

Steven D. Grierson

Electronically Filed
Jan 29 2020 09:45 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Dominic Ronaldo Malone
69418 In Proper Person
P.O. Box 650 H.D.S.P. 78
Indian Springs, Nevada 89018

8th DISTRICT COURT
CLARK COUNTY NEVADA

Dominic Ronaldo Malone,

Petitioner,

-v-

The State of Nevada,

Respondent.

A-19-801802-W

Case No. 06-C-224572-2

Dept. No. 17

Docket _____

NOTICE OF APPEAL

Notice is hereby given that the Defendant, Dominic R. Malone, by and through himself in proper person, does now appeal to the Supreme Court of the State of Nevada, the decision of the District Court Dismissing the action referenced by the Case no. Contained herein. Please see next page for relevant facts in support of this Appeal

Dated this date, January 21, 2020.

Respectfully Submitted,

Dominic R. Malone

In Proper Person

RECEIVED

JAN 24 2020

CLERK OF THE COURT

1 Continued.

2

3 The defendant, Appeals the order of the District
4 Court, Clark County. That denied the action as
5 set forth within the documents submitted under
6 Case no. A-19-801802-W and 06-C-224572-2
7 in Dept. # 17.

8 In the findings of facts on pg 6
9 the documents states: The petition is dismissed
10 because it is Time barred pursuant to NRS 34.726.
11 However, The petitioner asserts sub-section (b) as the
12 basis for this appeal. Whereas, any reference of
13 McCoy v. Louisiana 138 S.Ct. 1500. was not meant
14 to be a new Claim it was merely to assist the
15 Court in its decision making process based on
16 relevant case law. The Claim within the timely
17 filed writ for Habeas Corpus, was the deprivation
18 of rights secured by the U.S. Constitution i.e. the
19 5th 6th 14th amendments. The Claim was supplemented
20 by a set of supporting facts. The petitioner, cited
21 the case law of McCoy, as an addendum to
22 the supporting facts of his claim. The defendant,
23 from the outset has steadfastly maintained the
24 Claim as a deprivation of fundamental rights
25 as guaranteed by the United States Constitution
26 and hereby files this appeal.

27

28

CERTIFICATE OF SERVICE BY MAILING

I, Dominic Ronaldo Malone, hereby certify, pursuant to NRCP 5(b), that on this 21st
day of January, 2020, I mailed a true and correct copy of the foregoing, " NOTICE OF

APPEAL

by depositing it in the High Desert State Prison, Legal Library, First-Class Postage, fully prepaid,
addressed as follows:

Steven D. Grierson Clerk of the Court
200 Lewis Avenue 3rd Floor
Las Vegas, NV. 89155-1160

Please forward also to:

Supreme Court of Nevada Clerk of the Court
201 South Carson St.
Carson City, NV 89701

District Attorney Steve Wolfson
200 Lewis Avenue
Las Vegas, NV. 89155

DATED: this 22 day of January, 2020.

Dominic R. Malone
Dominic R. Malone # 69418
/In Propria Persona
Post Office box 650 [HDSP]
Indian Springs, Nevada 89018 70

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding notice

of Appeal / Appeal
(Title of Document)

filed in District Court Case number _____

☐ Does not contain the social security number of any person.

-OR-

☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

(State specific law)

-or-

B. For the administration of a public program or for an application
for a federal or state grant.

Donna R. Malone
Signature

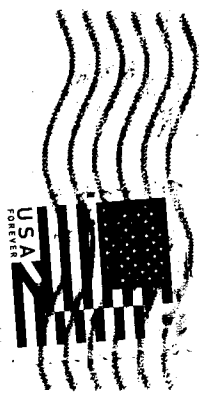
1/21/2020
Date

Donna R. Malone
Print Name

In Proper Person / Freeman
Title

Mrs. DORRIS R. WALLACE # 671418
HOSP.
P.O. BOX 650
Indian Springs, NV. 89070

LAS VEGAS NV 890
23 JAN 2020 PM 3 L

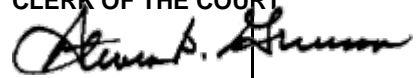


LEGAL MAIL

8915531160

Steven D. Gresson Clerk of the Court
200 Lewis Avenue 3rd Floor
Las Vegas, NV 89155-1160
Case No. A-19-801809-W
CWO-C-2004570-2
Capt. 17. Notice of Appeal enclosed
Filed Stamp copy requested
Forced copy requested
Sug. 3.

HIGH DESERT STATE PRISON
JAN 22 2020
UNIT 7 A/B



1 ASTA

2
3
4
5
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**

9 DOMONIC R. MALONE,

10 Plaintiff(s),

11 vs.

12 B. WILLIAMS,

13 Defendant(s),

Case No: A-19-801802-W

Dept No: XVII

14
15
16 **CASE APPEAL STATEMENT**

17
18 1. Appellant(s): Domonic R. Malone

19 2. Judge: Michael Villani

20 3. Appellant(s): Domonic R. Malone

21 Counsel:

22 Domonic R. Malone #69418
23 P.O. Box 650
24 Indian Springs, NV 89070

25 4. Respondent (s): B. Williams

26 Counsel:

27 Steven B. Wolfson, District Attorney
28 200 Lewis Ave.
Las Vegas, NV 89155-2212

- 1 5. Appellant(s)'s Attorney Licensed in Nevada: N/A
2 Permission Granted: N/A
3 Respondent(s)'s Attorney Licensed in Nevada: Yes
4 Permission Granted: N/A
5 6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No
6 7. Appellant Represented by Appointed Counsel On Appeal: N/A
7 8. Appellant Granted Leave to Proceed in Forma Pauperis**: Yes, September 16, 2019
8 **Expires 1 year from date filed
9 Appellant Filed Application to Proceed in Forma Pauperis: N/A
10 Date Application(s) filed: N/A
11 9. Date Commenced in District Court: September 9, 2019
12 10. Brief Description of the Nature of the Action: Civil Writ
13 Type of Judgment or Order Being Appealed: Civil Writ of Habeas Corpus
14 11. Previous Appeal: No
15 Supreme Court Docket Number(s): N/A
16 12. Child Custody or Visitation: N/A
17 13. Possibility of Settlement: Unknown

18 Dated This 27 day of January 2020.

19 Steven D. Grierson, Clerk of the Court

20 /s/ Amanda Hampton

21 Amanda Hampton, Deputy Clerk
22 200 Lewis Ave
23 PO Box 551601
24 Las Vegas, Nevada 89155-1601
25 (702) 671-0512
26

27 cc: Domonic R. Malone
28

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-19-801802-W

Domonic Malone, Plaintiff(s)
vs.
B Williams, Defendant(s)

§
§
§
§
§

Location: **Department 17**
 Judicial Officer: **Villani, Michael**
 Filed on: **09/09/2019**
 Cross-Reference Case Number: **A801802**

CASE INFORMATION

Related Cases

06C224572-2 (Writ Related Case)

Case Type: **Writ of Habeas Corpus**

Case Status: **09/09/2019 Open**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-19-801802-W
 Court Department 17
 Date Assigned 09/09/2019
 Judicial Officer Villani, Michael

PARTY INFORMATION

Plaintiff

Malone, Domonic Ronaldo

Lead Attorneys

Pro Se

Defendant

B Williams








Wolfson, Steven B
Retained
 702-455-5320(W)

DATE

EVENTS & ORDERS OF THE COURT


INDEX


EVENTS

09/09/2019	 Inmate Filed - Petition for Writ of Habeas Corpus Party: Plaintiff Malone, Domonic Ronaldo <i>Post Conviction</i>
09/09/2019	 Application to Proceed in Forma Pauperis Filed By: Plaintiff Malone, Domonic Ronaldo
09/16/2019	 Order to Proceed In Forma Pauperis Granted for: Plaintiff Malone, Domonic Ronaldo
09/17/2019	 Order for Petition for Writ of Habeas Corpus <i>Order for Petition for Writ of Habeas Corpus</i>
09/27/2019	 Amended Order Filed By: Plaintiff Malone, Domonic Ronaldo <i>Amended Order for Petition for Writ of Habeas Corpus</i>
12/02/2019	 Response <i>State's Response to Defendant's Petition for Writ of Habeas Corpus (Post-Conviction)</i>
12/24/2019	 Reply


CASE SUMMARY
CASE NO. A-19-801802-W

Filed by: Plaintiff Malone, Domonic Ronaldo
Defendant's Reply to State's Response to Petition for Writ of Habeas Corpus (Post Conviction)


01/16/2020  Finding of Fact and Conclusions of Law
Findings of Fact, Conclusions of Law and Order


01/22/2020  Notice of Entry
Filed By: Defendant B Williams
Notice of Entry of Findings of Fact, Conclusions of Law and Order


01/24/2020  Notice of Appeal
Notice of Appeal

01/27/2020  Case Appeal Statement
Filed By: Plaintiff Malone, Domonic Ronaldo
Case Appeal Statement

HEARINGS

11/13/2019  **Petition for Writ of Habeas Corpus (9:00 AM)** (Judicial Officer: Villani, Michael)
Matter Heard;
Journal Entry Details:
COURT ORDERED, matter SET for Status Check regarding Decision. 12/11/19 9:00 AM STATUS CHECK: DECISION;

12/11/2019  **Status Check (9:00 AM)** (Judicial Officer: Villani, Michael)
STATUS CHECK: DECISION
Denied;
Journal Entry Details:
Court noted it was basing its decision on the pleadings on file herein and not accepting oral argument. Court noted the Judgment of Conviction was filed May of 2012, the Remittitur was issued in January of 2014, FINDING the Petition time barred pursuant to NRS 34.726, with no good cause for delay shown by the Defendant. Court further noted the Defendant's petition was filed sixteen months after the McCoy Supreme Court Decision and ORDERED, Petition for Writ of Habeas Corpus DENIED. Court directed State to prepare the Order and FURTHER ORDERED matter set for Status Check on the filing of the Order. Court noted the Status Check date would be vacated if the Order was filed. NDC 01/08/2020 9:00 AM STATUS CHECK: ORDER CLERK'S NOTE: The above minute order has been distributed to: DOMONIC MALONE #69418 P O BOX 650 INDIAN SPRINGS, NV 89070//sr 12-11-2019;

01/08/2020  **Status Check (9:00 AM)** (Judicial Officer: Villani, Michael)
Status Check: Order
Matter Heard; Status Check: Order
Journal Entry Details:
Court noted petition previously ruled on and inquired of counsel as to the submission of the order. Mr. Di Giacomo stated he will check on the order. COURT ORDERED, matter CONTINUED. NDC CONTINUED TO: 1/22/2020 9:00 AM CLERK'S NOTE: After court, this Court's Law Clerk, notified order has been received and the Court VACATED the January 22, 2020, court date. aw CLERK'S NOTE: The above minute order has been distributed to: Domonic Malone #69418, High Desert State Prison, P.O. Box 650, Indian Springs, NV 89070. aw;

DISTRICT COURT CIVIL COVER SHEET

A-19-801802-W
Dept. XVII

County, Nevada

Case No. _____
(Assigned by Clerk's Office)**I. Party Information** (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): Domonic Malone	Defendant(s) (name/address/phone): B. Williams
Attorney (name/address/phone):	Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input checked="" type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

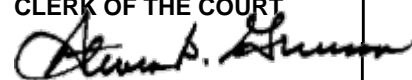
September 9, 2019

PREPARED BY CLERK

Date

Signature of initiating party or representative

See other side for family-related case filings.



FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JOHN NIMAN
Deputy District Attorney
Nevada Bar #014408
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

DOMINIC RONALDO MALONE,
#1670891
Defendant.

CASE NO: A-19-801802-W
06C224572-2
DEPT NO: XVII

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

DATE OF HEARING: December 11, 2019
TIME OF HEARING: 8:30 AM

THIS CAUSE having come on for hearing before the Honorable MICHAEL P. VILLANI, District Judge, on the 11th day of December, 2019, the Petitioner not being present, not represented by counsel, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through CHRISTOPHER HAMNER, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

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///

///

1
2 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

3 STATEMENT OF THE CASE

4 On August 2, 2006, DOMONIC RONALDO MALONE (hereinafter "Petitioner"),
5 was charged by way of Information with: COUNTS 1, 4, 13 & 14 – First Degree Kidnapping
6 (Felony – NRS 200.310, 200.320); COUNTS 2 & 5 – Battery with Substantial Bodily Harm
7 (Felony – NRS 200.481); COUNTS 3 & 7 – Conspiracy to Commit Kidnapping (Felony –
8 NRS 200.310, 200.320, 199.480); COUNT 6 – Robbery (Felony – NRS 200.380); COUNTS
9 8 & 9 - Pandering (Felony – NRS 201.300); COUNT 10 – Conspiracy to Commit Murder
10 (Felony – NRS 200.010, 200.030, 199.480); COUNT 11 – Conspiracy to Commit Burglary
11 (Gross Misdemeanor – NRS 205.060, 199.480); COUNT 12 – Burglary (Felony – NRS
12 205.060); COUNTS 15 & 16 – Murder with Use of a Deadly Weapon (Felony – NRS
13 200.010, 200.030, 193.165); and COUNTS 17 & 18 – Robbery with Use of a Deadly
14 Weapon (Felony – NRS 200.380, 193.165). On August 16, 2006, Petitioner entered a plea of
15 Not Guilty to the charges set forth in the Information.

16 On August 30, 2006, the State filed an Amended Information, wherein the substantive
17 charges remained the same. On this same date, the State filed a Notice of Intent to Seek the
18 Death Penalty.

19 On January 7, 2009, Petitioner filed a Pro Per Motion to Dismiss Counsel, without
20 attaching any points or authorities in support of said motion. Finding no good cause existed to
21 dismiss counsel, the district court denied the Motion on January 20, 2009. Upon Petitioner's
22 insistence, the district court set a hearing for a Faretta Canvass on January 8, 2010. After
23 canvassing Petitioner, the district court found that he had knowingly and voluntarily waived
24 his right to counsel. The district court then granted Petitioner's request, and appointed
25 Petitioner's former counsel as stand-by.
26

27 On November 3, 2010, the State filed a Second Amended Information removing one
28 count of Pandering from the Amended Information.

2 On January 8, 2011, Petitioner filed a Pro Per Motion to Dismiss Stand-By Counsel,
3 but failed to provide the district court with any points and authorities in support of his Motion.
4 On January 25, 2011, the district court questioned Petitioner regarding his Motion and, finding
5 his complaints baseless and the absence of any points and authorities improper, denied the
6 Motion without prejudice.

7 On June 29, 2011, Petitioner filed a pleading entitled "Ex Parte Communication
8 Defendant Memorandum to Court." Petitioner alleged that he had been forced against his
9 wishes to represent himself in the underlying case. On July 19, 2011, a hearing was held in
10 which the district court confirmed that Petitioner filed the Ex Parte Communications and
11 verified that the statements therein were true. Based on Petitioner's statements, the district
12 court revoked his request to represent himself, and appointed the Special Public Defender,
13 currently stand-by counsel, to represent Petitioner once again.

14 Petitioner's jury trial commenced on January 10, 2012. On January 30, 2012, the State
15 filed a Third Amended Information, striking the first degree kidnapping charge alleged in
16 COUNT 1. The Third Amended Information thus charged Petitioner as follows: COUNTS 1
17 & 4 – Battery with Substantial Bodily Harm (Felony – NRS 200.481); COUNTS 2 & 8 –
18 Conspiracy to Commit Kidnapping (Felony – NRS 200.310, 200.320, 199.480); COUNTS 3,
19 11 & 12 – First Degree Kidnapping (Felony – NRS 200.310, 200.320); COUNT 5 – Robbery
20 (Felony – NRS 200.380); COUNT 6 – Pandering (Felony – NRS 201.300); COUNT 7 –
21 Conspiracy to Commit Burglary (Gross Misdemeanor – NRS 205.060, 199.480); COUNT 9 –
22 Conspiracy to Commit Murder (Felony – NRS 200.010, 200.030, 199.480); COUNT 10 –
23 Burglary (Felony – NRS 205.060); COUNTS 13 & 14 – Murder with Use of a Deadly Weapon
24 (Felony – NRS 200.010, 200.030, 193.165); and COUNTS 15 & 16 – Robbery with Use of a
25 Deadly Weapon (Felony – NRS 200.380, 193.165).

26 On February 1, 2012, the jury returned its verdict. The jury found Petitioner Guilty of:
27 COUNT 1 – Battery with Substantial Bodily Harm; COUNT 2 – Conspiracy to Commit
28 Kidnapping; COUNT 3 – First Degree Kidnapping; COUNT 4 – Battery *without* Substantial

1
2 Bodily Harm; COUNT 7 – Conspiracy to Commit Burglary; COUNT 8 – Conspiracy to
3 Commit Kidnapping; COUNT 9 – Conspiracy to Commit Murder; COUNT 11 – First Degree
4 Kidnapping; COUNT 12 – First Degree Kidnapping; COUNT 13 – First Degree Murder with
5 Use of a Deadly Weapon; COUNT 14 – First Degree Murder with Use of a Deadly Weapon;
6 COUNT 15 – Robbery with Use of a Deadly Weapon; and COUNT 16 – Robbery with Use of
7 a Deadly Weapon. The jury found Defendant Not Guilty of COUNT 5 – Robbery; COUNT 6
8 – Pandering; and COUNT 10 – Burglary. On February 10, 2012, the jury returned with a
9 Special Verdict as to COUNTS 13 & 14, Murder of the First Degree with Use of a Deadly
10 Weapon, finding that the aggravating circumstances outweighed any mitigating
11 circumstances, and imposed a sentence of Life Without the Possibility of Parole as to both
12 counts.

13 On April 24, 2012, Petitioner was sentenced as to COUNT 1 – a maximum of 48
14 months, and a minimum of 19 months in the Nevada Department of Corrections (“NDC”);
15 COUNT 2 – a maximum of 60 months and a minimum of 24 months, in the NDC, consecutive
16 to COUNT 1; COUNT 3 – Life with Parole Eligibility beginning after a minimum of 5 years
17 served in the NDC, concurrent with COUNT 2; COUNT 4 – 6 months in the Clark County
18 Detention Center (“CCDC”), concurrent with COUNT 3; COUNT 7 – 12 months in the
19 CCDC, consecutive to COUNT 3; COUNT 8 – maximum of 60 months and a minimum of 24
20 months in the NDC, concurrent with COUNT 7; COUNT 9: maximum of 120 months and a
21 minimum of 48 months in the NDC, consecutive to COUNT 8; COUNTS 11 & 12 – Life
22 Without the Possibility of Parole for each count in the NDC, consecutive to COUNTS 9 & 11
23 respectively; COUNTS 13 & 14 – Life Without the Possibility of Parole in the NDC, plus a
24 consecutive term of Life Without the Possibility of Parole for use of a deadly weapon for each
25 count, consecutive to COUNTS 12 & 13 respectively; COUNT 15 – a maximum of 180
26 months and a minimum of 48 months in the NDC, plus a consecutive term of a maximum of
27 180 months and a minimum of 48 months for use of a deadly weapon, concurrent with COUNT
28

1
2 14; COUNT 16 – a maximum of 180 months and a minimum of 48 months in the NDC, plus
3 a consecutive term of 180 months and a minimum of 48 months for use of a deadly weapon,
4 consecutive to COUNT 15. Petitioner received 6 consecutive terms of Life Without the
5 Possibility of Parole. Petitioner also received 2,148 days credit for time served. The Judgment
6 of Conviction was filed on May 8, 2012. Petitioner filed a timely Notice of Appeal on June 5,
7 2012. The Supreme Court affirmed the lower court's judgment on December 18, 2013, and
8 Remittitur was issued on January 15, 2014.

9 On August 13, 2014, Petitioner filed a Post-Conviction Petition for Writ of Habeas
10 Corpus, along with a Motion for Appointment of Attorney. On September 2, 2014, the district
11 court granted Petitioner's request for an attorney as it was his first Petition. Betsy Allen, Esq.
12 was appointed as counsel on September 18, 2014.

13 On February 18, 2016, Petitioner filed a Pro Per Amended Supplemental Petition for
14 Writ of Habeas Corpus. The State submitted its Response to this fugitive document on June 2,
15 2016. On May 27, 2016, in violation of the Court's briefing schedule, counsel filed a
16 Supplemental Memorandum of Points and Authorities in Support of Petition for Writ of
17 Habeas Corpus.

18 On February 9, 2017, the State responded to Petitioner's February 18, 2016 Amended
19 Supplemental Petition for Writ of Habeas Corpus and Supplement. Following a hearing on
20 March 8, 2017, the Court denied Petitioner's Supplemental Petition for Writ of Habeas Corpus.
21 The Findings of Fact, Conclusions of Law and Order was filed on May 5, 2017.

22 On November 21, 2017, Petitioner filed a Motion to Correct Illegal Sentence. The State
23 filed its Opposition on December 11, 2017. Following a hearing on December 12, 2017, the
24 Court denied the Motion.

25 On September 9, 2019, Petitioner filed the instant Post-Conviction Petition for Writ of
26 Habeas Corpus. The State filed its Response on December 2, 2019.
27
28

Following the hearing on December 11, 2019, this Court finds and concludes as follows:

LEGAL AUTHORITY

I. THE PETITION IS DISMISSED BECAUSE IT IS TIME-BARRED

The claim itself is time-barred pursuant to NRS 34.726. The mandatory provision of NRS 34.726(1) states:

Unless there is good cause shown for delay, a petition that challenges the validity of a judgment or sentence *must be filed within 1 year after entry of the judgment of conviction* or, if an appeal has been taken from the judgment, within 1 year after the Supreme Court issues its remittitur. For the purposes of this subsection, good cause for delay exists if the petitioner demonstrates to the satisfaction of the court:

- (a) That the delay is not the fault of the petitioner; and
- (b) That dismissal of the petition as untimely will unduly prejudice the petitioner.

(emphasis added). “[T]he statutory rules regarding procedural default are mandatory and cannot be ignored when properly raised by the State.” State v. Dist. Ct. (Riker), 121 Nev. 225, 233, 112 P.3d 1070, 1075 (2005).

Per the language, the one-year time bar prescribed by NRS 34.726 begins to run from the date the judgment of conviction is filed or a remittitur from a timely direct appeal is filed. Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133–34 (1998); see Pellegrini v. State, 117 Nev. 860, 873, 34 P.3d 519, 528 (2001) (NRS 34.726 should be construed by its plain meaning).

In Gonzales v. State, 118 Nev. 590, 593, 590 P.3d 901, 902 (2002), the Nevada Supreme Court rejected a habeas petition that was filed two days late, pursuant to the “clear and unambiguous” mandatory provisions of NRS 34.726(1). Gonzales reiterated the importance of filing the petition with the District Court within the one-year mandate, absent a showing of “good cause” for the delay in filing. Gonzales, 118, Nev. at 593, 590 P.3d at 902.

A showing of good cause and prejudice may overcome procedural bars. To avoid procedural default, a defendant has the burden of pleading and proving specific facts that

1
2 demonstrate good cause for his failure to present his claim in earlier proceedings or to
3 otherwise comply with the statutory requirements. See Hogan v. Warden, 109 Nev. 952, 959–
4 60, 860 P.2d 710, 715–16 (1993); Phelps v. Nevada Dep’t of Prisons, 104 Nev. 656, 659, 764
5 P.2d 1303, 1305 (1988).

6 “To establish good cause, [a petitioner] *must* show that an impediment external to the
7 defense prevented their compliance with the applicable procedural rule. A qualifying
8 impediment might be shown where the factual or legal basis for a claim was not reasonably
9 available at the time of default.” Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003)
10 (emphasis added). The Court continued, “appellants cannot attempt to manufacture good
11 cause[.]” Id. at 621, 81 P.3d at 526. Examples of good cause include interference by State
12 officials and the previous unavailability of a legal or factual basis. See State v. Huebler, 128
13 Nev. Adv. Op. 19, 275 P.3d 91, 95 (2012).

14 In order to establish prejudice, a petitioner must show “‘not merely that the errors of
15 [the proceedings] created possibility of prejudice, but that they worked to his actual and
16 substantial disadvantage, in affecting the state proceedings with error of constitutional
17 dimensions.’” Hogan v. Warden, 109 Nev. 952, 960, 860 P.2d 710, 716 (1993) (quoting United
18 States v. Frady, 456 U.S. 152, 170, 102 S. Ct. 1584, 1596 (1982)). To find good cause there
19 must be a “substantial reason; one that affords a legal excuse.” Hathaway v. State, 119 Nev.
20 248, 252, 71 P.3d 503, 506 (2003) (quoting Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229,
21 1230 (1989)). “A petitioner must show that an impediment external to the defense ... prevented
22 him from complying with the state procedural default rules.” Id. 119 Nev. at 251, 71 P.3d at
23 505. The claim of good cause must also be raised within a reasonable time. Id. Clearly, any
24 delay in the filing of the petition must not be the fault of the petitioner. NRS 34.726(1)(a).

25 In the instant case, Petitioner cannot establish good cause that would warrant
26 overcoming the mandatory bars of NRS 34.726, 34.800, and 34.810. Petitioner’s only claim is
27 that McCoy v. Louisiana, 138 S. Ct. 1500, 200 L.Ed.2d 821, 86 USLW 4271 (2018), provides
28

1
2 a new basis to challenge his Judgment of Conviction because trial counsel conceded his guilt
3 without his consent. The United States Supreme Court decided McCoy on May 15, 2018.
4 Petitioner did not file the instant Petition until September 9, 2019, more than one year after the
5 Supreme Court decided McCoy. Petitioner cannot establish good cause to overcome the
6 mandatory procedural time-bar pursuant to Hathaway. Absent a showing of good cause for the
7 delay, this claim is denied.

8 **ORDER**

9 THEREFORE, IT IS HEREBY ORDERED that the Post-Conviction Petition for Writ
10 of Habeas Corpus shall be, and it is, hereby denied.

11 DATED this 20 day of December, 2019.

12
13 
14 DISTRICT JUDGE

15 . MICHAEL P. VILLANI ^{OB}

16 STEVEN B. WOLFSON
17 Clark County District Attorney
18 Nevada Bar #001565

19 BY /s/JOHN NIMAN
20 JOHN NIMAN
21 Deputy District Attorney
22 Nevada Bar #014408

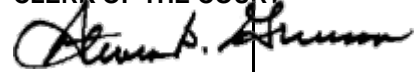
23 **CERTIFICATE OF MAILING**

24 I hereby certify that service of the above and foregoing was made this 17th day of
25 December, 2019, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

26 DOMONIC MALONE #69418
27 HIGH DESERT STATE PRISON
28 P.O. BOX 650
INDIAN SPRINGS, NV 89070-0650

BY /s/D. Daniels
Secretary for the District Attorney's Office

06FH0742/JN/ab-APPEALS/dd/MVU



NEO

**DISTRICT COURT
CLARK COUNTY, NEVADA**

DOMONIC MALONE,

Petitioner,

vs.

B WILLIAMS,

Respondent,

Case No: A-19-801802-W

Dept No: XVII

**NOTICE OF ENTRY OF FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

PLEASE TAKE NOTICE that on January 16, 2020, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on January 22, 2020.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

CERTIFICATE OF E-SERVICE / MAILING

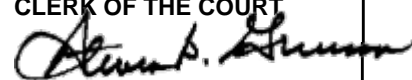
I hereby certify that on this 22 day of January 2020, I served a copy of this Notice of Entry on the following:

☒ By e-mail:
Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

☒ The United States mail addressed as follows:
Domonic Malone # 69418
P.O. Box 650
Indian Springs, NV 89070

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk



FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JOHN NIMAN
Deputy District Attorney
Nevada Bar #014408
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

DOMINIC RONALDO MALONE,
#1670891
Defendant.

CASE NO: A-19-801802-W
06C224572-2
DEPT NO: XVII

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

DATE OF HEARING: December 11, 2019
TIME OF HEARING: 8:30 AM

THIS CAUSE having come on for hearing before the Honorable MICHAEL P. VILLANI, District Judge, on the 11th day of December, 2019, the Petitioner not being present, not represented by counsel, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through CHRISTOPHER HAMNER, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

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2 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

3 STATEMENT OF THE CASE

4 On August 2, 2006, DOMONIC RONALDO MALONE (hereinafter "Petitioner"),
5 was charged by way of Information with: COUNTS 1, 4, 13 & 14 – First Degree Kidnapping
6 (Felony – NRS 200.310, 200.320); COUNTS 2 & 5 – Battery with Substantial Bodily Harm
7 (Felony – NRS 200.481); COUNTS 3 & 7 – Conspiracy to Commit Kidnapping (Felony –
8 NRS 200.310, 200.320, 199.480); COUNT 6 – Robbery (Felony – NRS 200.380); COUNTS
9 8 & 9 - Pandering (Felony – NRS 201.300); COUNT 10 – Conspiracy to Commit Murder
10 (Felony – NRS 200.010, 200.030, 199.480); COUNT 11 – Conspiracy to Commit Burglary
11 (Gross Misdemeanor – NRS 205.060, 199.480); COUNT 12 – Burglary (Felony – NRS
12 205.060); COUNTS 15 & 16 – Murder with Use of a Deadly Weapon (Felony – NRS
13 200.010, 200.030, 193.165); and COUNTS 17 & 18 – Robbery with Use of a Deadly
14 Weapon (Felony – NRS 200.380, 193.165). On August 16, 2006, Petitioner entered a plea of
15 Not Guilty to the charges set forth in the Information.

16 On August 30, 2006, the State filed an Amended Information, wherein the substantive
17 charges remained the same. On this same date, the State filed a Notice of Intent to Seek the
18 Death Penalty.

19 On January 7, 2009, Petitioner filed a Pro Per Motion to Dismiss Counsel, without
20 attaching any points or authorities in support of said motion. Finding no good cause existed to
21 dismiss counsel, the district court denied the Motion on January 20, 2009. Upon Petitioner's
22 insistence, the district court set a hearing for a Faretta Canvass on January 8, 2010. After
23 canvassing Petitioner, the district court found that he had knowingly and voluntarily waived
24 his right to counsel. The district court then granted Petitioner's request, and appointed
25 Petitioner's former counsel as stand-by.
26

27 On November 3, 2010, the State filed a Second Amended Information removing one
28 count of Pandering from the Amended Information.

2 On January 8, 2011, Petitioner filed a Pro Per Motion to Dismiss Stand-By Counsel,
3 but failed to provide the district court with any points and authorities in support of his Motion.
4 On January 25, 2011, the district court questioned Petitioner regarding his Motion and, finding
5 his complaints baseless and the absence of any points and authorities improper, denied the
6 Motion without prejudice.

7 On June 29, 2011, Petitioner filed a pleading entitled "Ex Parte Communication
8 Defendant Memorandum to Court." Petitioner alleged that he had been forced against his
9 wishes to represent himself in the underlying case. On July 19, 2011, a hearing was held in
10 which the district court confirmed that Petitioner filed the Ex Parte Communications and
11 verified that the statements therein were true. Based on Petitioner's statements, the district
12 court revoked his request to represent himself, and appointed the Special Public Defender,
13 currently stand-by counsel, to represent Petitioner once again.

14 Petitioner's jury trial commenced on January 10, 2012. On January 30, 2012, the State
15 filed a Third Amended Information, striking the first degree kidnapping charge alleged in
16 COUNT 1. The Third Amended Information thus charged Petitioner as follows: COUNTS 1
17 & 4 – Battery with Substantial Bodily Harm (Felony – NRS 200.481); COUNTS 2 & 8 –
18 Conspiracy to Commit Kidnapping (Felony – NRS 200.310, 200.320, 199.480); COUNTS 3,
19 11 & 12 – First Degree Kidnapping (Felony – NRS 200.310, 200.320); COUNT 5 – Robbery
20 (Felony – NRS 200.380); COUNT 6 – Pandering (Felony – NRS 201.300); COUNT 7 –
21 Conspiracy to Commit Burglary (Gross Misdemeanor – NRS 205.060, 199.480); COUNT 9 –
22 Conspiracy to Commit Murder (Felony – NRS 200.010, 200.030, 199.480); COUNT 10 –
23 Burglary (Felony – NRS 205.060); COUNTS 13 & 14 – Murder with Use of a Deadly Weapon
24 (Felony – NRS 200.010, 200.030, 193.165); and COUNTS 15 & 16 – Robbery with Use of a
25 Deadly Weapon (Felony – NRS 200.380, 193.165).

26 On February 1, 2012, the jury returned its verdict. The jury found Petitioner Guilty of:
27 COUNT 1 – Battery with Substantial Bodily Harm; COUNT 2 – Conspiracy to Commit
28 Kidnapping; COUNT 3 – First Degree Kidnapping; COUNT 4 – Battery *without* Substantial

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2 Bodily Harm; COUNT 7 – Conspiracy to Commit Burglary; COUNT 8 – Conspiracy to
3 Commit Kidnapping; COUNT 9 – Conspiracy to Commit Murder; COUNT 11 – First Degree
4 Kidnapping; COUNT 12 – First Degree Kidnapping; COUNT 13 – First Degree Murder with
5 Use of a Deadly Weapon; COUNT 14 – First Degree Murder with Use of a Deadly Weapon;
6 COUNT 15 – Robbery with Use of a Deadly Weapon; and COUNT 16 – Robbery with Use of
7 a Deadly Weapon. The jury found Defendant Not Guilty of COUNT 5 – Robbery; COUNT 6
8 – Pandering; and COUNT 10 – Burglary. On February 10, 2012, the jury returned with a
9 Special Verdict as to COUNTS 13 & 14, Murder of the First Degree with Use of a Deadly
10 Weapon, finding that the aggravating circumstances outweighed any mitigating
11 circumstances, and imposed a sentence of Life Without the Possibility of Parole as to both
12 counts.

13 On April 24, 2012, Petitioner was sentenced as to COUNT 1 – a maximum of 48
14 months, and a minimum of 19 months in the Nevada Department of Corrections (“NDC”);
15 COUNT 2 – a maximum of 60 months and a minimum of 24 months, in the NDC, consecutive
16 to COUNT 1; COUNT 3 – Life with Parole Eligibility beginning after a minimum of 5 years
17 served in the NDC, concurrent with COUNT 2; COUNT 4 – 6 months in the Clark County
18 Detention Center (“CCDC”), concurrent with COUNT 3; COUNT 7 – 12 months in the
19 CCDC, consecutive to COUNT 3; COUNT 8 – maximum of 60 months and a minimum of 24
20 months in the NDC, concurrent with COUNT 7; COUNT 9: maximum of 120 months and a
21 minimum of 48 months in the NDC, consecutive to COUNT 8; COUNTS 11 & 12 – Life
22 Without the Possibility of Parole for each count in the NDC, consecutive to COUNTS 9 & 11
23 respectively; COUNTS 13 & 14 – Life Without the Possibility of Parole in the NDC, plus a
24 consecutive term of Life Without the Possibility of Parole for use of a deadly weapon for each
25 count, consecutive to COUNTS 12 & 13 respectively; COUNT 15 – a maximum of 180
26 months and a minimum of 48 months in the NDC, plus a consecutive term of a maximum of
27 180 months and a minimum of 48 months for use of a deadly weapon, concurrent with COUNT
28

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2 14; COUNT 16 – a maximum of 180 months and a minimum of 48 months in the NDC, plus
3 a consecutive term of 180 months and a minimum of 48 months for use of a deadly weapon,
4 consecutive to COUNT 15. Petitioner received 6 consecutive terms of Life Without the
5 Possibility of Parole. Petitioner also received 2,148 days credit for time served. The Judgment
6 of Conviction was filed on May 8, 2012. Petitioner filed a timely Notice of Appeal on June 5,
7 2012. The Supreme Court affirmed the lower court's judgment on December 18, 2013, and
8 Remittitur was issued on January 15, 2014.

9 On August 13, 2014, Petitioner filed a Post-Conviction Petition for Writ of Habeas
10 Corpus, along with a Motion for Appointment of Attorney. On September 2, 2014, the district
11 court granted Petitioner's request for an attorney as it was his first Petition. Betsy Allen, Esq.
12 was appointed as counsel on September 18, 2014.

13 On February 18, 2016, Petitioner filed a Pro Per Amended Supplemental Petition for
14 Writ of Habeas Corpus. The State submitted its Response to this fugitive document on June 2,
15 2016. On May 27, 2016, in violation of the Court's briefing schedule, counsel filed a
16 Supplemental Memorandum of Points and Authorities in Support of Petition for Writ of
17 Habeas Corpus.

18 On February 9, 2017, the State responded to Petitioner's February 18, 2016 Amended
19 Supplemental Petition for Writ of Habeas Corpus and Supplement. Following a hearing on
20 March 8, 2017, the Court denied Petitioner's Supplemental Petition for Writ of Habeas Corpus.
21 The Findings of Fact, Conclusions of Law and Order was filed on May 5, 2017.

22 On November 21, 2017, Petitioner filed a Motion to Correct Illegal Sentence. The State
23 filed its Opposition on December 11, 2017. Following a hearing on December 12, 2017, the
24 Court denied the Motion.

25 On September 9, 2019, Petitioner filed the instant Post-Conviction Petition for Writ of
26 Habeas Corpus. The State filed its Response on December 2, 2019.
27
28

Following the hearing on December 11, 2019, this Court finds and concludes as follows:

LEGAL AUTHORITY

I. THE PETITION IS DISMISSED BECAUSE IT IS TIME-BARRED

The claim itself is time-barred pursuant to NRS 34.726. The mandatory provision of NRS 34.726(1) states:

Unless there is good cause shown for delay, a petition that challenges the validity of a judgment or sentence *must be filed within 1 year after entry of the judgment of conviction* or, if an appeal has been taken from the judgment, within 1 year after the Supreme Court issues its remittitur. For the purposes of this subsection, good cause for delay exists if the petitioner demonstrates to the satisfaction of the court:

- (a) That the delay is not the fault of the petitioner; and
- (b) That dismissal of the petition as untimely will unduly prejudice the petitioner.

(emphasis added). “[T]he statutory rules regarding procedural default are mandatory and cannot be ignored when properly raised by the State.” State v. Dist. Ct. (Riker), 121 Nev. 225, 233, 112 P.3d 1070, 1075 (2005).

Per the language, the one-year time bar prescribed by NRS 34.726 begins to run from the date the judgment of conviction is filed or a remittitur from a timely direct appeal is filed. Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133–34 (1998); see Pellegrini v. State, 117 Nev. 860, 873, 34 P.3d 519, 528 (2001) (NRS 34.726 should be construed by its plain meaning).

In Gonzales v. State, 118 Nev. 590, 593, 590 P.3d 901, 902 (2002), the Nevada Supreme Court rejected a habeas petition that was filed two days late, pursuant to the “clear and unambiguous” mandatory provisions of NRS 34.726(1). Gonzales reiterated the importance of filing the petition with the District Court within the one-year mandate, absent a showing of “good cause” for the delay in filing. Gonzales, 118, Nev. at 593, 590 P.3d at 902.

A showing of good cause and prejudice may overcome procedural bars. To avoid procedural default, a defendant has the burden of pleading and proving specific facts that

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2 demonstrate good cause for his failure to present his claim in earlier proceedings or to
3 otherwise comply with the statutory requirements. See Hogan v. Warden, 109 Nev. 952, 959–
4 60, 860 P.2d 710, 715–16 (1993); Phelps v. Nevada Dep’t of Prisons, 104 Nev. 656, 659, 764
5 P.2d 1303, 1305 (1988).

6 “To establish good cause, [a petitioner] *must* show that an impediment external to the
7 defense prevented their compliance with the applicable procedural rule. A qualifying
8 impediment might be shown where the factual or legal basis for a claim was not reasonably
9 available at the time of default.” Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003)
10 (emphasis added). The Court continued, “appellants cannot attempt to manufacture good
11 cause[.]” Id. at 621, 81 P.3d at 526. Examples of good cause include interference by State
12 officials and the previous unavailability of a legal or factual basis. See State v. Huebler, 128
13 Nev. Adv. Op. 19, 275 P.3d 91, 95 (2012).

14 In order to establish prejudice, a petitioner must show “‘not merely that the errors of
15 [the proceedings] created possibility of prejudice, but that they worked to his actual and
16 substantial disadvantage, in affecting the state proceedings with error of constitutional
17 dimensions.’” Hogan v. Warden, 109 Nev. 952, 960, 860 P.2d 710, 716 (1993) (quoting United
18 States v. Frady, 456 U.S. 152, 170, 102 S. Ct. 1584, 1596 (1982)). To find good cause there
19 must be a “substantial reason; one that affords a legal excuse.” Hathaway v. State, 119 Nev.
20 248, 252, 71 P.3d 503, 506 (2003) (quoting Colley v. State, 105 Nev. 235, 236, 773 P.2d 1229,
21 1230 (1989)). “A petitioner must show that an impediment external to the defense ... prevented
22 him from complying with the state procedural default rules.” Id. 119 Nev. at 251, 71 P.3d at
23 505. The claim of good cause must also be raised within a reasonable time. Id. Clearly, any
24 delay in the filing of the petition must not be the fault of the petitioner. NRS 34.726(1)(a).

25 In the instant case, Petitioner cannot establish good cause that would warrant
26 overcoming the mandatory bars of NRS 34.726, 34.800, and 34.810. Petitioner’s only claim is
27 that McCoy v. Louisiana, 138 S. Ct. 1500, 200 L.Ed.2d 821, 86 USLW 4271 (2018), provides
28

1
2 a new basis to challenge his Judgment of Conviction because trial counsel conceded his guilt
3 without his consent. The United States Supreme Court decided McCoy on May 15, 2018.
4 Petitioner did not file the instant Petition until September 9, 2019, more than one year after the
5 Supreme Court decided McCoy. Petitioner cannot establish good cause to overcome the
6 mandatory procedural time-bar pursuant to Hathaway. Absent a showing of good cause for the
7 delay, this claim is denied.

8 **ORDER**

9 THEREFORE, IT IS HEREBY ORDERED that the Post-Conviction Petition for Writ
10 of Habeas Corpus shall be, and it is, hereby denied.

11 DATED this 20 day of December, 2019.

12
13 
14 DISTRICT JUDGE

15 . MICHAEL P. VILLANI ^{OB}

16 STEVEN B. WOLFSON
17 Clark County District Attorney
18 Nevada Bar #001565

19 BY /s/JOHN NIMAN
20 JOHN NIMAN
21 Deputy District Attorney
22 Nevada Bar #014408

23 **CERTIFICATE OF MAILING**

24 I hereby certify that service of the above and foregoing was made this 17th day of
25 December, 2019, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

26 DOMONIC MALONE #69418
27 HIGH DESERT STATE PRISON
28 P.O. BOX 650
INDIAN SPRINGS, NV 89070-0650

BY /s/D. Daniels
Secretary for the District Attorney's Office

06FH0742/JN/ab-APPEALS/dd/MVU

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

November 13, 2019

A-19-801802-W Domonic Malone, Plaintiff(s)
vs.
B Williams, Defendant(s)

**November 13, 2019 9:00 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Natalie Ortega

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT: Di Giacomo, Marc P. Attorney

JOURNAL ENTRIES

- COURT ORDERED, matter SET for Status Check regarding Decision.

12/11/19 9:00 AM STATUS CHECK: DECISION

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

December 11, 2019

A-19-801802-W Domonic Malone, Plaintiff(s)
vs.
B Williams, Defendant(s)

December 11, 2019 9:00 AM Status Check

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT: Hamner, Christopher S. Attorney

JOURNAL ENTRIES

- Court noted it was basing its decision on the pleadings on file herein and not accepting oral argument. Court noted the Judgment of Conviction was filed May of 2012, the Remittitur was issued in January of 2014, FINDING the Petition time barred pursuant to NRS 34.726, with no good cause for delay shown by the Defendant. Court further noted the Defendant's petition was filed sixteen months after the McCoy Supreme Court Decision and ORDERED, Petition for Writ of Habeas Corpus DENIED. Court directed State to prepare the Order and FURTHER ORDERED matter set for Status Check on the filing of the Order. Court noted the Status Check date would be vacated if the Order was filed.

NDC

01/08/2020 9:00 AM STATUS CHECK: ORDER

CLERK'S NOTE: The above minute order has been distributed to:
DOMONIC MALONE #69418
P O BOX 650
INDIAN SPRINGS, NV 89070//sr 12-11-2019

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

January 08, 2020

A-19-801802-W Domonic Malone, Plaintiff(s)
vs.
B Williams, Defendant(s)

January 08, 2020 9:00 AM Status Check Status Check: Order

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: April Watkins

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT: Di Giacomo, Marc P. Attorney

JOURNAL ENTRIES

- Court noted petition previously ruled on and inquired of counsel as to the submission of the order. Mr. Di Giacomo stated he will check on the order. COURT ORDERED, matter CONTINUED.

NDC

CONTINUED TO: 1/22/2020 9:00 AM

CLERK'S NOTE: After court, this Court's Law Clerk, notified order has been received and the Court VACATED the January 22, 2020, court date. aw

CLERK'S NOTE: The above minute order has been distributed to: Domonic Malone #69418, High Desert State Prison, P.O. Box 650, Indian Springs, NV 89070. aw

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; CIVIL COVER SHEET; FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
ORDER; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER;
DISTRICT COURT MINUTES

DOMONIC RONALDO MALONE,

Plaintiff(s),

vs.

B. WILLIAMS,

Defendant(s),

Case No: A-19-801802-W

Dept No: XVII

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 27 day of January 2020.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk