

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Jan 16 2020 03:08 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

JAMES HOWARD HAYES, JR.,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

Case No: C-16-315718-1

Docket No: 80222

RECORD ON APPEAL VOLUME 4

ATTORNEY FOR APPELLANT
JAMES HAYES # 1175077,
PROPER PERSON
P.O. BOX 208
INDIAN SPRINGS, NV 89070

ATTORNEY FOR RESPONDENT
STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NV 89155-2212

I N D E X

<u>VOLUME:</u>	<u>PAGE NUMBER:</u>
1	1 - 240
2	241 - 480
3	481 - 720
4	721 - 751

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
3	09/09/2019	"MOTION IN THE NATURE OF A WRIT OF CORAM NOBIS"	595 - 601
3	12/16/2019	"MOTION TO CORRECT AN ILLEGAL SENTENCE"	674 - 681
3	10/17/2019	"REPLY" TO THE STATE'S OPPOSITION" MOTION FOR A WRIT OF CORAM NOBIS	631 - 636
3	10/28/2019	AFFIDAVIT OF " NO MATERIAL DISPUTE AS TO THE MISTAKE OF FACT" "MOTION IN THE NATURE OF A WRIT OF CORAM NOBIS"	637 - 663
3	01/06/2020	AFFIDAVIT OF GRANTING "MOTION TO CORRECT AN ILLEGAL SENTENCE" OF THE WRONGFULLY CONVICTED"	691 - 694
3	09/26/2019	AFFIDAVIT OF GRANTING MOTION IN THE NATURE OF A WRIT OF CORAM NOBIS	612 - 615
2	04/06/2018	AMENDED COURTESY FILING OF DEFENDANT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS	390 - 398
2	11/07/2018	AMENDED INFORMATION	425 - 426
2	08/29/2017	AMENDED NOTICE OF INTENT TO SEEK PUNISHMENT AS A HABITUAL CRIMINAL	367 - 368
2	10/10/2018	CASE APPEAL STATEMENT	423 - 424
3	04/12/2019	CASE APPEAL STATEMENT	488 - 489
3	08/09/2019	CASE APPEAL STATEMENT	592 - 593
3	12/11/2019	CASE APPEAL STATEMENT	672 - 673
2	06/01/2017	CERTIFICATE OF MAILING	365 - 365
3	06/14/2019	CERTIFICATE THAT NO TRANSCRIPT IS BEING REQUESTED	533 - 533
4	01/16/2020	CERTIFICATION OF COPY AND TRANSMITTAL OF RECORD	
2	03/01/2018	COURTESY FILING OF DEFENDANT'S PRO PER PETITION	381 - 389
1	06/14/2016	CRIMINAL BINDOVER	1 - 52

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
1	11/18/2016	DEFENDANT'S MOTION FOR DISCOVERY	101 - 113
2	05/07/2018	DEFENDANT'S NOTICE OF WITNESSES, PURSUANT TO NRS 174.234	405 - 406
2	05/07/2018	DEFENDANT'S SUPPLEMENTAL NOTICE OF WITNESSES PURSUANT TO NRS 174.234	407 - 408
3	11/19/2019	DESIGNATION OF RECORD ON APPEAL	668 - 668
3	01/16/2020	DISTRICT COURT MINUTES (CONTINUED)	710 - 720
4	01/16/2020	DISTRICT COURT MINUTES (CONTINUATION)	721 - 751
3	01/14/2020	DOCUMENTARY EXHIBITS (UNFILED)	695 - 709
2	11/07/2018	GUILTY PLEA AGREEMENT PURSUANT TO ALFORD	427 - 435
1	06/17/2016	INFORMATION	53 - 55
2	03/12/2019	JUDGMENT OF CONVICTION (PLEA OF GUILTY-ALFORD)	471 - 471
2	07/30/2018	MOTION TO WITHDRAW AS ATTORNEY OF RECORD	411 - 413
2	05/31/2017	MOTION TO WITHDRAW AS ATTORNEY OF RECORD FOR DEFENDANT	358 - 364
3	04/29/2019	MOTION TO WITHDRAW COUNSEL	500 - 505
2	01/11/2019	NEVADA SUPREME COURT CLERK'S CERTIFICATE/REMITTITUR JUDGMENT - DISMISSED	447 - 451
2	09/26/2018	NOTICE OF APPEAL	419 - 422
3	03/28/2019	NOTICE OF APPEAL	483 - 487
3	11/19/2019	NOTICE OF APPEAL	664 - 667
3	07/31/2019	NOTICE OF APPEAL (2ND)	571 - 591
3	12/04/2019	NOTICE OF CHANGE OF ADDRESS	669 - 671
2	02/10/2017	NOTICE OF DEPARTMENT REASSIGNMENT	350 - 350

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
2	09/18/2018	NOTICE OF ENTRY OF ORDER	416 - 418
1	11/21/2016	NOTICE OF INTENT TO SEEK PUNISHMENT AS A HABITUAL CRIMINAL	114 - 115
3	04/29/2019	NOTICE OF MOTION	506 - 506
3	09/09/2019	NOTICE OF MOTION	602 - 602
3	12/16/2019	NOTICE OF MOTION	682 - 682
1	12/12/2016	NOTICE OF MOTION AND MOTION FOR JOINDER OF CASE C315718 INTO CASE C315125	140 - 234
1	12/16/2016	NOTICE OF MOTION AND MOTION TO ADMIT EVIDENCE OF OTHER ACTS (CONTINUED)	238 - 240
2	12/16/2016	NOTICE OF MOTION AND MOTION TO ADMIT EVIDENCE OF OTHER ACTS (CONTINUATION)	241 - 332
1	08/26/2016	NOTICE OF RESCHEDULING OF HEARING	99 - 100
1	11/21/2016	NOTICE OF WITNESSES [NRS 174.234(1)(A)]	116 - 118
1	12/16/2016	NOTICE OF WITNESSES [NRS 174.234(1)(A)]	235 - 237
2	08/29/2017	NOTICE TO INTRODUCE CERTIFIED COPIES [NRS 52.260(4)]	369 - 370
2	12/20/2016	OPPOSITION TO THE STATE'S MOTION TO ADMIT EVIDENCE OF OTHER ACTS	333 - 343
3	10/17/2019	ORDER DENYING DEFENDANT'S PRO PER MOTION IN THE NATURE OF A WRIT OF CORAM NOBIS	629 - 630
2	09/12/2018	ORDER DENYING DEFENDANT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS	414 - 415
2	01/20/2017	ORDER DENYING STATE'S MOTION TO ADMIT EVIDENCE OF OTHER ACTS	344 - 346
2	06/12/2018	ORDER FOR PRODUCTION OF INMATE JAMES HOWARD HAYES, AKA, JAMES HOWARD HAYES, JR., BAC #2796708	409 - 410

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
2	03/23/2017	ORDER FOR PRODUCTION OF INMATES	351 - 357
3	08/30/2019	ORDER FOR TRANSCRIPT	594 - 594
3	07/29/2019	ORDER GRANTING DEFENDANT'S PRO PER MOTION TO WITHDRAW COUNSEL	569 - 570
2	12/18/2018	PRE-SENTENCE INVESTIGATION REPORT (UNFILED) CONFIDENTIAL	436 - 446
2	08/29/2017	RECEIPT OF COPY	366 - 366
2	10/24/2017	RECEIPT OF COPY	371 - 371
2	04/25/2018	STATE'S NOTICE OF MOTION AND MOTION TO DISMISS DEFENDANT'S AMENDED COURTESY FILING OF DEFENDANT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS	399 - 404
2	01/31/2019	STATE'S NOTICE OF MOTION AND MOTION TO REVOKE BAIL	452 - 470
3	10/01/2019	STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR A WRIT OF CORAM NOBIS	616 - 624
3	12/30/2019	STATE'S OPPOSITION TO DEFENDANT'S MOTION TO CORRECT AN ILLEGAL SENTENCE	683 - 690
1	12/05/2016	STATE'S RESPONSE TO DEFENDANT'S MOTION FOR DISCOVERY, AND STATE'S REQUEST FOR RECIPROCAL DISCOVERY	119 - 139
2	02/08/2017	SUBSTITUTION OF ATTORNEY	347 - 349
1	07/29/2016	TRANSCRIPT OF HEARING HELD ON JUNE 14, 2016	56 - 98
3	09/25/2019	TRANSCRIPT OF HEARING HELD ON NOVEMBER 7, 2018	603 - 611
2	03/27/2019	UNFILED DOCUMENT(S) - ATTORNEY LETTER W/COPY OF UNFILED MOTION TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE AND NOTICE OF MOTION (CONTINUED)	472 - 480

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
3	03/27/2019	UNFILED DOCUMENT(S) - ATTORNEY LETTER W/COPY OF UNFILED MOTION TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE AND NOTICE OF MOTION (CONTINUATION)	481 - 482
3	04/15/2019	UNFILED DOCUMENT(S) - ATTORNEY LETTER W/COPY OF UNFILED MOTION TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE "ADDENDUM" AND UNFILED NOTICE OF MOTION	490 - 499
3	06/04/2019	UNFILED DOCUMENT(S) - ATTORNEY LETTER W/COPY OF UNFILED MOTION TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE AND UNFILED NOTICE OF MOTION	508 - 532
3	06/18/2019	UNFILED DOCUMENT(S) - ATTORNEY LETTER W/COPY OF UNFILED MOTION TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE AND UNFILED NOTICE OF MOTION	534 - 559
3	07/15/2019	UNFILED DOCUMENT(S) - ATTORNEY LETTER W/COPY OF UNFILED MOTION TO WITHDRAW PLEA "ALFORD PLEA" AND UNFILED NOTICE OF MOTION	560 - 568
2	02/07/2018	UNFILED DOCUMENT(S) - ATTORNEY LETTER W/COPY OF UNFILED PETITION FOR WRIT OF HABEAS CORPUS	372 - 380
3	10/04/2019	UNFILED DOCUMENT(S) - INMATE CORRESPONDENCE W/COPY OF UNFILED DEFAULT	625 - 628
3	04/29/2019	UNSIGNED DOCUMENT(S) - ORDER	507 - 507

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 09, 2017

C-16-315718-1 State of Nevada
 vs
 James Hayes

February 09, 2017 3:00 AM Minute Order

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- The law firm of Colquitt & Abbatangelo, LTD., currently represents the Defendant in this matter.

Pursuant to Nevada Code of Judicial Conduct NCJC 3(E)(1)(d)(ii), and to avoid the appearance of impropriety and implied bias, the Court RECUSES itself from the above-entitled case, and ORDERS this matter to be randomly reassigned. The newly assigned Department will need to set a status check hearing to determine a date for Calendar Call and Jury Trial.

CLERK'S NOTE: A copy of the above minute order has been forwarded to Clerk's Office Master Calendar for reassignment. /// sj

CLERK'S NOTE: Law firm was notified regarding recusal. /// sj

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 06, 2017

C-16-315718-1 State of Nevada
 vs
 James Hayes

March 06, 2017 8:30 AM Trial Setting

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Abbatangelo, Anthony L Attorney
 HAYES, JAMES HOWARD Defendant
 Scow, Richard H. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Mr. Abbatangelo advised he substituted in as counsel and the case was re-assigned from department 12. Further, Mr. Abbatangelo advised Defendant has invoked the 60 day rule. Mr. Scow advised the victim has scheduled military leave between 3/20/2017 - 3/31/2017. Colloquy regarding scheduling. COURT ORDERED, matter SET for trial.

BOND (COC)

3/22/2017 8:30 AM CALENDAR CALL

3/27/2017 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 22, 2017

C-16-315718-1 State of Nevada
 vs
 James Hayes

March 22, 2017 8:30 AM Calendar Call

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Abbatangelo, Anthony L	Attorney
	Dickerson, Michael	Attorney
	HAYES, JAMES HOWARD	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Abbatangelo advised parties have agree to vacate the trial date and set a status check in two (2) weeks to discuss the offers which have been extended by the State. Mr. Dickerson advised this a defense request to continue, State is ready; however, State is not opposing the continuance. Further, Mr. Dickerson advised the only issue would be the availability of the victim who is in the military and the trial will need to be scheduled around victim's leave. Upon Court's inquiry, Defendant agreed to vacate trial. COURT ORDERED, trial VACATED and matter SET for Status Check.

BOND (COC)

4/03/2017 8:30 AM STATUS CHECK: NEGOTIATIONS / TRIAL SETTING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 03, 2017

C-16-315718-1 State of Nevada
 vs
 James Hayes

April 03, 2017 8:30 AM Status Check

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Patti Slattery

REPORTER:

PARTIES

PRESENT:	Abbatangelo, Anthony L	Attorney
	HAYES, JAMES HOWARD	Defendant
	Scow, Richard H.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Abbatangelo advised parties are close to a resolution and requested matter be continued thirty days. COURT SO ORDERED.

BOND (COC-NDC)

CONTINUED TO: 5/01/2017 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 01, 2017

C-16-315718-1 State of Nevada
 vs
 James Hayes

May 01, 2017 8:30 AM Status Check

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Abbatangelo, Anthony L	Attorney
	HAYES, JAMES HOWARD	Defendant
	Rowles, William C.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Rowles advised he believes the matter is resolved and he has the Guilty Plea Agreement. MATTER TRAILED for Mr. Abbatangelo. RECALLED. Mr. Abbatangelo requested matter be continued sixty days. Mr. Rowles advised the offer is one count of burglary stipulate to a 12 -30 concurrent with C315125 and if Defendant rejects the offer at the next date the offer will be revoked. Court stated he is inclined to set the matter for trial with a status check in thirty days for negotiations. Parties agreed. COURT ORDERED, matter SET for trial and Status Check.

BOND (COC-NDC)

5/31/2017 8:30 AM STATUS CHECK: NEGOTIATIONS

8/30/2017 8:30 AM PRE TRIAL CONFERENCE

9/27/2017 8:30 AM CALENDAR CALL

PRINT DATE: 01/16/2020

Page 16 of 42

Minutes Date: June 23, 2016

C-16-315718-1

10/02/2017 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 31, 2017

C-16-315718-1 State of Nevada
 vs
 James Hayes

May 31, 2017 8:30 AM Status Check

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Colquitt, Ronald	Attorney
	Derjavina, Ekaterina	Attorney
	HAYES, JAMES HOWARD	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Colquitt advised the matter is not negotiated and Defendant has rejected the offer. Ms. Derjavina advised the offer has been revoked at this time. COURT ORDERED, trial date STANDS.

BOND (COC-NDC)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 12, 2017

C-16-315718-1 State of Nevada
 vs
 James Hayes

**June 12, 2017 8:30 AM Motion to Withdraw as
Counsel**

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Abbatangelo, Anthony L Attorney
 HAYES, JAMES HOWARD Defendant
 Mendoza, Erika Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Court noted Defendant not present. Mr. Abbatangelo advised Defendant in custody with Nevada Department of Corrections (NDC) on another case. COURT ORDERED, Motion GRANTED; Public Defender APPOINTED to determine if there will be conflict and matter SET for Status Check. FURTHER ORDERED, State to prepare an Order to Transport.

BOND (COC-NDC)

7/10/2017 8:30 AM STATUS CHECK: CONFIRMATION OF COUNSEL (PD)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 10, 2017

C-16-315718-1 State of Nevada
 vs
 James Hayes

July 10, 2017 8:30 AM Status Check

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Beverly, Leah C	Attorney
	HAYES, JAMES HOWARD	Defendant
	Rusley, Eric W	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Rusley confirmed as counsel on behalf of Defendant. COURT ORDERED, trial date STANDS.

BOND (COC-NDC)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 30, 2017

C-16-315718-1 State of Nevada
 vs
 James Hayes

August 30, 2017 8:30 AM Pre Trial Conference

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 03E

COURT CLERK: April Watkins

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Dickerson, Michael Attorney
 HAYES, JAMES HOWARD Defendant
 Murphy, Jessica W. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Upon Court's inquiry, Ms. Murphy stated she believes Ms. DeVaney received most of what was needed and just received two notices from the state who will provide documents. Further, Ms. Murphy stated Deft. filed something in the Nevada Supreme Court, not sure what it is and advised it has been transferred to the Court of Appeals. Colloquy. COURT ORDERED, calendar call and trial dates STAND. Deft. advised he filed a writ of habeas corpus challenging probable cause. Statement by Mr. Dickerson.

MATTER RECALLED:

Ms. Murphy requested a status check in three weeks for possible negotiations. Colloquy. Mr. Dickerson stated Deft's counsel requested to re-open negotiations and counsel will to entertain and believes status check will facilitate negotiations. COURT ORDERED, matter SET for status check. State to prepare transport order.

BOND (COC-NDC)

PRINT DATE: 01/16/2020

Page 21 of 42

Minutes Date: June 23, 2016

C-16-315718-1

9/20/17 9:00 AM STATUS CHECK: NEGOTIATIONS

PRINT DATE: 01/16/2020

Page 22 of 42

Minutes Date: June 23, 2016

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 27, 2017

C-16-315718-1 State of Nevada
 vs
 James Hayes

September 27, 2017 9:00 AM All Pending Motions

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: HAYES, JAMES HOWARD Defendant
 Mendoza, Erika Attorney
 Murphy, Jessica W. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- CALENDAR CALL ... STATUS CHECK: NEGOTIATIONS

Ms. Murphy advised there is an offer which Defendant wants to accept; however, Defendant filed an appeal which a decision has not been reached. COURT ORDERED, trial date VACATED and matter SET for Status Check as to the Supreme Court decision.

BOND (COC-NDC)

10/25/2017 8:30 AM STATUS CHECK: SUPREME COURT DECISION ... STATUS CHECK:
NEGOTIATIONS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 25, 2017

C-16-315718-1 State of Nevada
 vs
 James Hayes

October 25, 2017 8:30 AM All Pending Motions

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Clowers, Shanon	Attorney
	Cottner, Kyle	Attorney
	HAYES, JAMES HOWARD	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- STATUS CHECK: SUPREME COURT DECISION / TRIAL SETTING ... STATUS CHECK:
NEGOTIATIONS

Mr. Cottner advised the Court of Appeals has dismissed Defendant's pro per writ and requested a trial date be set in ordinary course. COURT ORDERED, matter SET for trial.

CUSTODY (COC-NDC)

4/11/2018 8:30 AM PRE TRIAL CONFERENCE

5/09/2018 8:30 AM CALENDAR CALL

5/14/2018 10:00 AM JURY TRIAL

PRINT DATE: 01/16/2020

Page 24 of 42

Minutes Date: June 23, 2016

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 11, 2018

C-16-315718-1 State of Nevada
 vs
 James Hayes

April 11, 2018 8:30 AM Pre Trial Conference

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 03E

COURT CLERK: Tia Everett
 Christopher Darling

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	HAYES, JAMES HOWARD	Defendant
	Mendoza, Erika	Attorney
	Murphy, Jessica W.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. Murphy advised she anticipates ready for the current trial date; although she has filed a Petition which is set to be heard on 4/23/2018. COURT ORDERED, trial date STANDS. Ms. Mendoza advised Mr. Dickerson indicated that there may be something pending with the Appellant Court. Ms. Murphy advised Defendant did file a Pro Per Appeal which has since been denied and will not be an issue. Court so noted.

BOND (COC-NDC)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 23, 2018

C-16-315718-1 State of Nevada
 vs
 James Hayes

**April 23, 2018 8:30 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 16B

COURT CLERK: Tia Everett
 Chante Williams

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	HAYES, JAMES HOWARD	Defendant
	Mendoza, Erika	Attorney
	Murphy, Jessica W.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Court noted a written opposition has not been filed. Ms. Mendoza advised this is Mr. Dickerson's case who indicated the transcript in this matter was filed 7/2016 making the writ untimely and should be denied; however, if the Court would like a response he would ask for additional time. Court stated he would like a response. COURT ORDERED, State's Response shall be due on or before 4/30/2018 and matter CONTINUED. Ms. Murphy advised she provided Defendant with additional discovery this morning in Open Court as well as spoke with Defendant at length on the phone. Further, Ms. Murphy requested the State mail a copy of their opposition as soon as possible as Defendant is at High Desert. Ms. Mendoza advised Defendant is represented by counsel and counsel will be served with the Opposition.

BOND (COC-NDC)

5/9/18 8:30 AM

PRINT DATE: 01/16/2020

Page 26 of 42

Minutes Date: June 23, 2016

C-16-315718-1

PRINT DATE: 01/16/2020

Page 27 of 42

Minutes Date: June 23, 2016

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 09, 2018

C-16-315718-1 State of Nevada
 vs
 James Hayes

May 09, 2018 8:30 AM Calendar Call

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Rubina Feda

REPORTER:

PARTIES

PRESENT: Murphy, Jessica W. Attorney
 Rowles, William C. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Upon Court s inquiry, Ms. Murphy advised Defendant is in the Nevada Department of Corrections and was not transported. Court noted Defendant has an appeal pending with the Supreme Court. Colloquy regarding Defendant s pending appeal. CONFERENCE AT BENCH. COURT ORDERED, trial date VACATED and matter SET for Status Check.

BOND (COC-NDC)

6/6/18 8:30 AM STATUS CHECK: SUPREME COURT DECISION/ RESET TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 06, 2018

C-16-315718-1 State of Nevada
 vs
 James Hayes

June 06, 2018 8:30 AM Status Check

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Dickerson, Michael Attorney
 Murphy, Jessica W. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Ms. Murphy advised Defendant was not transported from the Nevada Department of Corrections. Mr. Dickerson advised the Supreme Court denied Defendant's Pro Per Petition on 5/15/2018 and requested matter be set for status check to reset the trial date. Further, Mr. Dickerson advised an offer has been extended; however, the offer has not been accepted. COURT ORDERED, matter SET for Status Check and DIRECTED State to prepare the appropriate transport order.

BOND (COC-NDC)

7/11/2018 8:30 AM STATUS CHECK: TRIAL SETTING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 11, 2018**

C-16-315718-1 State of Nevada
 vs
 James Hayes

July 11, 2018 8:30 AM Status Check: Trial Setting

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

PRESENT:	HAYES, JAMES HOWARD	Defendant
	Murphy, Jessica W.	Attorney
	Rowles, William C.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. Murphy advised Defendant was transported for today. Further, Ms. Murphy advised she provided Defendant with a copy of the Guilty Plea Agreement so that he would be aware of what the State was offering; however, Defendant indicated there are outstanding motions which Defendant filed on his own that he would like to heard by the Court. Additionally, Ms, Murphy advised there appears to be a break down between herself and Defendant as he has left multiple voicemails on her phone stating she is not working on his case and that she is a racist. Upon Court's inquiry, Ms. Murphy advised Defendant previously file a Pro Per Petition for Writ of Habeas Corpus. Colloquy regarding Defendant's Petition. Defendant advised he filed his motion to challenge probable cause in this case. COURT ORDERED, matter SET for Trial and Defendant's Motion SET for Hearing.

CUSTODY (COC)**8/15/2018 8:30 AM DEFENDANT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS**

PRINT DATE: 01/16/2020

Page 30 of 42

Minutes Date: June 23, 2016

C-16-315718-1

10/10/2018 8:30 AM PRE TRIAL CONFERENCE

11/07/2018 8:30 AM CALENDAR CALL

11/13/2018 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 15, 2018

C-16-315718-1 State of Nevada
 vs
 James Hayes

August 15, 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: Dickerson, Michael Attorney
 HAYES, JAMES HOWARD Defendant
 Rusley, Eric W Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- DEFENDANT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS ... DEFENDANT'S MOTION TO WITHDRAW AS COUNSEL OF RECORD

Court reviewed case history. COURT ORDERED, Motion to Withdraw as Counsel GRANTED; Michael Sanft APPOINTED and Petition CONTINUED in order for Mr. Sanft to review the case. FURTHER ORDERED, matter SET for Confirmation of Counsel.

8/29/2018 8:30 AM CONFIRMATION OF COUNSEL (SANFT) ... DEFENDANT'S PRO PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 29, 2018

C-16-315718-1 State of Nevada
 vs
 James Hayes

August 29, 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: HAYES, JAMES HOWARD Defendant
 Kern, Samuel R. Attorney
 Sanft, Michael W. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- CONFIRMATION OF COUNSEL (SANFT)

Mr. Sanft confirmed as counsel and advised he has conveyed the State's offer of an alford plea to attempt grand larceny, a wobbler, State will make no recommendation at sentencing with no opposition to probation with 30 days ccdc and 30 days credit for time served. Further, Mr. Sanft advised a counter offer of a stipulation to a gross misdemeanor; however, State has indicated they are not willing to enter that stipulation and would like the Court to make that determination. Mr. Dickerson confirmed representations. COURT ORDERED, matter SET for Status Check.

DEFENDANT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS

COURT ORDERED, Petition DENIED as it was not filed in compliance with NRS 34.700 and the

PRINT DATE: 01/16/2020

Page 33 of 42

Minutes Date: June 23, 2016

C-16-315718-1

Court is unable to consider the Petition.

BOND (COC)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 26, 2018

C-16-315718-1 State of Nevada
 vs
 James Hayes

September 26, 2018 8:30 AM Status Check

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: HAYES, JAMES HOWARD Defendant
 Holthus, Mary Kay Attorney
 Sanft, Michael W. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Mr. Sanft advised his investigator has met with Defendant and the offer extended contemplates credit for time served; although the State will retain the right to argue as to felony or gross misdemeanor treatment. Upon Court's inquiry, Mr. Sanft advised there are no outstanding discovery issues and he anticipates ready for the current trial date. COURT ORDERED, trial date STANDS.

BOND (COC-NDC)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 07, 2018

C-16-315718-1 State of Nevada
 vs
 James Hayes

November 07, 2018 8:30 AM Calendar Call

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Dickerson, Michael Attorney
 HAYES, JAMES HOWARD Defendant
 Sanft, Michael W. 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. DEFT. HAYES ARRAIGNED AND PLED GUILTY PURSUANT TO ALFORD TO ATTEMPT GRAND LARCENY (F/GM). State made offer of proof. Court ACCEPTED plea, and, ORDERED, matter referred to the Division of Parole and Probation (P & P) and SET for sentencing; trial date VACATED.

BOND

3/06/2019 8:30 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 04, 2019

C-16-315718-1 State of Nevada
 vs
 James Hayes

February 04, 2019 8:30 AM Motion

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Dickerson, Michael Attorney
 Hayes, James Howard Defendant
 Sanft, Michael W. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Mr. Dickerson advised he would submit on the motion and will answer any questions the Court may have. Mr. Sanft reviewed allegations of new charge. COURT ORDERED, Motion GRANTED; BAIL EXONERATED; Defendant REMANDED INTO CUSTODY on this cas.

CUSTODY (COC-NDC)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 06, 2019**

C-16-315718-1 State of Nevada
 vs
 James Hayes

March 06, 2019 8:30 AM Sentencing

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

COURT CLERK: Tia Everett
 Shannon Emmons

RECORDER: Christine Erickson**REPORTER:****PARTIES**

PRESENT:	Dickerson, Michael	Attorney
	Hayes, James Howard	Defendant
	Sanft, Michael W.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFT. HAYES ADJUDGED GUILTY of ATTEMPT GRAND LARCENY (F). Matter argued and submitted. Exhibits presented. (see worksheets). Court FINDS State has sufficiently met the requirements of NRS 207.010. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee and a \$3.00 DNA Collection fee; Deft. SENTENCED UNDER the SMALL HABITUAL STATUTE to a MINIMUM of SIXTY (60) MONTHS and a MAXIMUM of ONE HUNDRED SEVENTY-FOUR (174) MONTHS in the Nevada Department of Corrections (NDC); CONSECUTIVE to case number C315125; with TEN (10) DAYS credit for time served. FURTHER ORDERED, \$150.00 DNA Analysis fee including testing to determine genetic markers WAIVED as previously ordered.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 03, 2019

C-16-315718-1 State of Nevada
vs
James Hayes

June 03, 2019 **8:30 AM** **Motion**

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	LoGrippo, Frank R.	Attorney
	Sanft, Michael W.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Sanft advised he does not believe the motion can be granted as he must file the appeal pursuant to a Supreme Court Order, COURT ORDERED, matter CONTINUED thirty days.

NDC

CONTINUED TO: 7/15/2019 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 15, 2019

C-16-315718-1 State of Nevada
vs
James Hayes

July 15, 2019 **8:30 AM** **Motion**

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: LoGrippo, Frank R. Attorney
State of Nevada Plaintiff

JOURNAL ENTRIES

- Court noted Defendant not present and in custody with the Nevada Department of Corrections. COURT ORDERED, Motion GRANTED as a Remittitur has been filed by the Supreme Court.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 07, 2019

C-16-315718-1 State of Nevada
 vs
 James Hayes

October 07, 2019 8:30 AM Motion

HEARD BY: Bonaventure, Joseph T. **COURTROOM:** RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: State of Nevada Plaintiff
 Wolfson, Steven B Attorney

JOURNAL ENTRIES

- Court noted the State has indicated they were not properly served and that there is a pending appeal in this matter. COURT ORDERED, Motion DENIED as Defendant failed to properly serve the State with the motion and the Court lacks jurisdiction. . Mr. Zadrowski to prepare the Order consistent with Court s findings.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 06, 2020

C-16-315718-1 State of Nevada
 vs
 James Hayes

January 06, 2020 8:30 AM Motion to Modify Sentence

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Brooks, Parker Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Court noted Defendant not present and in custody with the Nevada Department of Corrections.
COURT ORDERED, matter OFF CALENDAR as Defendant has a pending appeal which divests the
Court of jurisdiction.

NDC

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Supreme Court order dated January 10, 2020, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises four volumes with pages numbered 1 through 751.

STATE OF NEVADA,

Plaintiff(s),

vs.

JAMES HOWARD HAYES
aka JAMES HOWARD HAYES, JR.,

Defendant(s),

Case No: C-16-315718-1

Dept. No: XIX

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 16 day of January 2020.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk