Leah C Beverly	Attorney for Plaintiff
Melissa C. Navarro	Attorney for Defendant
Shana S. Brouwers	Attorney for Defendant
State of Nevada	Plaintiff

## JOURNAL ENTRIES

Court noted the matter continued in order for the Public Defender to confirm as counsel. Ms. Brouwers advised Ms. Murphy was stand by counsel for this matter and Ms. Plunkett was going to substitute in as counsel; however, Ms. Plunkett will not be substituting in as counsel and Defendant's Pro Per Motions need to be set. Court reviewed issues at last date. Ms. Navarro advised she spoke with Mr. Rusley yesterday regarding this case and if Ms. Plunkett is not substituting in as counsel the Public Defender will confirm as counsel and will review Defendant's motions and file the appropriate supplements. Defendant stated he would like additional time to hire Ms. Plunkett. COURT ORDERED, matter CONTINUED for Defendant to retain counsel. Defendant requested to be remanded to CCDC. Court stated he cannot remand Defendant to CCDC. Ms. Navarro advised she will reach out to Ms. Plunkett as a profession courtesy to let her know Defendant wishes to retain her as counsel.

CUSTODY (COC-NDC)

CONTINUED TO: 3/07/2018 8:30 AM

3/14/18 said on record He can't  
Remand me.

Exhibit #5

PAROLE

PRETRIAL DETAINER

Revocation Dismissed Charges



BOARD OF PAROLE COMMISSIONERS  
CERTIFICATION OF ACTION  
PAROLE VIOLATION HEARING

REED, DAVID L	79594	079594	HDSP-U4-C-33-A	04/03/2018
INMATE NAME	NDOC NUMBER	BOOKING#	LOCATION	DATE

Affected Sentences (Controlling sentence denoted by \*)

\*196993;1;USE OF DEADLY WEAPON ENHANCEMENT

Warrant # 41618

Warrant Date 10/23/2017

Arrest Date: 09/26/2017

Was the PI Hearing conducted or waived?

Waived

Was the notice of rights executed? Yes

Counsel Type: Retained (Public Defender)

Represented By:

Cichoski

Absconder

No

Stop Date:

Restart Date:

## CHARGES, PLEAS and FINDINGS

Charges	Parolee Plea	Board Finding	Other Action
Laws	Guilty / Not Guilty	Guilty / Not Guilty	
Directives	Guilty / Not Guilty	Guilty / Not Guilty	
Conduct	Guilty / Not Guilty	Guilty / Not Guilty	
Weapons	Guilty / Not Guilty	Guilty / Not Guilty	
Financial Obligations	Guilty / Not Guilty	Guilty / Not Guilty	

## ACTION (indicate one):

<input type="checkbox"/>	Parole is revoked to: _____	<b>WARRANT IS SUSTAINED.</b> Parolee is returned to prison for reasons set forth in the retake warrant of which this order is part. Pursuant to NRS 213.1519, all good time credits (stat credits) earned prior to the date of revocation are hereby forfeited. The Board has restored _____ credits.
<input type="checkbox"/>	Continue on Parole: ___ Immediately ___ Upon Plan Approval ___ At Date	<b>WARRANT IS QUASHED.</b> Parole is continued with the same conditions unless specified as follows: _____
<input type="checkbox"/>	Parole Credit Forfeiture:	The Board orders the forfeiture of _____ credits earned while on parole for having been found guilty of a violation of parole.
<input checked="" type="checkbox"/>	No Action Taken	Hearing rescheduled to October 16, 2018, pending new criminal charges.

## Evidence Relied Upon:

## Guilty Plea (where applicable)

Report of P&amp;P: Violation Report dated 09/27/2017

Dismissed

Police Report: North Las Vegas Police Report 9/26/2017 (15 pages)

Dismissed

Police Report: LVMPD Arrest Report 9/16/2017 (2 pages)

Dismissed

Police Report: City of Las Vegas Inmate Search 9/26/2017 (3 pages)

Dismissed

Police Report: CCDC Inmate IN-Custody Status 10/02/2017

Other:

Name of P&amp;P Division Representative: Officer Billich

Name of Parole Board Panel Members Present: Keeler, Gray

Reason for Revocation (where applicable): The Board heard substantial evidence which was presented to prove that you violated the above conditions of your parole by:

The votes of the members who ratified the final action are on file with the Executive Secretary of the Board.

FOR THE NEVADA BOARD OF PAROLE COMMISSIONERS

# EXHIBIT #8

Minutes April 24, 2019  
VIOLATION DUE PROCESS  
DCR<sup>#</sup>15

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 24, 2019**

C-18-329762-1      State of Nevada  
                                 vs  
                                 David Reed

**April 24, 2019      8:30 AM      All Pending Motions**

**HEARD BY:** Kephart, William D.      **COURTROOM:** RJC Courtroom 16B

**COURT CLERK:** Tia Everett

**RECORDER:** Christine Erickson

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Derjavina, Ekaterina	Attorney
	Oliver, Melissa	Attorney
	Reed, David	Defendant
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- ACCUSED WRITTEN PRO PER MOTION TO DISMISS INDICTMENT ... STATUS CHECK: FILE

Court noted for the record, Presiding Criminal Judge Villani, found no grounds to disqualify this Court. Further, Court noted there are issues in the motion which should be brought by way of writ; however, based on the procedural history of this case the Court believes an Evidentiary Hearing with Ms. Nguyen regarding the

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 08, 2019**

C-18-329762-1

State of Nevada  
vs  
David Reed

**April 08, 2019**

**8:30 AM**

**Pre Trial Conference**

**HEARD BY:** Kephart, William D.

**COURTROOM:** RJC Courtroom 16B

**COURT CLERK:** Shannon Emmons

**RECORDER:** Christine Erickson

**REPORTER:**

**PARTIES  
PRESENT:**

Derjavina, Ekaterina  
Reed, David  
State of Nevada

Attorney  
Defendant  
Plaintiff

**JOURNAL ENTRIES**

Exhibit #9  
I WAS NOT there

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 08, 2019**

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C-18-329762-1      State of Nevada  
                                 vs  
                                 David Reed

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**April 08, 2019      8:30 AM      All Pending Motions**

**HEARD BY:** Kephart, William D.

**COURTROOM:** RJC Courtroom 16B

**COURT CLERK:** Shannon Emmons

**RECORDER:** Christine Erickson

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Derjavina, Ekaterina	Attorney
	Reed, David	Defendant
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- DEFENDANT'S PRO PER MOTION TO INSPECT ALL EVIDENCE FAVORABLE TO HIM ... PRE TRIAL CONFERENCE

Discussion regarding Motion; Briefing schedule set. COURT ORDERED, matter CONTINUED. COURT FURTHER ORDERED, trial date VACATED and matter set for Status Check. Ms. Derjavina advised she has provided discovery to the special public defender.

**CUSTODY**

04/24/2019 8:30 AM STATUS CHECK: FILE ... DEFENDANT'S PRO PER MOTION TO DISMISS INDICTMENT .. ACCUSED WRITTEN PRO PER MOTION TO DISMISS INDICTMENT