

NOA
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Attorney for Defendant
Henry Aparicio

Electronically Filed
Nov 21 2019 11:16 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

The State of Nevada)	Case No. C-18-332496-1
Plaintiff,)	
)	Dept. No. IX
vs.)	
)	NOTICE OF APPEAL
Henry Aparicio,)	
Defendant.)	
)	

NOTICE IS HEREBY GIVEN that Defendant/Appellant, HENRY APARICIO, hereby appeals to the Supreme Court of Nevada from the Judgment of Conviction in the above-referenced case entered on or about October 29, 2019.

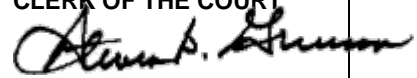
DATED this 15 day of November, 2019.

/s/ Damian Sheets
Damian Sheets, Esq.
726 S. Casino Center Blvd.
Las Vegas, Nevada 89101
Telephone: (702) 598-1299
Attorney for Defendant

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Clark County District Attorney's Office
200 Lewis Ave., 3rd Floor
Las Vegas, NV 89155
motions@clarkcountyda.com
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Henry Aparicio

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,)	Case No. C-18-332496-1
)	
Plaintiff/Respondent,)	Dept. No. IX
)	
vs.)	
)	
HENRY APARICIO,)	
)	
Defendant/Appellant.)	
)	

CASE APPEAL STATEMENT

1. Name of Appellant filing this case appeal statement: Henry Aparicio
2. Identify the judge issuing the decision, judgment or order appealed from: Judge Douglas Smith, Eighth Judicial District Court, Department 8; Judge Cristina Silva, Eighth Judicial District Court, Department 9.
3. Identify each appellant and the name and address of counsel for each appellant:
Appellant: Henry Aparicio
Appellant's Counsel: Damian Sheets
Mayfield Gruber & Sheets
726 S. Casino Center Blvd., Suite 211
Las Vegas, NV 89101
(702) 598-1299
4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent:

Respondent: State of Nevada

Respondent's Counsel: Steve Wolfson
Clark County District Attorney's Office
200 Lewis Ave.,
Las Vegas, NV 89101
(702) 671-2500

5. Indicate whether any attorney identified above is not licensed to practice law in Nevada: None
6. Indicate whether appellant was represented by appointed or retained counsel in the District Court: Retained counsel.
7. Indicate whether appellant is represented by appointed or retained counsel on appeal: Retained counsel.
8. Indicate whether appellant was granted leave to proceed in forma pauperis: No.
9. Indicate the date the proceedings commenced in the District Court:
Information: June 5, 2018
Guilty Plea Agreement: August 1, 2019
Sentencing: October 18, 2019
Judgment of Conviction: October 29, 2019
10. Provide a brief description of the nature of the action and the result in district court:

Appellant pled guilty to Driving Under the Influence Resulting in Death (2 counts) and Reckless Driving (1 count). He was sentenced pursuant to the plea agreement to the following: Count 1, 7-20 years; Count 2, 7-20 years consecutive to Count 1; Count 3, 12-48 months, consecutive to Count 2. Aggregate total: 15-44 years.
11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court: No.
12. Indicate whether this appeal involves child custody or visitation: No.

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13. If this is a civil case, indicate whether this appeal involves the possibility of settlement: N/A

Dated this 15 day of November, 2019

/s/ Damian Sheets
Damian Sheets, Esq.
726 S. Casino Center Blvd.
Las Vegas, Nevada 89101
Telephone: (702) 598-1299

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY**CASE NO. C-18-332496-1**

State of Nevada
vs
Henry Aparicio

§ Location: **Department 9**
 § Judicial Officer: **Silva, Cristina D.**
 § Filed on: **06/04/2018**
 § Case Number History:
 § Cross-Reference Case Number: **C332496**
 § Defendant's Scope ID #: **6069038**
 § ITAG Booking Number: **1800025574**
 § ITAG Case ID: **1985557**
 § Lower Court Case # Root: **18F09022**
 § Lower Court Case Number: **18F09022X**
 § Metro Event Number: **1805154422**

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
Jurisdiction: District Court					
1. DRIVING UNDER THE INFLUENCE RESULTING IN DEATH PCN: 0025753256 ACN: 1805154422 Arrest: 05/16/2018 MET - Metro	484C.430	F	05/15/2018	Case Status:	10/29/2019 Closed
2. DRIVING UNDER THE INFLUENCE RESULTING IN DEATH	484C.430	F	05/15/2018		
3. RECKLESS DRIVING	484B.653.6	F	05/15/2018		
4. RECKLESS DRIVING	484B.653.6	F	05/15/2018		
5. RECKLESS DRIVING	484B.653.6	F	05/15/2018		
6. DRIVING UNDER THE INFLUENCE RESULTING IN SUBSTANTIAL BODILY HARM	484C.430	F	05/15/2018		

Statistical Closures

10/29/2019 Guilty Plea with Sentence (before trial) (CR)


DATE**CASE ASSIGNMENT****Current Case Assignment**


Case Number C-18-332496-1
 Court Department 9
 Date Assigned 04/29/2019
 Judicial Officer Silva, Cristina D.

PARTY INFORMATION

		Lead Attorneys
Defendant	Aparicio, Henry	Sheets, Damian R. <i>Retained</i> 702-598-1299(W)
Plaintiff	State of Nevada	Wolfson, Steven B 702-671-2700(W)

DATE**EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

06/04/2018  Criminal Bindover Packet Las Vegas Justice Court

06/04/2018  Criminal Bindover - Confidential

CASE SUMMARY

CASE NO. C-18-332496-1

06/05/2018	 Information Party: Plaintiff State of Nevada <i>Information</i>
06/05/2018	 Notice of Witnesses and/or Expert Witnesses Filed By: Plaintiff State of Nevada <i>State's Notice of Expert Witnesses</i>
06/14/2018	Media Request and Order <i>For Camera Access to Court Proceedings - Signed</i>
06/18/2018	 Media Request and Order <i>Media Request And Order Allowing Camera Access To Court Proceedings</i>
06/27/2018	 Supplemental Witness List Filed by: Plaintiff State of Nevada <i>State's Supplemental Notice of Witnesses and/or Expert Witnesses</i>
07/05/2018	 Motion Filed By: Defendant Aparicio, Henry <i>Motion in Limine to Exclude Evidence of Retrograde Extrapolation</i>
07/09/2018	 Transcript of Proceedings Party: Defendant Aparicio, Henry <i>Reporter's Transcripts of Preliminary Hearing June 4, 2018</i>
07/11/2018	 Response Filed by: Plaintiff State of Nevada <i>State's Response to Defendant's Motion to Exclude Evidence of Retrograde Extrapolation</i>
07/20/2018	 Petition for Writ of Habeas Corpus Filed by: Defendant Aparicio, Henry <i>Defendant's Petition for Writ of Habeas Corpus (Pre-Trial)</i>
07/20/2018	 Appendix Filed By: Defendant Aparicio, Henry <i>Appendix to Defendant's Petition for Writ of Habeas Corpus (Pre-Trial)</i>
07/20/2018	 Reply Filed by: Defendant Aparicio, Henry <i>Defendant's Reply in Support of Motion in Limine to Exclude Evidence of Retrograde Extrapolation</i>
07/24/2018	 Return to Writ of Habeas Corpus <i>State's Return to Defendant's Petition for Writ of Habeas Corpus</i>
08/13/2018	 Media Request and Order <i>Meida Request And Order Allowing Camera Access To Court Proceedings</i>
10/09/2018	 Recorders Transcript of Hearing <i>RECORDER'S TRANSCRIPT OF PROCEEDINGS: DEFENDANT'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF RETROGRADE EXTRAPOLATION. HEARD ON JULY 16, 2018</i>
10/22/2018	 Recorders Transcript of Hearing

CASE SUMMARY

CASE NO. C-18-332496-1

RECORDER'S TRANSCRIPT OF PROCEEDINGS: DEFENDANT'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF RETROGRADE EXTRAPOLATION. HEARD ON JULY 23, 2018

10/22/2018	 Recorders Transcript of Hearing <i>RECORDER'S TRANSCRIPT OF PROCEEDINGS: PETITION FOR WRIT OF HABEAS CORPUS; CALENDAR CALL. HEARD ON AUGUST 8, 2018</i>
10/22/2018	 Recorders Transcript of Hearing <i>RECORDER'S TRANSCRIPT OF PROCEEDINGS: STATUS CHECK: TRIAL SETTING. HEARD ON JUNE 13, 2018</i>
12/21/2018	 Supplemental Witness List <i>State's Second Supplemental Notice Of Witnesses And/Or Expert Witnesses</i>
01/11/2019	 Motion to Continue Trial Filed By: Defendant Aparicio, Henry <i>Motion to Continue Trial</i>
02/06/2019	 Motion to Disqualify Judge Filed By: Defendant Aparicio, Henry <i>Motion for Disqualification and Affidavit in Support</i>
02/21/2019	 Affidavit <i>Affidavit of Douglas Smith in Response to Request to Disqualify Judge</i>
02/26/2019	 Opposition <i>State's Opposition To Defendant's Motion To Disqualify Judge Smith</i>
02/27/2019	 Motion to Strike Filed By: Defendant Aparicio, Henry <i>Request to Strike Affidavit in Response to Disqualification and Request to Strike State's Opposition to Motion for Disqualification</i>
02/27/2019	 Objection Filed By: Defendant Aparicio, Henry <i>Objection to Reassignment on Motion for Disqualification</i>
04/05/2019	 Decision and Order <i>Decision and Order</i>
04/05/2019	 Motion to Reconsider Filed By: Defendant Aparicio, Henry <i>Motion to Reconsider Decision and Order Filed April 5, 2019</i>
04/06/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
04/29/2019	Case Reassigned to Department 9 <i>Judicial Reassignment to Department 9 - Judge Cristina Silva</i>
05/02/2019	 Decision and Order <i>Decision and Order</i>
07/17/2019	 Supplemental Witness List

CASE SUMMARY
CASE NO. C-18-332496-1

State's Third Supplemental Notice Of Witnesses And/Or Expert Witnesses

07/24/2019	 Motion to Rehear <i>MOTION TO REHEAR MOTION IN LIMINE AND REQUEST FOR INVESTIGATIVE FEES</i>
07/24/2019	 Motion to Continue Trial <i>Motion to Continue Trial</i>
07/25/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
07/25/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
07/26/2019	 Opposition to Motion <i>State's Opposition To The Defendant's Motion To Continue Trial</i>
08/01/2019	 Guilty Plea Agreement
08/01/2019	 Amended Information <i>Amended Information</i>
09/13/2019	 PSI
09/13/2019	 PSI - Victim Impact Statements
10/17/2019	 Objection Filed By: Defendant Aparicio, Henry <i>Defendant's Objection to Victim Impact Speakers</i>
10/23/2019	 Media Request and Order <i>Media Request And Order Allowing Camera Access To Court Proceedings... KSNV</i>
10/23/2019	 Media Request and Order <i>Media Request And Order Allowing Camera Access To Court Proceedings... KLAS</i>
10/23/2019	 Media Request and Order <i>Media Request And Order Allowing Camera Access To Court Proceedings... KVVU</i>
10/29/2019	 Judgment of Conviction <i>Judgment of Conviction (Plea of Guilty)</i>
11/15/2019	 Notice of Appeal (criminal) Party: Defendant Aparicio, Henry <i>Notice of Appeal</i>
11/15/2019	 Case Appeal Statement Filed By: Defendant Aparicio, Henry <i>Case Appeal Statement</i>

DISPOSITIONS

08/02/2019 **Disposition** (Judicial Officer: Silva, Cristina D.)

CASE SUMMARY
CASE NO. C-18-332496-1

4. RECKLESS DRIVING

Amended Information Filed/Charges Not Addressed
PCN: Sequence:

5. RECKLESS DRIVING

Amended Information Filed/Charges Not Addressed
PCN: Sequence:

6. DRIVING UNDER THE INFLUENCE RESULTING IN SUBSTANTIAL BODILY HARM

Amended Information Filed/Charges Not Addressed
PCN: Sequence:

HEARINGS

06/06/2018



Initial Arraignment (10:00 AM) (Judicial Officer: De La Garza, Melisa)

Plea Entered;

Journal Entry Details:

Deputized Law Clerk, Stephanie Getler appearing for the State. DEFT. APARICIO ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. Court stated that due to the assigned Department's trial stack invoked date being 2 weeks away and being that Mr. Sheets does not want to waive any time to receive a later date, ORDERED, matter set for Status Check: trial setting. COURT ORDERED, pursuant to Statute, Counsel has 21 days from today for the filing of any Writs; if the Preliminary Hearing Transcript has not been filed as of today, Counsel has 21 days from the filing of the Transcript. FURTHER ORDERED, Deft's request for discovery and State's request for reciprocal discovery is GRANTED pursuant to Statute and State law. CUSTODY 6/13/18 8:00 AM STATUS CHECK: TRIAL SETTING (DEPT. 8) ;

06/13/2018



Status Check (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Status Check: Trial Setting

Matter Heard; Trial Setting

Journal Entry Details:

Charles Martinovsky, Chf Dep DA, present on behalf of the State and Daniel Lippmann, Esq., present on behalf of Deft. Aparicio, who is also present. This is the time set for Status Check on a Trial Setting. Colloquy regarding Deft.'s bail setting; bail is set at \$500,000. For the record, the Deft. pled NOT GUILTY back on June 6, 2018, down in Arraignment Court; however a trial date was not set because the Deft. did not want to WAIVE the required amount of days to accommodate this Court's calendar. The Deft. still does not want to WAIVE; however, Mr. Lippmann advised that if WAIVING by ten (10) days is what is needed, he will WAIVE. COURT ORDERED, matter set for trial. Mr. Martinovsky advised he will be providing some discovery items to the Defense in the near future. COURT ORDERED, all Giglio and Brady material and Statutory shall be provided. CUSTODY 08/08/18 8:00 CALENDAR CALL 08/13/18 9:30 AM JURY TRIAL ;

07/16/2018



Motion in Limine (8:00 AM) (Judicial Officer: Smith, Douglas E.)

07/16/2018, 07/23/2018

Deft.'s Motion in Limine to Exclude Evidence of Retrograde Extrapolation

Matter Continued; Deft.'s Motion in Limine to Exclude Evidence of Retrograde Extrapolation

Denied; Deft.'s Motion in Limine to Exclude Evidence of Retrograde Extrapolation

Journal Entry Details:

Charles Martinovsky, Chf Dep DA, present on behalf of the State and Damian Sheets, Esq., present on behalf of Deft. Aparicio, who is also present. This is the time set for hearing on Deft.'s Motion in Limine to Exclude Evidence of Retrograde Extrapolation. Upon Court's inquiry, Mr. Sheets advised that he would submit on his Motion; he believes retrograde extrapolation is not appropriate in this case. The State's expert in this case relied on the Deft.'s body weight and gender plus his two (2) BAC test results and did not take into consideration the many other factors listed in State v. District Court (Armstrong). Mr. Martinovsky submitted the matter. Court noted that retrograde extrapolation is admissible in this case pursuant to State v. District Court (Armstrong). The State has evidence that confirms what the Deft. drank between 5:37 p.m. and 8:52 p.m., he was at Dave and Buster's restaurant. After leaving Dave and Buster's, the Deft. went to Casa Del Matador, where he worked. The Deft. had more to

CASE SUMMARY**CASE NO. C-18-332496-1**

drink and he also ordered Goat Cheese Jalapeno. At 8:52 p.m., the bartender helped the Deft. out of the bar and then later returned to talk to him as he was getting into his car because he was too intoxicated. At 9:08 p.m. the Deft. crashed into the back of the victims' car, which was stopped at a red light on Sahara and Hualapai. The Deft.'s BAC was extremely high. The State, however, knew exactly how much the Deft. drank and ate between the hours of 5:37 p.m. and 8:52 p.m. and obtained two (2) blood draws one (1) hour apart. State v. District Court (Armstrong) holds that retrograde extrapolation can also be based on standard metabolic rate and is extremely appropriate in this particular case. Therefore, **COURT ORDERED**, the Deft.'s Motion is **DENIED**. The State shall prepare Findings of Fact and Conclusions of Law consistent with their Opposition and this Court's decision. Mr. Sheets advised that he file a Petition for Writ of Habeas Corpus and, therefore, the Deft. will be **WAIVING** his speedy trial right; the trial date currently set for August 13, 2018, will need to be continued. The Writ is set for hearing on August 6, 2018; colloquy. **COURT ORDERED**, the hearing date on the Writ will **STAND**; Court directed Mr. Martinovsky to file the State's Return so Mr. Sheets can file his Reply, if necessary. A new trial date will be set after argument on the Writ. **CUSTODY** ; Matter Continued; Deft.'s Motion in Limine to Exclude Evidence of Retrograde Extrapolation Denied; Deft.'s Motion in Limine to Exclude Evidence of Retrograde Extrapolation

Journal Entry Details:

Kelsey Einhorn, Dep DA, present on behalf of the State and Damian Sheets, Esq., present on behalf of Deft. Aparicio, who is also present. This is the time set for hearing on Deft.'s Motion in Limine to Exclude Evidence of Retrograde Extrapolation. Upon Court's inquiry, Mr. Sheets advised that he did not receive the State's Response until late last week; he would like more time to review it. **COURT ORDERED**, Motion **CONTINUED**. **CUSTODY CONTINUED TO: 07/23/18 8:00 AM** ;

08/06/2018

**Petition for Writ of Habeas Corpus (8:00 AM)** (Judicial Officer: Smith, Douglas E.)**08/06/2018, 08/08/2018**

Def't.'s Petition for Writ of Habeas Corpus (Pre-Trial)

Matter Continued;

Denied;

Matter Continued;

Denied;

Journal Entry Details:

Charles Martinovsky, Chf Dep DA, present on behalf of the State and Damian Sheets, Esq., present on behalf of Deft. Aparicio, who is also present. This is the time set for hearing on the Deft.'s Petition for Writ of Habeas Corpus. Court called case; this Court's Marshal attempted telephonic contact with Mr. Sheets but was not successful; therefore, **COURT ORDERED**, matter **CONTINUED**. This Court's staff will notify Mr. Sheets of the continued court date. **CUSTODY CONTINUED TO: 08/08/18 8:00 AM CLERK'S NOTE: Court Clerk telephonically contacted Damian Sheets, Esq., and informed him of the continued court date.;**

08/08/2018

Calendar Call (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Matter Heard;

08/08/2018

**All Pending Motions (8:00 AM)** (Judicial Officer: Smith, Douglas E.)

Calendar Call . . . Def't.'s Petition for Writ of Habeas Corpus (Pre-Trial)

Matter Heard;

Journal Entry Details:




CALENDAR CALL . . . DEFT.'S PETITION FOR WRIT OF HABEAS CORPUS (PRE-TRIAL)

Charles Martinovsky, Chf Dep DA, present on behalf of the State and Damian Sheets, Esq., present on behalf of Deft. Aparicio, who is also present. This is the time set for the Calendar Call and hearing on Deft.'s Petition for Writ of Habeas Corpus. Def't.'s Petition for Writ of Habeas Corpus (Pre-Trial): Mr. Sheets advised that his Writ is comprised of two issues; the first is the introduction of non-extrapolated blood alcohol results that were taken outside of two hours; he discussed the Armstrong case. Second, there was a lack of evidence presented at the Preliminary Hearing that the Deft. was in actual physical control of the vehicle; not a single witness says they saw or knew who was operating the motor vehicle. Argument by Mr. Martinovsky; as to the Armstrong issue, Mr. Martinovsky discussed Sheriff v. Burcham. With regard to the identification as the Deft. being the driver of the vehicle, an Officer testified that the Deft. asked if he had killed two (2) people; a girl was slumped down in the passenger seat, her purse was tucked underneath the seat with all of her identification; a detective testified that no one was in the back seat because of the distribution of the glass; the Deft. had injuries on his face consistent with having been in a collision; there was blood on the steering wheel; and the Deft. was expressing concern for the passenger. A witness, Brandon McCauley, testified

CASE SUMMARY

CASE NO. C-18-332496-1

that there was a crowd of people who apprehended the Deft. The Court noted that probable cause to support a criminal charge at Preliminary Hearing may be based on slight, even marginal evidence. Therefore, based on the pleadings and arguments of counsel, it is clear to the Court that there was slight, even marginal evidence presented. It is also clear that the testing of the blood would satisfy Armstrong. COURT ORDERED, the Deft's Petition for Writ of Habeas Corpus is DENIED. State to prepare Findings of Fact and Conclusions of Law consistent with their Opposition. Calendar Call: Mr. Sheets advised that the Deft. is WAIVING his speedy trial right at this time; Deft. CONCURRED. COURT ORDERED, trial date VACATED and RESET in ordinary course. CUSTODY 01/23/19 8:00 AM CALENDAR CALL 01/28/19 9:30 AM JURY TRIAL ;

08/13/2018	CANCELED Jury Trial (9:30 AM) (Judicial Officer: Bonaventure, Joseph T.) <i>Vacated - per Judge</i>
01/23/2019	Calendar Call (8:00 AM) (Judicial Officer: Smith, Douglas E.) Matter Heard;
01/23/2019	Motion to Continue Trial (8:00 AM) (Judicial Officer: Smith, Douglas E.) <i>Deft.'s Motion to Continue Trial</i> Granted;
01/23/2019	 All Pending Motions (8:00 AM) (Judicial Officer: Smith, Douglas E.) <i>Deft.'s Motion to Continue Trial . . . Calendar Call</i> Matter Heard; Journal Entry Details: <i>DEFT.'S MOTION TO CONTINUE TRIAL . . . CALENDAR CALL Charles Martinovsky, Chf Dep DA, present on behalf of the State and Damian Sheets, Esq., present on behalf of Deft. Aparicio, who is also present. This is the time set for the Calendar Call; however, the Deft. as filed a Motion to Continue Trial. Mr. Sheets advised that he is trying to obtain an expert witness but due to the Deft.'s financial situation, he is have difficulty finding someone to fit within their fee structure; colloquy. COURT ORDERED, the Deft.'s Motion to Continue Trial is GRANTED; trial date VACATED and RESET. This will be a FIRM setting. CUSTODY 07/31/19 8:00 AM CALENDAR CALL 08/05/19 9:30 AM JURY TRIAL - FIRM ;</i>
01/28/2019	CANCELED Jury Trial (9:30 AM) (Judicial Officer: Smith, Douglas E.) <i>Vacated - per Judge</i>
03/19/2019	 Motion (9:00 AM) (Judicial Officer: Bell, Linda Marie) <i>Motion to Recuse</i> Denied; Journal Entry Details: <i>Defendant not present. Argument by Counsel. COURT ORDERED, matter UNDER ADVISEMENT. CUSTODY;</i>
04/15/2019	 Motion For Reconsideration (8:00 AM) (Judicial Officer: Bell, Linda Marie) 04/15/2019, 04/23/2019 <i>Defendant's Motion to Reconsider Decision and Order Filed April 5, 2019</i> Matter Continued; Defendant's Motion to Reconsider Decision and Order Filed April 5, 2019 Denied; Journal Entry Details: <i>Upon Court's inquiry, Mr. Sheets is Defendant's counsel of record. Argument by Mr. Sheets. COURT ORDERED, motion DENIED. CUSTODY;</i> Matter Continued; Defendant's Motion to Reconsider Decision and Order Filed April 5, 2019 Denied; Journal Entry Details: <i>Dena Rinetti, Chf Dep DA, present on behalf of the State and Damian Sheets, Esq., present on behalf of Deft. Aparicio, who is also present. This is the time set for hearing on Deft.'s Motion to Reconsider Decision and Order Filed April 5, 2019. Court noted that Judge Bell filed a Decision and Order on April 5, 2019, to the Deft.'s Motion to Disqualify Judge Smith, which was DENIED. Later that same day, Mr. Sheets filed a Motion to Reconsider Decision and Order filed April 5, 2019; this Court will not entertain the substance of said motion at this time. Mr. Sheets advised that this matter is assigned to Charles Martinovsky, Chf Dep DA, but</i>

CASE SUMMARY

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he is out of the jurisdiction so he is present to make representations; he believes this Motion should be heard by Judge Bell. Court noted that since Judge Bell issued the original Order on Mr. Sheet's challenge to Disqualify Judge Smith, this Motion should be transferred to her for consideration. Therefore, COURT ORDERED, the Motion is TRANSFERRED to Department VII for further proceedings. CUSTODY CONTINUED TO: 04/23/19 9:00 AM (DEPARTMENT VII);

07/31/2019



Calendar Call (8:30 AM) (Judicial Officer: Silva, Cristina D.)

Matter Heard;

Journal Entry Details:

Arguments by Mr. Sheets regarding the case history with Judge Smith. State announced ready and advised this trial will last ten (10) days with at least thirty (30) witnesses. Mr. Sheets argued he will be ineffective if the trial moves forward as scheduled as he has another trial at the same time. Colloquy regarding subpoena returns. CONFERENCE AT BENCH. COURT ORDERED, matter SET for status check. CUSTODY 08/01/2019 9:00 AM STATUS CHECK: TRIAL READINESS;

08/01/2019



Status Check (9:30 AM) (Judicial Officer: Silva, Cristina D.)

STATUS CHECK: TRIAL READINESS

Plea Entered;

Journal Entry Details:

Amended Information FILED IN OPEN COURT. NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED IN OPEN COURT. Mr. Martinovsky stated State will retain the right to argue as to Counts 1 and 2, but no opposition to concurrent time between Count 3 - reckless driving and the two counts of driving under the influence. DEFT. APARICIO SWORN, ARRAIGNED AND PLED GUILTY TO COUNT 1 - DRIVING UNDER THE INFLUENCE RESULTING IN DEATH (F); COUNT 2 - DRIVING UNDER THE INFLUENCE RESULTING IN DEATH (F); COUNT 3 - RECKLESS DRIVING (F). Court ACCEPTED plea, and, ORDERED, matter referred to the Division of Parole and Probation (P & P) and SET for sentencing. COURT FURTHER ORDERED, the trial date and pending motions were VACATED. CUSTODY 10/18/19 9:30 AM SENTENCING;

08/05/2019

CANCELED Motion (8:30 AM) (Judicial Officer: Silva, Cristina D.)

Vacated

Defendant's Motion to Rehear Motion in Limine and Request for Investigative Fees

08/05/2019

CANCELED Motion to Continue Trial (8:30 AM) (Judicial Officer: Silva, Cristina D.)

Vacated

Defendant's Motion to Continue Trial

08/05/2019

CANCELED Jury Trial - FIRM (9:30 AM) (Judicial Officer: Smith, Douglas E.)

Vacated

10/18/2019



Sentencing (9:30 AM) (Judicial Officer: Silva, Cristina D.)

Defendant Sentenced;

Journal Entry Details:

Upon Court's inquiry, counsel confirmed they were prepared for sentencing. Mr. Sheets indicated he reviewed the Pre-Sentencing Investigation (PSI) Report and there was a small correction that was not a Stock Meier issue. Mr. Sheets informed the Court that Defendant was employed for 12 months prior to the incident rather than 8 months prior. Court took notice of the correction to the employment time noted in the PSI. Court advised the Court received a request from defense to reject certain Victim Impact Statements. Court ORDERED the rejection OVERRULED and advised the Court read all of the letters and statements provided. Counsel advised there were no other changes to the PSI. The State provided the Court with pictures marked as exhibits. Argument by the State for a maximum sentence. Mr. Sheets provided the Court with a letter from Defendant's family. Argument by Mr. Sheet in support of Defendant. Statement by Defendant. Victim Impact Statements given and pictures and video provided and marked as Court Exhibits (see worksheets). Statement by the Court regarding how the sentence was determined and all of the considerations made. DEFENDANT APARICIO ADJUDGED GUILTY of COUNT 1 - DRIVING UNDER THE INFLUENCE RESULTING IN DEATH (F) COUNT 2 - COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, a \$150.00 DNA Analysis fee including testing to determine

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-18-332496-1

genetic markers, a \$3.00 DNA Collection fee, and \$47,520.53 Restitution, Defendant SENTENCED in COUNT 1 - to a MINIMUM of SEVEN (7) YEARS and a MAXIMUM of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 2 - to a MINIMUM of SEVEN (7) YEARS and a MAXIMUM of TWENTY (20) YEARS in the NDC; COUNT 1 to run CONSECUTIVE with COUNT 2; COUNT 3 - to a MINIMUM of TWELVE (12) MONTHS and a MAXIMUM of FORTY (48) MONTHS in NDC; COUNT 3 to run CONSECUTIVE to COUNT 2; for an AGGREGATE TOTAL of a MINIMUM of FIFTEEN (15) YEARS and a MAXIMUM of FORTY (44) YEARS in NDC with FIVE HUNDRED TWENTY-ONE (521) DAYS credit for time served. COURT FURTHER ORDERED, pursuant to NRS 484C.340 and NRS 484C.460, prior to reinstatement of the Defendant's driving privileges, an interlock device shall be installed and inspected on his vehicle at the Defendant's expense for a period of 12 months, said period to commence after any period of imprisonment, residential confinement, confinement in a treatment facility, or on parole or probation. Statement by the Court. Upon Mr. Sheets inquiry, Court advised the objections made by Mr. Sheets with regard to the victim impact statements and exhibits were placed on the record. BOND, if any, EXONERATED. NDC CLERK'S NOTE: Subsequent to the hearing parties informed the Court of Defendant's amount of credit for time served which was entered in the Order as stated in the above minutes.//lk;

DATE

FINANCIAL INFORMATION

Defendant Aparicio, Henry

Total Charges

11.50

Total Payments and Credits

11.50

Balance Due as of 11/18/2019

0.00

Steven D. Grierson

JOCP

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-VS-

HENRY APARICIO aka
Henry Biderman Aparicio
#6069038

Defendant.

CASE NO. C-18-332496-1

DEPT. NO. IX

JUDGMENT OF CONVICTION

(PLEA OF GUILTY)

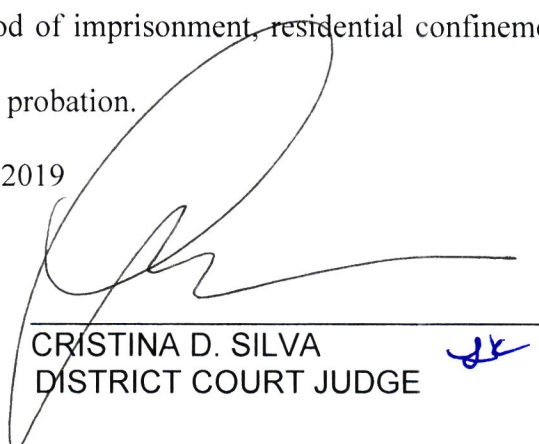
The Defendant previously appeared before the Court with counsel and entered a plea of guilty to the crimes of COUNTS 1 and 2 – DRIVING UNDER THE INFLUENCE RESULTING IN DEATH (Category B Felony) in violation of NRS 484C.110, 484C.430, 484C.105; and COUNT 3 – RECKLESS DRIVING (Category B Felony) in violation of NRS 484B.653; thereafter, on the 18th day of October, 2019, the Defendant was present in court for sentencing with counsel DAMIAN R. SHEETS, ESQ., and good cause appearing,

<input type="checkbox"/> Nolle Prosequi (before trial)	<input type="checkbox"/> Bench (Non-Jury) Trial
<input type="checkbox"/> Dismissed (after diversion)	<input type="checkbox"/> Dismissed (during trial)
<input type="checkbox"/> Dismissed (before trial)	<input type="checkbox"/> Acquittal
<input checked="" type="checkbox"/> Guilty Plea with Sent. (before trial)	<input type="checkbox"/> Guilty Plea with Sent. (during trial)
<input type="checkbox"/> Transferred (before/during trial)	<input type="checkbox"/> Conviction
<input type="checkbox"/> Other Manner of Disposition	

1 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in addition to
2 the \$25.00 Administrative Assessment Fee, \$47,520.53 Restitution and \$150.00 DNA Analysis
3 Fee including testing to determine genetic markers plus \$3.00 DNA Collection Fee, the
4 Defendant is sentenced to the Nevada Department of Corrections (NDC) as follows: COUNT 1
5 – a MAXIMUM of TWENTY (20) YEARS with a MINIMUM parole eligibility of SEVEN (7)
6 YEARS; COUNT 2 – a MAXIMUM of TWENTY (20) YEARS with a MINIMUM parole
7 eligibility of SEVEN (7) YEARS, CONSECUTIVE to COUNT 1; and COUNT 3 – a
8 MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM parole eligibility of
9 TWELVE (12) MONTHS, CONSECUTIVE to COUNT 2; with FIVE HUNDRED TWENTY-
10 ONE (521) DAYS credit for time served. The AGGREGATE TOTAL sentence is FORTY-
11 FOUR (44) YEARS MAXIMUM with a MINIMUM PAROLE ELIGIBILITY OF FIFTEEN
12 (15) YEARS.

13 COURT FURTHER ORDERED, pursuant to NRS 484C.340, 484C.460, prior to any
14 reinstatement of driving privileges the defendant shall have an interlock device installed and
15 inspected on his vehicle at his expense for a period of not less than 12 months nor more than 36
16 months, said period to commence after any period of imprisonment, residential confinement,
17 confinement in a treatment facility or on parole or probation.

18 DATED this 28th day of October, 2019

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25 CRISTINA D. SILVA
DISTRICT COURT JUDGE 

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 06, 2018**

C-18-332496-1 State of Nevada
vs
Henry Aparicio

June 06, 2018 10:00 AM Initial Arraignment

HEARD BY: De La Garza, Melisa**COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Kristen Brown
Shannon Emmons
Dara Yorke
Danielle Black

RECORDER: Kiara Schmidt**REPORTER:****PARTIES**

PRESENT:	Aparicio, Henry	Defendant
	Martinovsky, Charles	Attorney
	Sheets, Damian R.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deputized Law Clerk, Stephanie Getler appearing for the State.

DEFT. APARICIO ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. Court stated that due to the assigned Department's trial stack invoked date being 2 weeks away and being that Mr. Sheets does not want to waive any time to receive a later date, ORDERED, matter set for Status Chcek: trial setting. COURT ORDERED, pursuant to Statute, Counsel has 21 days from today for the filing of any Writs; if the Preliminary Hearing Transcript has not been filed as of today, Counsel has 21 days from the filing of the Transcript. FURTHER ORDERED, Deft's request for discovery and State's request for reciprocal discovery is GRANTED pursuant to Statute and State law.

CUSTODY

6/13/18 8:00 AM STATUS CHECK: TRIAL SETTING (DEPT. 8)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 13, 2018**

C-18-332496-1 State of Nevada
vs
Henry Aparicio

June 13, 2018**8:00 AM****Status Check****Trial Setting****HEARD BY:** Smith, Douglas E.**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Carol Donahoo**RECORDER:** Gina Villani**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Charles Martinovsky, Chf Dep DA, present on behalf of the State and Daniel Lippmann, Esq., present on behalf of Deft. Aparicio, who is also present.

This is the time set for Status Check on a Trial Setting. Colloquy regarding Deft.'s bail setting; bail is set at \$500,000.

For the record, the Deft. pled NOT GUILTY back on June 6, 2018, down in Arraignment Court; however a trial date was not set because the Deft. did not want to WAIVE the required amount of days to accommodate this Court's calendar. The Deft. still does not want to WAIVE; however, Mr. Lippmann advised that if WAIVING by ten (10) days is what is needed, he will WAIVE. COURT ORDERED, matter set for trial.

Mr. Martinovsky advised he will be providing some discovery items to the Defense in the near future. COURT ORDERED, all Giglio and Brady material and Statutory shall be provided.

CUSTODY

08/08/18 8:00 CALENDAR CALL

PRINT DATE: 11/18/2019

Page 3 of 20

Minutes Date: June 06, 2018

08/13/18 9:30 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 16, 2018

C-18-332496-1 State of Nevada
 vs
 Henry Aparicio

July 16, 2018	8:00 AM	Motion in Limine	Deft.'s Motion in Limine to Exclude Evidence of Retrograde Extrapolation
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HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Kelsey Einhorn, Dep DA, present on behalf of the State and Damian Sheets, Esq., present on behalf of Deft. Aparicio, who is also present.

This is the time set for hearing on Deft.'s Motion in Limine to Exclude Evidence of Retrograde Extrapolation. Upon Court's inquiry, Mr. Sheets advised that he did not receive the State's Response until late last week; he would like more time to review it. COURT ORDERED, Motion CONTINUED.

CUSTODY

CONTINUED TO: 07/23/18 8:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 23, 2018**

C-18-332496-1

State of Nevada

vs

Henry Aparicio

July 23, 2018**8:00 AM****Motion in Limine**

**Deft.'s Motion in
Limine to Exclude
Evidence of
Retrograde
Extrapolation**

HEARD BY: Smith, Douglas E.**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Carol Donahoo**RECORDER:** Trisha Garcia**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Charles Martinovsky, Chf Dep DA, present on behalf of the State and Damian Sheets, Esq., present on behalf of Deft. Aparicio, who is also present.

This is the time set for hearing on Deft.'s Motion in Limine to Exclude Evidence of Retrograde Extrapolation. Upon Court's inquiry, Mr. Sheets advised that he would submit on his Motion; he believes retrograde extrapolation is not appropriate in this case. The State's expert in this case relied on the Deft.'s body weight and gender plus his two (2) BAC test results and did not take into consideration the many other factors listed in State v. District Court (Armstrong). Mr. Martinovsky submitted the matter.

Court noted that retrograde extrapolation is admissible in this case pursuant to State v. District Court (Armstrong). The State has evidence that confirms what the Deft. drank between 5:37 p.m. and 8:52 p.m., he was at Dave and Buster's restaurant. After leaving Dave and Buster's, the Deft. went to Casa Del Matador, where he worked. The Deft. had more to drink and he also ordered Goat Cheese

Jalapeno. At 8:52 p.m., the bartender helped the Deft. out of the bar and then later returned to talk to him as he was getting into his car because he was too intoxicated. At 9:08 p.m. the Deft. crashed into the back of the victims' car, which was stopped at a red light on Sahara and Hualapai. The Deft.'s BAC was extremely high. The State, however, knew exactly how much the Deft. drank and ate between the hours of 5:37 p.m. and 8:52 p.m. and obtained two (2) blood draws one (1) hour apart. State v. District Court (Armstrong) holds that retrograde extrapolation can also be based on standard metabolic rate and is extremely appropriate in this particular case. Therefore, COURT ORDERED, the Deft.'s Motion is DENIED. The State shall prepare Findings of Fact and Conclusions of Law consistent with their Opposition and this Court's decision.

Mr. Sheets advised that he file a Petition for Writ of Habeas Corpus and, therefore, the Deft. will be WAIVING his speedy trial right; the trial date currently set for August 13, 2018, will need to be continued. The Writ is set for hearing on August 6, 2018; colloquy. COURT ORDERED, the hearing date on the Writ will STAND; Court directed Mr. Martinovsky to file the State's Return so Mr. Sheets can file his Reply, if necessary. A new trial date will be set after argument on the Writ.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 06, 2018

C-18-332496-1 State of Nevada
vs
Henry Aparicio

**August 06, 2018 8:00 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Charles Martinovsky, Chf Dep DA, present on behalf of the State and Damian Sheets, Esq., present on behalf of Deft. Aparicio, who is also present.

This is the time set for hearing on the Deft.'s Petition for Writ of Habeas Corpus. Court called case; this Court's Marshal attempted telephonic contact with Mr. Sheets but was not successful; therefore, COURT ORDERED, matter CONTINUED. This Court's staff will notify Mr. Sheets of the continued court date.

CUSTODY

CONTINUED TO: 08/08/18 8:00 AM

CLERK'S NOTE: Court Clerk telephonically contacted Damian Sheets, Esq., and informed him of the continued court date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 08, 2018

C-18-332496-1 State of Nevada
 vs
 Henry Aparicio

August 08, 2018 8:00 AM All Pending Motions

HEARD BY: Smith, Douglas E. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- CALENDAR CALL . . . DEFT.'S PETITION FOR WRIT OF HABEAS CORPUS (PRE-TRIAL)

Charles Martinovsky, Chf Dep DA, present on behalf of the State and Damian Sheets, Esq., present on behalf of Deft. Aparicio, who is also present.

This is the time set for the Calendar Call and hearing on Deft.'s Petition for Writ of Habeas Corpus.

Deft.'s Petition for Writ of Habeas Corpus (Pre-Trial): Mr. Sheets advised that his Writ is comprised of two issues; the first is the introduction of non-extrapolated blood alcohol results that were taken outside of two hours; he discussed the Armstrong case. Second, there was a lack of evidence presented at the Preliminary Hearing that the Deft. was in actual physical control of the vehicle; not a single witness says they saw or knew who was operating the motor vehicle.

Argument by Mr. Martinovsky; as to the Armstrong issue, Mr. Martinovsky discussed Sheriff v. Burcham. With regard to the identification as the Deft. being the driver of the vehicle, an Officer testified that the Deft. asked if he had killed two (2) people; a girl was slumped down in the passenger seat, her purse was tucked underneath the seat with all of her identification; a detective testified that no one was in the back seat because of the distribution of the glass; the Deft. had injuries

on his face consistent with having been in a collision; there was blood on the steering wheel; and the Deft. was expressing concern for the passenger. A witness, Brandon McCauley, testified that there was a crowd of people who apprehended the Deft.

The Court noted that probable cause to support a criminal charge at Preliminary Hearing may be based on slight, even marginal evidence. Therefore, based on the pleadings and augments of counsel, it is clear to the Court that there was slight, even marginal evidence presented. It is also clear that the testing of the blood would satisfy Armstrong. COURT ORDERED, the Deft's Petition for Writ of Habeas Corpus is DENIED. State to prepare Findings of Fact and Conclusions of Law consistent with their Opposition.

Calendar Call: Mr. Sheets advised that the Deft. is WAIVING his speedy trial right at this time; Deft. CONCURRED. COURT ORDERED, trial date VACATED and RESET in ordinary course.

CUSTODY

01/23/19 8:00 AM CALENDAR CALL

01/28/19 9:30 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 23, 2019

C-18-332496-1 State of Nevada
 vs
 Henry Aparicio

January 23, 2019 8:00 AM All Pending Motions

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- DEFT.'S MOTION TO CONTINUE TRIAL . . . CALENDAR CALL

Charles Martinovsky, Chf Dep DA, present on behalf of the State and Damian Sheets, Esq., present on behalf of Deft. Aparicio, who is also present.

This is the time set for the Calendar Call; however, the Deft. as filed a Motion to Continue Trial. Mr. Sheets advised that he is trying to obtain an expert witness but due to the Deft.'s financial situation, he is have difficulty finding someone to fit within their fee structure; colloquy. COURT ORDERED, the Deft.'s Motion to Continue Trial is GRANTED; trial date VACATED and RESET. This will be a FIRM setting.

CUSTODY

07/31/19 8:00 AM CALENDAR CALL

08/05/19 9:30 AM JURY TRIAL - FIRM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 19, 2019

C-18-332496-1 State of Nevada
 vs
 Henry Aparicio

March 19, 2019 9:00 AM Motion

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 17A

COURT CLERK:
 Kimberly Estala

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Martinovsky, Charles Attorney
 Sheets, Damian R. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Defendant not present.

Argument by Counsel. COURT ORDERED, matter UNDER ADVISEMENT.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 15, 2019**

C-18-332496-1 State of Nevada
vs
Henry Aparicio

April 15, 2019**8:00 AM****Motion For
Reconsideration**

**Defendant's Motion
to Reconsider
Decision and Order
Filed April 5, 2019**

HEARD BY: Barker, David**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Carol Donahoo**RECORDER:** Rubina Fedaa**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Dena Rinetti, Chf Dep DA, present on behalf of the State and Damian Sheets, Esq., present on behalf of Deft. Aparicio, who is also present.

This is the time set for hearing on Deft.'s Motion to Reconsider Decision and Order Filed April 5, 2019. Court noted that Judge Bell filed a Decision and Order on April 5, 2019, to the Deft.'s Motion to Disqualify Judge Smith, which was DENIED. Later that same day, Mr. Sheets filed a Motion to Reconsider Decision and Order filed April 5, 2019; this Court will not entertain the substance of said motion at this time.

Mr. Sheets advised that this matter is assigned to Charles Martinovsky, Chf Dep DA, but he is out of the jurisdiction so he is present to make representations; he believes this Motion should be heard by Judge Bell. Court noted that since Judge Bell issued the original Order on Mr. Sheet's challenge to Disqualify Judge Smith, this Motion should be transferred to her for consideration. Therefore, COURT ORDERED, the Motion is TRANSFERRED to Department VII for further proceedings.

CUSTODY

CONTINUED TO: 04/23/19 9:00 AM (DEPARTMENT VII)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 23, 2019

C-18-332496-1 State of Nevada
vs
Henry Aparicio

**April 23, 2019 9:00 AM Motion For
Reconsideration**

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 17A

COURT CLERK:
Kimberly Estala

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT:	Aparicio, Henry	Defendant
	Martinovsky, Charles	Attorney
	Sheets, Damian R.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Upon Court's inquiry, Mr. Sheets is Defendant's counsel of record. Argument by Mr. Sheets.
COURT ORDERED, motion DENIED.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 31, 2019

C-18-332496-1 State of Nevada
vs
Henry Aparicio

July 31, 2019 8:30 AM Calendar Call

HEARD BY: Silva, Cristina D.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Shannon Emmons

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:	Aparicio, Henry	Defendant
	Martinovsky, Charles	Attorney
	Sheets, Damian R.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Arguments by Mr. Sheets regarding the case history with Judge Smith. State announced ready and advised this trial will last ten (10) days with at least thirty (30) witnesses. Mr. Sheets argued he will be ineffective if the trial moves forward as scheduled as he has another trial at the same time. Colloquy regarding subpoena returns. CONFERENCE AT BENCH. COURT ORDERED, matter SET for status check.

CUSTODY

08/01/2019 9:00 AM STATUS CHECK: TRIAL READINESS

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****August 01, 2019**

C-18-332496-1 State of Nevada
 vs
 Henry Aparicio

August 01, 2019 9:30 AM Status Check

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Louisa Garcia

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:	Aparicio, Henry	Defendant
	Martinovsky, Charles	Attorney
	Sheets, Damian R.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Amended Information FILED IN OPEN COURT.

NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED IN OPEN COURT. Mr. Martinovsky stated

State will retain the right to argue as to Counts 1 and 2, but no opposition to concurrent time between Count 3 - reckless driving and the two counts of driving under the influence.

DEFT. APARICIO SWORN, ARRAIGNED AND PLED GUILTY TO COUNT 1 - DRIVING UNDER THE INFLUENCE RESULTING IN DEATH (F); COUNT 2 - DRIVING UNDER THE INFLUENCE RESULTING IN DEATH (F); COUNT 3 - RECKLESS DRIVING (F). Court ACCEPTED plea, and, ORDERED, matter referred to the Division of Parole and Probation (P & P) and SET for sentencing. COURT FURTHER ORDERED, the trial date and pending motions were VACATED.

CUSTODY

10/18/19 9:30 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 18, 2019**

C-18-332496-1 State of Nevada
vs
Henry Aparicio

October 18, 2019 9:30 AM Sentencing

HEARD BY: Silva, Cristina D.**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Lauren Kidd**RECORDER:** Trisha Garcia**REPORTER:****PARTIES**

PRESENT:	Aparicio, Henry	Defendant
	Martinovsky, Charles	Attorney
	Sheets, Damian R.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Upon Court's inquiry, counsel confirmed they were prepared for sentencing. Mr. Sheets indicated he reviewed the Pre-Sentencing Investigation (PSI) Report and there was a small correction that was not a Stock Meier issue. Mr. Sheets informed the Court that Defendant was employed for 12 months prior to the incident rather than 8 months prior. Court took notice of the correction to the employment time noted in the PSI. Court advised the Court received a request from defense to reject certain Victim Impact Statements. Court ORDERED the rejection OVERRULED and advised the Court read all of the letters and statements provided. Counsel advised there were no other changes to the PSI. The State provided the Court with pictures marked as exhibits. Argument by the State for a maximum sentence. Mr. Sheets provided the Court with a letter from Defendant's family. Argument by Mr. Sheet in support of Defendant. Statement by Defendant. Victim Impact Statements given and pictures and video provided and marked as Court Exhibits (see worksheets). Statement by the Court regarding how the sentence was determined and all of the considerations made. DEFENDANT APARICIO ADJUDGED GUILTY of COUNT 1 - DRIVING UNDER THE INFLUENCE RESULTING IN DEATH (F) COUNT 2 - COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, a \$150.00 DNA Analysis fee including testing to determine genetic

markers, a \$3.00 DNA Collection fee, and \$47,520.53 Restitution, Defendant SENTENCED in COUNT 1 - to a MINIMUM of SEVEN (7) YEARS and a MAXIMUM of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC); COUNT 2 - to a MINIMUM of SEVEN (7) YEARS and a MAXIMUM of TWENTY (20) YEARS in the NDC; COUNT 1 to run CONSECUTIVE with COUNT 2; COUNT 3 - to a MINIMUM of TWELVE (12) MONTHS and a MAXIMUM of FORTY (48) MONTHS in NDC; COUNT 3 to run CONSECUTIVE to COUNT 2; for an AGGREGATE TOTAL of a MINIMUM of FIFTEEN (15) YEARS and a MAXIMUM of FORTY (44) YEARS in NDC with FIVE HUNDRED TWENTY-ONE (521) DAYS credit for time served. COURT FURTHER ORDERED, pursuant to NRS 484C.340 and NRS 484C.460, prior to reinstatement of the Defendant's driving privileges, an interlock device shall be installed and inspected on his vehicle at the Defendant's expense for a period of 12 months, said period to commence after any period of imprisonment, residential confinement, confinement in a treatment facility, or on parole or probation. Statement by the Court. Upon Mr. Sheets inquiry, Court advised the objections made by Mr. Sheets with regard to the victim impact statements and exhibits were placed on the record. BOND, if any, EXONERATED.

NDC

CLERK'S NOTE: Subsequent to the hearing parties informed the Court of Defendant's amount of credit for time served which was entered in the Order as stated in the above minutes./ /lk

VAULT EXHIBIT FORM

CASE NO: <u>C332496</u>	HEARING DATE: <u>10/18/19</u>
DEPT. NO: <u>9</u>	JUDGE: <u>Christina Silva</u>
	CLERK: <u>Lauren Kidd</u>
	RECORDER: <u>Trisha Garcia</u>
PLAINTIFF: <u>State of Nevada</u>	JURY FEES:
	COUNSEL FOR PLAINTIFF: <u>Charles Martinovsky</u>
DEFENDANT: <u>Henry Apanicio</u>	
	COUNSEL FOR DEFENDANT: <u>Damian Sheets</u>
<u>Court's Exhibits</u>	

	Date Offered	Objection	Date Admitted	
Picture proposed Ex. 1 car from State	10/18/19	No	10/18/19	WA
Picture proposed Ex. 2 car from State	10/18/19	No		WA
Picture proposed Ex. 3 car from State	10/18/19	No		WA
Picture proposed Ex. 4 car from State	10/18/19	No		WA
Letter from Family of defendant Ex. 5	10/18/19	No		WA
Victim Couples Collage Ex. 6	10/18/19	yes		WA
Victim Collage of Christina Ex. 7	10/18/19	yes		WA
Picture on poster of victims Ex. 8	10/18/19	yes		WA
Picture on poster of Couple Ex. 9	10/18/19	yes		WA
Video of Victim Christina as Nurse Ex. 10	10/18/19	yes	10/18/19	WA

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT
DOCKET ENTRIES; JUDGMENT OF CONVICTION (PLEA OF GUILTY); DISTRICT COURT
MINUTES; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

vs.

HENRY APARICIO
aka HENRY BIDERMAN APARICIO,

Defendant(s).

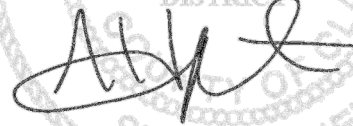
Case No: C-18-332496-1

Dept No: IX

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 18 day of November 2019.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk