

FILED

MAR 30 2020

Elizabeth A. Brown
CLERK OF COURT

1 Hayes, James H #1175072

2 In Propria Personam
3 Post Office Box 208, S.D.C.C.
4 Indian Springs, Nevada 89018

Electronically Filed
Apr 24 2020 03:04 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

5 IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

6 IN AND FOR THE COUNTY OF Clark

7
8
9 State of Nevada

Plaintiff,

11 vs.

12 James H. Hayes

Defendant.

Case No. C-16-315718-1

Dept. No. 19

Docket _____

16 NOTICE OF APPEAL

17 NOTICE IS HEREBY GIVEN, That the Petitioner/Defendant,
18 JAMES H. HAYES, in and through his proper person, hereby
19 appeals to the Supreme Court of Nevada from the ORDER denying and/or
20 dismissing the

21 MOTION to CORRECT ILLEGAL SENTENCE

22
23 ruled on the 18 day of March, 20 20.

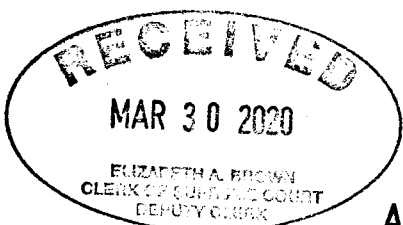
C-16-315718-1
NOASC
Notice of Appeal (criminal)
4910182



25 Dated this 26 day of March, 20 20

26 Respectfully Submitted,

27 *James H. Hayes*



28 RECEIVED
APPEALS

APR 23 2020

Docket 81076 Document 2020-15746

CLERK OF THE COURT

JAMES JAMES H. 1175077
Petitioner/In Propria Persona
Post Office Box 208, SDCC
Indian Springs, Nevada 89070-0208

IN THE 8th JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF Clark

State of Nevada
Plaintiff,

vs.

JAMES H. HAYES
Defendant.

CASE No. C-16-315218-1
DEPT. No. 19

DESIGNATION OF RECORD ON APPEAL

TO:

The above-named Plaintiff hereby designates the entire record of the above-entitled case, to include all the papers, documents, pleadings, and transcripts thereof, as and for the Record on Appeal.

DATED this _____ day of _____, 20____.

RESPECTFULLY SUBMITTED BY:

Plaintiff/In Propria Persona

CERTIFICATE OF SERVICE BY MAILING

I, James H. Hayes, hereby certify, pursuant to NRCP 5(b), that on this 26
day of March, 2020 I mailed a true and correct copy of the foregoing, "Notice
of Appeal"

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

SUPREME COURT OF NEVADA
CLERK OF THE COURT
201 S. CARSON ST. STE 201
CARSON CITY, NV 89701

CLERK OF THE COURT
200 LEWIS AVE. 3RD FLOOR
LAS VEGAS, NEVADA
89135-1120

CC:FILE

DATED: this 26 day of March, 2020.

James H. Hayes
11735047
In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Notice of

Appeal

(Title of Document)

filed in District Court Case number C-16-315718-1

☒ 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.

James H. Hayes
Signature

3-26-20
Date

JAMES H. HAYES
Print Name

PRO PER
Title

1
2
3 (a) GROUND ONE: MR. HOYES (petitioner) was denied his
4 Constitutionally guaranteed right to effective
5 assistance of counsel (Federal and State Constitutional
6 rights 3rd 6th and 14th Amendment Violations:

7 23. (a) SUPPORTING FACTS (Tell your story briefly without citing cases or law):

8 Whereas, trial counsel failed to provide zealous and
9 quality representation at all stages of the criminal
10 process. Counsel's performance was deficient and representation
11 fell below the objective standard of reasonableness as
12 counsel failed to do appropriate investigation and study
13 of the case, including an analysis of controlling law
14 (NRS 174.085(3); NRS 178.56.2) and had counsel use due
15 diligence and investigated the facts and the law he
16 would have known that the charge of Attempt Grand
17 Larceny was Perred from District Court against the
18 petitioner as NRS. 174.085(3) and NRS 178.56.2 provides
19 the authority that made petitioner immune from
20 prosecution on charge of Attempt Grand Larceny in
21 District Court. Counsel failed to make certain that the
22 petitioner fully and completely understood the conditions
23 and limits of the plea agreement and the maximum
24 punishment and other consequences the petitioner
25 would be exposed to by entering his "Alford plea"
26 as petitioner was surprised by the habitual criminal
27 sentence. When in fact, even though petitioner signed

1 the guilty plea agreement he was ignorant to the potential
2 outcome as counsel had informed petitioner that he was
3 agreeing to a gross-misdemeanor with time served credit
4 and concurrent to case NO C-16-715125-1. Counsel failed
5 to file a motion to withdraw guilty plea pre-sentencing
6 and post-sentencing when sentencing was not in
7 accordance with the negotiated agreement and a
8 determination of habitual criminal was adjudicated.
9 When in fact, what alleged Attempt Grand Larceny occurred
10 on or about April 13, 2013 petitioner had never served a
11 prison term or been to prison and had only one prior
12 felony conviction for a Class E Felony "Attempt possession
13 of Credit or Debit Card without Cardholder's consent" as
14 Texas crime was one event for Credit Card Abuse and
15 fraudulent use/possession of identifying information that
16 did not and does not carry a prison term, mandatory
17 supervision, nor parole. Counsel failed to challenge alleged
18 breach that was founded on impalpable and highly
19 suspect evidence as the Burglary charge used was
20 dismissed and the finding of probable cause was
21 misplaced as alleged victim testified under oath that
22 petitioner was not the perpetrator of alleged event and
23 he was 100% sure and further testified that alleged
24 perpetrator did not enter said room only stood in doorway
25 said "Sorry" and closed door without incident so this is
26 a clear and convincing showing that no probable cause
27 existed against petitioner. Counsel failed to challenge
28 probable cause and subject matter jurisdiction for

1 the Burglary charge in case NO C-16-315718-1 that had
2 counsel challenge the Burglary charge was held as the
3 state's intent for the charge of Burglary of Attempt
4 Grand Larceny was dismissed following a preliminary
5 hearing in Justice Court Las Vegas Township on June 14,
6 2016 and the Burglary charge also must have been
7 dismissed leaving no jurisdiction for the district court
8 to proceed with the filed information dated June 17, 2016,
9 nor the amended information of Attempt Grand Larceny
10 filed November 7, 2018. Where, as here, counsel failures
11 are a clear and convincing showing of prong one
12 of the two prong test of Strickland that has greatly
13 prejudice petitioner and that petitioner's Affidavit
14 was not knowingly, intelligently, or voluntarily entered.

15 Where, as here, counsel's deficient performance prejudiced
16 petitioner to his extreme detriment causing irreparable
17 injury, and if not for counsel's unprofessional errors
18 and lack of due diligence of failure to investigate
19 the facts and the law, the results of the proceedings
20 would have been different. Where as here, petitioner
21 would not have entered an "Affidavit" as the charges
22 of Attempt Grand Larceny was barred from District Court
23 for lack of jurisdiction, lack of admissible evidence,
24 and violation of state law pursuant to NRS 174.085(3)
25 and NRS 178.562 and the Burglary charge case NO.
26 C-16-315718-1 was held as the state had no intent.

27 When in fact, no reasonable jury would have convicted
28 petitioner of Attempt Grand Larceny nor the charge

1 of Burglary as the state's intent for the Burglary charge
2 of Larceny in the filed information on June 17, 2016
3 was dismissed following preliminary hearing for NO
4 slight or marginal evidence, NO corpus delicti, and
5 lack of admissible evidence. As counsel's failures are
6 shown by a preponderance of the evidence, the record,
7 and state law. In addition, counsel failed to file a
8 Notice of appeal and failed to inform petitioner of the
9 right to appeal. Wherefore, this is a clear and convincing
10 showing of prong two of the two prong test of Strickland
11 that has greatly prejudiced petitioner and a valid
12 showing that petitioner's Afford plea to the charge
13 of Attempt Grand Larceny was not knowingly,
14 intelligently, or voluntarily entered. What is fact, the
15 petitioner stands convicted of a crime he did not commit!
16 due to counsel failures. Furthermore, this is an affront
17 to justice and due process to hold petitioner to his
18 Afford plea when the conduct upon which the plea
19 was entered did not occur. Finally, for the above
20 reasons, but for counsel's errors and failures petitioner
21 would not have entered an Afford plea and went
22 to trial on the charge of Burglary and been ~~convicted~~ acquitted.
23 Wherefore, appellate counsel failed to provide zealous and
24 quality representation at all stages of appeal process.
25 Counsel's performance was deficient and representation
26 fell below the objective standard of reasonableness as
27 appellate counsel failed to do appropriate investigation
28 of potentially meritorious claims of error and assert

1 claims of error that are supported by facts and the
2 law and failed to assert claims that were complex,
3 unique, and issues of first impression. Counsel did
4 not thoroughly research the issues in the case and
5 set forth all viable issues in his prepared and
6 sanctioned "fast track" statement. Appellate counsel failed
7 to raise meritorious claims of failure of the state
8 to properly notice its intent to seek habitual treatment
9 at sentencing for the wobbler charge of Attempt
10 Grand Larceny. When in fact, State's Amended Notice
11 of intent to seek punishment as a habitual criminal
12 was for the charge of Burglary. Counsel failed to
13 raise the claim that District Court lacked jurisdiction
14 for the charge of Attempt Grand Larceny, when in fact,
15 jurisdiction is derived by the law and Nevada
16 state law NRS 174.085(3) and NRS 178.562 is the
17 authority that state's amended information for the
18 charge of Attempt Grand Larceny was without subject
19 matter jurisdiction and was BARRED from district
20 court proceedings against petitioner. Counsel did not
21 challenge the habitual criminal adjudication pursuant
22 to NRS 207.010. When in fact, petitioner is not a
23 habitual criminal and his prior criminal ^{history} proves it
24 as petitioner had only the Texas state jail crime(s)
25 that was one event and not felonies as they did
26 not carry any prison term and not any category
27 of felony and only carries jail time and the

1 Burglary conviction was not a prior, so in essence
2 petitioner ~~was~~ first time in prison and ^{with} one prior
3 felony has been treated as a habitual criminal. This
4 is easily deemed cruel and unusual punishment
5 and violates the legislative intent of NRS 207.010.
6 In addition, petitioner was deprived of effective
7 assistance of counsel on direct appeal when district
8 court Judge William Kephart dismissed petitioner's
9 appellate counsel on July 15, 2019. Pursuant to
10 motion to withdraw counsel that was granted as
11 District court Judge William Kephart stated his reason
12 for granting and dismissing counsel was that
13 the Supreme Court of Nevada had issued a remittitur.

14 Where, as here, counsel failures are a clear and
15 convincing showing of the prejudice prong of
16 Strickland.

17 Whereas, petitioner requested many times over
18 that counsel file appeal and express to counsel on
19 several occasions his dissatisfaction with the
20 conviction and sentence and counsel failed to do
21 so that easily satisfies the deficient performance
22 of Strickland and shows the prejudice against
23 petitioner cause had counsel use ~~the~~ diligence
24 and raised the meritorious claims and not been
25 withdrawn as counsel prior to the perfection of
26 the appeal, petitioner appeal (direct) would have
27 been successful.

23. (b) GROUND TWO: The state violated Mr. Hayes right to Due Process as guaranteed by both the Due Process Clause of the United States Constitution and the Nevada Constitution. "Breach of guilty plea agreement on impeachable evidence"

23. (b) SUPPORTING FACTS (Tell your story briefly without citing cases or law): Whereas, the breach of issue was not material nor volitional, when in fact, the court was required to hold an evidentiary hearing on the alleged breach which has resulted in dire consequences to petitioner and an additional five(5) to fourteen (and a half) (14½) years in prison in violation of the bargained for stipulations. That the state entered in BAD FAITH with petitioner as the agreement was unconstitutional, malicious, and a manifest injustice. Indeed, in relating the factual and procedural history of the case, the state has taken great liberties to continue the sort of narrative that has likely fueled inconsistent and unfair mass incarceration in Nevada.

Whereas, the petitioner knows the record and has tried to contextualize this actual record to reveal that an manifest injustice was done in his specific case.

Although his counsel's presented a very unconvincing argument worthy of sanctions and a bar complaint and is blatant ineffective assistance of counsel that has greatly prejudice petitioner to his extreme detriment causing petitioner irreparable injury.

Whereas, in other words, the state's claim of breach that petitioner was found to have probable cause for

1 a New Burglary charge is absurd when the alleged victim
2 of alleged Burglary testified under oath facing the penalty
3 of perjury that he was 100% sure petitioner was not the
4 perpetrator of the ispe divit crime and that this alleged
5 charge crime was without probable cause against petitioner
6 as the Justice Court Judge ruling of probable cause was
7 misplaced and essentially the charge was dismissed in the
8 first district court appearance. Furthermore, the guilty plea
9 agreement in this case did not explicitly provide for the
10 abdication of stipulation for a mere run into the law
11 for a allege crime he had no part of, let alone for a
12 charge that was dismissed to further solidify his non-
13 participation in the ispe divit Burglary charge lodged
14 against him without due process considerations.

15 Whereas, petitioner's case of "Attempt Grand Larceny"
16 is the one ostensibly before us in this petition which
17 allegedly occurred on April 18, 2013 and was formally
18 charged by way of Criminal complaint on July 23, 2013
19 that was dismissed following a preliminary hearing in
20 Justice Court, Las Vegas township on June 14, 2016 for
21 lack of admissible evidence, no corpus delicti, no slight
22 or marginal evidence to proceed to district court
23 leaving the District Court 8th Judicial District with no
24 subject matter jurisdiction for the charge of Attempt
25 Grand Larceny as it was BARRED from subsequent
26 prosecution against petitioner as mandated by state
27 law pursuant to NRS 174.085(3) and NRS 178.562

1 Making the state's emended information for Attempt Grand
2 Larceny unconstitutional, in BAD FAITH, and fraud upon
3 the court by not first establishing jurisdiction before
4 prosecution that has prejudice petitioner to his extreme
5 detriment causing petitioner irreparable injury.

6 WHEREAS the UNCONSTITUTIONAL guilty plea agreement
7 at issue here for the "Mobbster" charge of Attempt Grand
8 Larceny indicated that there was a stipulated sentence
9 of probation with the only condition to be 30 days in
10 the Clark County Detention Center with 30 days credit
11 for time served with no suspended prison term and
12 no time period of probation to be served that solidifies
13 petitioner's position that the agreement was for gross
14 misdemeanor treatment and further stipulated that
15 it was to run concurrently to case NO C-16-315125-1.
16 This stipulation is unique to this case and do not contain
17 any boilerplate language and do not explicitly rely upon
18 or even reference the loss of stipulation in their language

19 WHEREAS here, indeed, the boilerplate language
20 regarding "Magistrate to find probable cause" does not
21 explicitly refer to loss of stipulation, but only that "the
22 state will have the unqualified right to argue for any
23 legal sentence and term of confinement allowable
24 for the crime to which I am pleading guilty, including
25 the use of any prior convictions I may have to
26 INCREASE my sentence as an habitual criminal to five
27 to twenty (20) years. which in fact, there could not

1 be a legal sentence in the instant offense as the charge
2 of Attempt Grand Larceny was BARRED from subsequent
3 prosecution against petitioner and the District Court had
4 no subject matter jurisdiction for instant offense Attempt
5 Grand Larceny. In addition, the 2016 Burglary charge used
6 in adjudication was not a prior conviction as the instant
7 offense occurred in 2013.

8 Where, as here, it is also undisputed that the ~~holoplate~~
9 language does not explicitly refer to a right to argue for
10 consecutive sentence. It should also be noted that the
11 ~~holoplate~~ language of the guilty plea agreement does not
12 refer in any way to what would constitute (or not constitute)
13 an excusable ruling of probable cause by magistrate or
14 make any reference to any ability for a "due process" to
15 challenge an overment of a material breach. Furthermore,
16 petitioner received no consideration whatsoever in exchange
17 for his "Alford plea" to a crime that petitioner did not commit.

1 23. (c) GROUND THREE: State violated Mr. Hayes Right to "Due
2 Process" when it failed to adhere to State law (NRS.
3 174.085(3) and NRS 178.522 making conviction
4 invalid and unconstitutional)

5 23. (c) SUPPORTING FACTS (Tell your story briefly without citing cases or law): Whereas,
6 petitioner has explicitly reserved his right not to be
7 compelled to perform under any contract or agreement
8 that I have not entered into knowingly, voluntarily,
9 and intelligently and that my valid reservation of
10 Rights has preserved all my Rights and prevented
11 the loss of any such Rights by application of the
12 concepts of waiver or estoppel as in the instant
13 case.

14 Whereas, it is unconscionable for the state to
15 attempt to insulate a conviction from collateral
16 constitutional review by conditioning its willingness
17 to enter into plea negotiations on petitioner's
18 "Waiver of the Rights" to pursue post-conviction
19 remedies.

20 Where, as here, petitioner is entitled to habeas
21 corpus if there is no material dispute as to a mistake
22 of fact relating to his conviction (7.B.C.P 32(d))
23 and this court must set aside the judgment of
24 conviction after sentence in order to correct
25 this manifest injustice. As here, both parties agree
26 to the mistake of fact that the charge of Attempt
27 Grand Larceny was dismissed following preliminary

1 hearing by Justice Court Magistrate for lack of admissible
2 evidence, no corpus delicti, no slight or marginal evidence
3 to be further prosecuted in district court, and this is
4 clear and convincing showing of dismissal of an
5 action.

6 Whereby, the state did violate NRS 178.562(4) by bringing
7 another prosecution following dismissal of an action to
8 constitute "another prosecution" without another pending
9 vehicle for the prosecution of the charge of Attempt Grand
10 Larceny that runs afoul of the provisions of NRS 178.562(4)
11 and BARS further prosecution of the petitioner on that
12 charge. When in fact the state held the preliminary hearing
13 June 14, 2016 pursuant to the filed criminal complaint
14 as the vehicle for prosecution of the instant offense
15 and no other vehicle was filed for the instant offense
16 Attempt Grand Larceny until November 7, 2018 by the
17 way of an amended information that and there is
18 no colorable argument that would allow them to over-
19 come the violation of state law NRS 178.562.

20 Where, as here, the state's amended information
21 filed in open court November 7, 2018 was a subsequent
22 prosecution for the same offense in the former "Attempt
23 Grand Larceny" that was dismissed following preliminary
24 hearing by magistrate without another pending vehicle
25 for prosecution leaving the instant offense barred
26 from all district court proceedings against petitioner
27 and this jurisprudence set forth is perfectly clear

1 and unambiguous.

2 WHEREAS, the state did violate NRS 174.085(1) when the petitioner
3 was once placed in jeopardy upon the criminal complaint and
4 proceeded to the preliminary hearing and following the preliminary
5 hearing the charge of Attempt grand larceny was dismissed by
6 magistrate, that is a bar to another indictment, information or
7 complaint for the offense charged in the former. Thus the state
8 triggered the protections of NRS 174.085(3) to bar the subsequent
9 prosecution of the instant offense Attempt grand larceny against
10 the petitioner in all district court proceedings ~~which the state~~
11 ~~commenced in the district court~~ ~~the prosecution~~

12 WHERE, as here, there is no material dispute of fact that
13 the charge in the instant offense Attempt grand larceny was
14 dismissed following the preliminary examination and BARRIED
15 from any subsequent prosecution against petitioner in
16 district court leaving no subject matter jurisdiction for
17 prosecution in district court. In addition, the state may not
18 convict petitioner no matter how validly his factual guilt
19 is establish without subject matter jurisdiction and the
20 court that rendered the judgment had no subject matter
21 jurisdiction and left the court with no power to enter
22 the conviction or impose the sentence.

23 WHEREAS, subject matter jurisdiction is not waivable
24 as the state has contended as jurisdiction is derived from
25 the law and it neither can be waived nor conferred
26 by consent of the petitioner. As there is no colorable argu-
27 ment to overcome the lack of subject matter jurisdiction.

23. (d) GROUND FOUR: Violation of Mr. Hayes right to Due Process Material mistakes of fact regarding criminal record in PSI that work to his extreme detriment.

23. (d) SUPPORTING FACTS (Tell your story briefly without citing cases or law):

Whereas the court made material mistakes of fact about petitioner's criminal record, as the petitioner's PSI had several material facts in error that work to his extreme detriment.

Where, as here, petitioner and his counsel objected to the mistakes at sentencing hearing and sentencing judge continued the proceedings without allowing the corrections to be made. When, in fact, if the judge would have allowed the corrections to be completed in the instant case upon petitioner's objections petitioner's raw score, social score, and the Department of Public Safety Division of Parole and Probation recommendation would have been astronomically different and would have showed that petitioner had never been to prison so there would not have been any habitual offender recommendation for the instant offense of Attempt Grand Larceny. As the instant offense occurred in the year 2013 and at that time petitioner had one felony conviction not four as the PSI read, no prison incarcerations not one as the PSI read; no current supervisor history not one

1 as the PSI read; the instant offense should be dated
2 April 9, 2013 NOT April 2, 2016 as the PSI reads;
3 Burglary conviction case NO C-116-315125-1 should NOT
4 be included anywhere on petitioner's PSI for the instant
5 offense as it occurred sum three years later on April
6 2, 2016; Finally the Texas conviction(s) case NO(s)
7 1083785 and 1083786 was ONE event NOT two as it
8 reads on PSI NOT two felony convictions but ONE
9 state jail conviction for Credit Card Abuse and Fraudulent
10 use/possession of Identifying information. Whereas the
11 numerous material mistakes of facts about petitioner's
12 criminal record that have worked to his extreme detriment
13 has rise to a manifest injustice and due process
14 violation that cannot stand uncorrected. Furthermore,
15 the Texas crime(s) would not constitute a felony under
16 Nevada law.

1 23. (d) GROUND ~~ONE~~ ^{FIVE}: State Violated Mr. Hughes Right to "DUE PROCESS"
2 as guaranteed by both the "DUE PROCESS CLAUSE of the United
3 State's Constitution and the Nevada Constitution: "DUE
4 PROCESS violation guilty plea was NOT Equally voluntary, knowing
5 and intelligent."
6 23. (d) SUPPORTING FACTS (Tell your story briefly without citing cases or law): ~~Whereas~~,
7 waivers of constitutional rights NOT only must be voluntary
8 but must be knowing, intelligent acts done with sufficient
9 awareness of the relevant circumstances and likely
10 consequences. As here, petitioner's "waiver of his fund-
11 mental rights" was NOT knowingly and intelligently
12 made as the court failed to adequately inform petitioner
13 of the full consequences of his Afford plea that has
14 created a manifest injustice, because the trial court
15 did not straightforwardly explain consequences of
16 petitioner's breach of the agreement while awaiting
17 sentencing that the state would unilaterally impose
18 an enhanced sentence as the ambiguous language was
19 ambiguous and had imprecisions that did not explicitly
20 state loss of stipulation. Most significantly, petitioner did
21 not intelligently and knowingly waive his constitutional
22 rights with full knowledge of the consequences. Nor was
23 he told that his Afford plea would stand regardless of whether
24 he was arrested for a Burglary charge that was dismissed,
25 after alleged victim testified at preliminary hearing under
26 oath facing the penalty of perjury that petitioner was not
27 the perpetrator of alleged event and 100% sure of it.
28 So petitioner has raised sufficient doubt as whether his

1 Afford plea was ever accepted, and even if it was, whether
2 he was fully and fairly apprised of its consequences.

3 Whereas, the state interpreted the court's statement to
4 mean "do you understand that if you breach any of
5 the conditions in guilty plea agreement, this court will
6 sentence you". Yet, that is not what the trial court said.
7 When it is surely equally plausible explanation of the
8 plea colloquy that petitioner would -- were here to breach
9 the agreement -- face trial on the Burglary charge. In
10 particular, it is impossible to conclude that petitioner
11 truly understood that he was waiving his right to be
12 tried on the original charge of Burglary, and agreed
13 instead that were he requested the state trial court could
14 unilaterally impose a habitual criminal sentence upon him.
15 So it is without question that whatever waiver petitioner
16 agreed to was without adequate knowledge of the
17 consequences flowing from his breach of the plea agreement.
18 If in fact there was a material breach that in the
19 instant case was in question as the facts of the alleged
20 breach was based on impeachable and highly suspect
21 evidence of an alleged Burglary charge that was
22 dismissed after alleged victim testified that petitioner
23 was not the perpetrator of alleged event.

"No factual statements on the record which

AFFIDAVIT OF: would constitute an admission of "Guilt"

STATE OF NEVADA)

COUNTY OF CLARK)

ss: CASE No: A-19-793315

DEPT: 19

TO WHOM IT MAY CONCERN:

I, James N. Hayes the undersigned, do hereby swear that

all statements, facts and events within my foregoing Affidavit are true and correct of my own knowledge, information and belief, and as to those, I believe them to be True and Correct. Signed under the penalty of perjury, pursuant to, NRS. 29.010; 53.045; 208.165, and state

the following: WHEREAS, IN Alford, the court held a plea contain a protestation of innocence was constitutionally acceptable when "a defendant intelligently concludes that his interests require entry of guilty plea and the record before the judge contains strong evidence of guilt" (400 U.S. at 37). IN the instant case, there was, of course, NO evidence of actual guilt of the crime of Attempted Grand Larceny, as the sentencing judge and the state ki Mr. Hayes had NO involvement in such a crime. Moreover, when preli examination showed NO criminal act of Attempted Grand Larceny, it is clear that NO evidence of actual guilt existed on the under- lying criminal conduct that may have justified accepting Mr. Hay plea, therefore Mr. Hayes did not waive his right to complain of the acceptance of an unconstitutional plea. Mr. Hayes neither made preli statements regarding an admission to the attempted grand larceny charge nor admitted facts constituting the elements of attempted grand larceny. So Mr. Hayes did not understand the elements of the crime that he pleaded to.

EXECUTED At: Indian Springs, Nevada, this 1st Day of March

BY:

James N. Hayes
James N. Hayes #1185092
Post Office Box-203 (SDCC)
Indian Springs, Nevada 89070
Affiant, In Propria Personam:

2020.

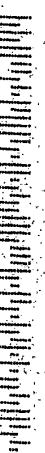
Alper, J # 1175097
50cc
P.O. Box 208
Indian Springs, Nevada
89070

Supreme Court of Nevada
"Office of the clerk"
201 South Carson Street, Suite 201
Carson City, Nevada
89701

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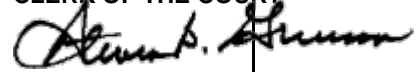


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1 ASTA

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5
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**
9

10 STATE OF NEVADA,

11 Plaintiff(s),

12 vs.

13 JAMES HOWARD HAYES
14 aka JAMES HOWARD HAYES, JR.,

15 Defendant(s),

Case No: C-16-315718-1

Dept No: XIX

16
17 **CASE APPEAL STATEMENT**
18

19 1. Appellant(s): James H. Hayes

20 2. Judge: William D. Kephart

21 3. Appellant(s): James H. Hayes

22 Counsel:

23 James H. Hayes #1175077
24 P.O. Box 208
Indian Springs, NV 89070

25 4. Respondent: The State of Nevada

26 Counsel:

27 Steven B. Wolfson, District Attorney
28 200 Lewis Ave.

Las Vegas, NV 89101
(702) 671-2700

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: Yes

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

9. Date Commenced in District Court: June 14, 2016

10. Brief Description of the Nature of the Action: Criminal

Type of Judgment or Order Being Appealed: Misc. Order

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 73436, 75173, 77151, 78590, 78622, 80222

12. Child Custody or Visitation: N/A

Dated This 23 day of April 2020.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: James H. Hayes

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY**CASE NO. C-16-315718-1**

State of Nevada
vs
James Hayes

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Location: **Department 19**
Judicial Officer: **Kephart, William D.**
Filed on: **06/14/2016**
Case Number History:
Cross-Reference Case Number: **C315718**
Defendant's Scope ID #: **2796708**
ITAG Booking Number: **0**
ITAG Case ID: **2067407**
Lower Court Case # Root: **13F10723**
Lower Court Case Number: **13F10723X**
Metro Event Number: **1304090843**
Supreme Court No.: **77151**
78590
80222

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
Jurisdiction: District Court					
1. ATTEMPT GRAND LARCENY	205.222.2	F	04/09/2013	Case Status:	03/12/2019 Closed
PCN: 0028999877 ACN: 1304090843					
Filed As: BURGLARY	F		6/17/2016		
Arrest: 04/02/2016					
	MET - Metro				

Related Cases

A-19-793315-W (Writ Related Case)

Statistical Closures

03/12/2019 Guilty Plea with Sentence (before trial) (CR)


Bonds

Surety #SV25-4743871 \$13,000.00
2/8/2019 Exonerated
6/1/2016 Active
Counts: 1



















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

Case Number	C-16-315718-1
Court	Department 19
Date Assigned	02/10/2017
Judicial Officer	Kephart, William D.

PARTY INFORMATION*Lead Attorneys***Defendant** **Hayes, James Howard****Pro Se****Plaintiff** **State of Nevada****Wolfson, Steven B**
702-671-2700(W)**DATE****EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

06/14/2016  Criminal Bindover Packet Las Vegas Justice Court
Criminal Bindover

CASE SUMMARY
CASE NO. C-16-315718-1

















06/17/2016	 Information
07/29/2016	 Transcript of Proceedings <i>Transcript of Hearing Held on June 14, 2016</i>
08/26/2016	 Notice of Rescheduling of Hearing
11/18/2016	 Motion for Discovery <i>Defendant's Motion for Discovery</i>
11/21/2016	 Notice of Intent <i>Notice of Intent to Seek Punishment as a Habitual Criminal</i>
11/21/2016	 Notice of Witnesses <i>Notice of Witnesses [NRS 174.234(1)(a)]</i>
12/05/2016	 Response <i>State's Response to Defendant's Motion for Discovery, and State's Request for Reciprocal Discovery</i>
12/12/2016	 Notice of Motion <i>Notice of Motion and Motion for Joinder of Case C315718 into Case C315125</i>
12/16/2016	 Notice of Witnesses <i>Notice of Witnesses [NRS 174.234(1)(a)]</i>
12/16/2016	 Notice of Motion <i>Notice of Motion and Motion to Admit Evidence of Other Acts</i>
12/20/2016	 Opposition to Motion <i>Opposition to the State's Motion to Admit Evidence of Other Acts</i>
01/20/2017	 Order Denying Motion <i>Order Denying State's Motion to Admit Evidence of Other Acts</i>
02/08/2017	 Substitution of Attorney
02/10/2017	 Notice of Department Reassignment
03/23/2017	 Order for Production of Inmate <i>Order for Production of Inmates</i>
05/31/2017	 Motion to Withdraw As Counsel Filed By: Defendant Hayes, James Howard <i>Motion to Withdraw as Attorney of Record for Defendant</i>
06/01/2017	 Certificate of Mailing
08/29/2017	 Receipt of Copy Filed by: Plaintiff State of Nevada
08/29/2017	

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	 Amended Notice Filed By: Plaintiff State of Nevada <i>Amended Notice of Intent to Seek Punishment as a Habitual Criminal</i>
08/29/2017	 Notice Filed By: Plaintiff State of Nevada <i>Notice to Introduce Certified Copies [NRS 52.260(4)]</i>
10/24/2017	 Receipt of Copy
03/01/2018	 Miscellaneous Filing Filed by: Defendant Hayes, James Howard <i>Courtesy Filing of Defendant's Pro Per Petition</i>
04/06/2018	 Miscellaneous Filing Filed by: Defendant Hayes, James Howard <i>Amended Courtesy Filing of Defendant's Pro Per Petition for Writ of Habeas Corpus</i>
04/25/2018	 Notice of Motion Filed By: Plaintiff State of Nevada <i>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</i>
05/07/2018	 Notice of Witnesses Party: Defendant Hayes, James Howard <i>Defendant's Notice of Witnesses, Pursuant to NRS 174.234</i>
05/07/2018	 Supplemental Witness List Filed by: Defendant Hayes, James Howard <i>Defendant's Supplemental Notice of Witnesses Pursuant to NRS 174.234</i>
06/12/2018	 Order for Production of Inmate <i>Order for Production of Inmate James Howard Hayes, aka, James Howard Hayes, Jr., BAC #2796708</i>
07/30/2018	 Motion to Withdraw As Counsel Filed By: Defendant Hayes, James Howard <i>Motion to Withdraw as Attorney of Record</i>
09/12/2018	 Order Denying Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Pro Per Petition for Writ of Habeas Corpus</i>
09/18/2018	 Notice of Entry of Order
09/26/2018	 Notice of Appeal (criminal) <i>Notice of Appeal</i>
10/10/2018	 Case Appeal Statement Filed By: Defendant Hayes, James Howard
11/07/2018	 Amended Information Filed By: Plaintiff State of Nevada

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11/07/2018	 Guilty Plea Agreement <i>Guilty Plea Agreement Pursuant to Alford</i>
12/18/2018	 PSI <i>Pre-Sentence Investigation Report (Unfiled) Confidential</i>
01/11/2019	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed</i>
01/31/2019	 Notice of Motion <i>State's Notice of Motion and Motion to Revoke Bail</i>
03/12/2019	 Judgment of Conviction <i>Judgment of Conviction (Plea of Guilty-Alford)</i>
03/28/2019	 Notice of Appeal (criminal) <i>Notice of Appeal</i>
04/12/2019	 Case Appeal Statement
04/29/2019	 Motion to Dismiss Counsel Party: Defendant Hayes, James Howard <i>Motion to Withdraw Counsel</i>
04/29/2019	 Notice of Motion Filed By: Defendant Hayes, James Howard
06/14/2019	 Certificate Filed By: Defendant Hayes, James Howard <i>Certificate That No Transcript is Being Requested</i>
07/29/2019	 Order Granting Motion Filed By: Plaintiff State of Nevada <i>Order Granting Defendant's Pro Per Motion to Withdraw Counsel</i>
07/31/2019	 Notice of Appeal (criminal) <i>Notice of Appeal (2nd)</i>
08/09/2019	 Case Appeal Statement Filed By: Defendant Hayes, James Howard
08/30/2019	 Order Filed By: Plaintiff State of Nevada <i>Order for Transcript</i>
09/09/2019	 Motion Filed By: Defendant Hayes, James Howard <i>"Motion in the Nature of a Writ of Coram Nobis"</i>
09/09/2019	 Notice of Motion Filed By: Defendant Hayes, James Howard


CASE SUMMARY


CASE NO. C-16-315718-1


09/25/2019	 Recorders Transcript of Hearing Party: Defendant Hayes, James Howard <i>Transcript of Hearing Held on November 7, 2018</i>
09/26/2019	 Affidavit Filed By: Defendant Hayes, James Howard <i>Affidavit of Granting Motion in the Nature of a Writ of Coram Nobis</i>
10/01/2019	 Opposition to Motion Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Motion for a Writ of Coram Nobis</i>
10/17/2019	 Order Denying Motion Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Pro Per Motion in the Nature of a Writ of Coram Nobis</i>
10/17/2019	 Reply to Opposition Filed by: Defendant Hayes, James Howard <i>"Reply" to the State's Opposition" Motion for a Writ of Coram Nobis</i>
10/28/2019	 Affidavit Filed By: Defendant Hayes, James Howard <i>Affidavit of "No Material Dispute as to the Mistake of Fact" Motion in the Nature of a Writ of Coram Nobis"</i>
11/19/2019	 Notice of Appeal (criminal) <i>Notice of Appeal</i>
11/19/2019	 Designation of Record on Appeal
12/04/2019	 Notice of Change of Address Filed By: Defendant Hayes, James Howard
12/11/2019	 Case Appeal Statement Filed By: Defendant Hayes, James Howard
12/16/2019	 Motion to Modify Sentence Filed By: Defendant Hayes, James Howard <i>"Motion to Correct an Illegal Sentence"</i>
12/16/2019	 Notice of Motion Filed By: Defendant Hayes, James Howard
12/30/2019	 Opposition to Motion Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Motion to Correct an Illegal Sentence</i>
01/06/2020	 Affidavit Filed By: Defendant Hayes, James Howard <i>Affidavit of Granting "Motion to Correct an Illegal Sentence" of the Wrongfully Convicted"</i>
01/27/2020	 Reply to Opposition Filed by: Defendant Hayes, James Howard <i>Reply to State's Opposition to Motion to Correct An Illegal Sentence</i>


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02/24/2020  Motion
Filed By: Defendant Hayes, James Howard
Motion for Ruling on Motion to Correct an Illegal Sentence

02/24/2020  Notice of Motion
Filed By: Defendant Hayes, James Howard

02/25/2020  NV Supreme Court Clerks Certificate/Judgment - Affirmed
Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed

03/30/2020  Notice of Appeal (criminal)
Notice of Appeal

04/07/2020  Order Denying Motion
Filed By: Plaintiff State of Nevada
ORDER DENYING DEFENDANT'S PRO PER MOTION FOR RULING ON MOTION TO CORRECT AN ILLEGAL SENTENCE

04/23/2020  Case Appeal Statement
Filed By: Defendant Hayes, James Howard
Case Appeal Statement

DISPOSITIONS

11/07/2018 **Plea** (Judicial Officer: Kephart, William D.)
1. ATTEMPT GRAND LARCENY
Guilty
PCN: 0028999877 Sequence:

03/06/2019 **Disposition** (Judicial Officer: Kephart, William D.)
1. ATTEMPT GRAND LARCENY
Guilty
PCN: 0028999877 Sequence:

03/06/2019 **Adult Adjudication** (Judicial Officer: Kephart, William D.)
1. ATTEMPT GRAND LARCENY
04/09/2013 (F) 205.222.2 (DC56025)
PCN: 0028999877 Sequence:

Sentenced to Nevada Dept. of Corrections
Term: Minimum:60 Months, Maximum:174 Months
Consecutive: Case Number -C315125
Credit for Time Served: 10 Days
Comments: Deft. SENTENCED UNDER the SMALL HABITUAL STATUTE

Fee Totals:

Administrative Assessment Fee	25.00
\$25	
Genetic Marker Analysis AA Fee	3.00
\$3	
Fee Totals \$	28.00

HEARINGS

06/23/2016  **Initial Arraignment** (10:00 AM) (Judicial Officer: De La Garza, Melisa)

CASE SUMMARY

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Trial Date Set;

Journal Entry Details:

Deputized Law Clerk, Kelsey Einhorn appearing for the State. DEFT. HAYES ARRAIGNED, PLED NOT GUILTY, and WAIVED the 60-DAY RULE. COURT ORDERED, matter set for trial. COURT FURTHER ORDERED, Deft's Request for Discovery is GRANTED pursuant to NRS 174.235 and 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. BOND 12/27/16 8:30 AM CALENDAR CALL (DEPT. 12) 1/03/16 1:30 PM JURY TRIAL (DEPT. 12);

12/06/2016



Motion for Discovery (8:30 AM) (Judicial Officer: Leavitt, Michelle)

12/06/2016, 12/08/2016

Defendant's Motion for Discovery

Continued;

Granted in Part;

Journal Entry Details:

Deft. not present; PRESENCE WAIVED. COURT ORDERED, as follows: 1. Court noted this request is overly broad, however, it will GRANT it to extent it is required by NRS 174.235. 2. State to comply with NRS 174.234. 3. State to comply with NRS 174.235. 4. State to comply with NRS 174.235. 5. State to comply with NRS 174.235. 6. State to provide anything other than statutory witness fee. 7. State to comply with Brady obligations. 8. State is to disclose prior felony information or crimes involving moral turpitude. 9. MOTION DENIED. 10. If there are any informants, the State is to disclose this information to Court, for determination as to whether the information needs to be turned over. 11. MOTION GRANTED; State to provide defense with all chain of custody regarding evidence. Ms. Sauter to prepare the order. BOND;

Continued;

Granted in Part;

Journal Entry Details:

Deft. not present. Ms. Holiday requested Deft's presence be waived, further noting he resides in California and has had excellent communication with Ms. Sauter. Additionally, Ms. Sauter is on vacation, and defense will request a continuance for Ms. Sauter to appear and handle proceedings. COURT ORDERED, matter CONTINUED. Court noted for the record State had filed their written opposition yesterday. Ms. Holiday noted this in her file. BOND 12/08/16 8:30 A.M. DEFT'S MOTION FOR DISCOVERY 12/20/16 8:30 A.M. CALENDAR CALL 1/03/17 1:30 P.M. TRIAL BY JURY;

12/20/2016



Calendar Call (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Set Status Check;

Journal Entry Details:

Ms. Devaney-Sauter informed Court there is a pending motion to consolidate this case and another criminal case before Judge Eric Johnson on December 22, 2016. Additionally, defense has to do further investigation, and will not be ready for trial. At request of counsel, COURT ORDERED, trial date VACATED; matter SET for status check. BOND 1/26/17 8:30 A.M. STATUS CHECK: FURTHER PROCEEDINGS / RESET TRIAL DATE ;

12/22/2016



Motion to Admit Evidence (8:30 AM) (Judicial Officer: Leavitt, Michelle)

12/22/2016, 01/12/2017

State's Motion to Admit Evidence of Other Acts

Continued;

Denied;

Journal Entry Details:

Mr. Dickerson informed Court Deft. was convicted of burglary in his jury trial. Thereafter, Mr. Dickerson argued in support of the burglary matter to be admitted, and there having been no lawful intent on Deft's acts. Ms. Sauter opposed; and argued as to NRS 48.045, and State having given an overbroad reading of intent. Further arguments as to case law cited by State in the pleadings, State having failed to establish the relief being sought on using any intent evidence, common schemer plan exception, Newman vs. State case law, and prejudice outweighing probative value for Deft. if the act comes in for trial. Ms. Sauter added the State cannot establish introduction of this evidence, and based on a prior, the jury in this case may convict him just on this, and not on any evidence. Further arguments as to Nevada Supreme Court decision. Ms. Sauter requested Court to consider setting an evidentiary hearing on the issue, if Court is inclined to grant State's Motion. Mr. Dickerson stated he will submit a trial transcript from the other case to this Court. Further arguments as to case law being clear. COURT ORDERED, Motion DENIED. Ms. Sauter to prepare the order. BOND 1/26/17 8:30 A.M. STATUS CHECK: FURTHER PROCEEDINGS / RESET TRIAL DATE ;

MINUTES

Continued;

Denied;

Journal Entry Details:

Deft. not present. Mr. Gaston informed Court Deft. was told he did not have to be here. COURT ORDERED, Deft's

CASE SUMMARY


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presence WAIVED. Mr. Dickerson provided details surrounding the allegations; and argued in support of admission of Deft's other burglary acts from three years prior, and further argued as to State's theory of Deft's probable defense, State needing to prove intent. Court stated it was not provided Deft's Opposition to State's Motion. Ms. Sauter apologized; and provided a copy of the Opposition to Court for consideration. COURT ORDERED, matter CONTINUED for Court to review this Opposition, prior to further arguments. Upon Court's inquiry, Mr. Dickerson clarified the request to consolidate this case and C315125 from Department 20 was denied by Judge Eric Johnson, and Judge Johnson had said he would entertain another bad acts motion by State. Discussions as to trial date of January 3, 2017 already having been vacated by this Court. BOND 1/12/17 8:30 A.M. STATE'S MOTION TO ADMIT EVIDENCE OF OTHER ACTS ;


SCHEDULED HEARINGS

CANCELED All Pending Motions (12/22/2016 at 8:30 AM) (Judicial Officer: Leavitt, Michelle)
Vacated - On in Error

12/22/2016 **CANCELED All Pending Motions** (8:30 AM) (Judicial Officer: Leavitt, Michelle)
Vacated - On in Error

12/22/2016  **Motion to Consolidate** (9:00 AM) (Judicial Officer: Johnson, Eric)
State's Motion for Joinder of Case C315718 into Case C315125
Denied;
Journal Entry Details:
Mr. Rowles and Ms. Devaney-Sauter argued their respective positions. COURT ORDERED, Motion DENIED. BOND;

01/03/2017 **CANCELED Jury Trial** (1:30 PM) (Judicial Officer: Leavitt, Michelle)
Vacated - per Judge


01/26/2017  **Status Check: Reset Trial Date** (8:30 AM) (Judicial Officer: Leavitt, Michelle)
Status Check: Further Proceedings / Reset Trial Date


MINUTES

Trial Date Set;
Journal Entry Details:
COURT ORDERED, trial date SET. CUSTODY 3/14/17 8:30 A.M. CALENDAR CALL 3/21/17 1:30 P.M. TRIAL BY JURY;

SCHEDULED HEARINGS

CANCELED Calendar Call (03/14/2017 at 8:00 AM) (Judicial Officer: Leavitt, Michelle)
Vacated - per Judge
CANCELED Jury Trial (03/21/2017 at 1:30 PM) (Judicial Officer: Leavitt, Michelle)
Vacated - per Judge

02/09/2017  **Minute Order** (3:00 AM) (Judicial Officer: Leavitt, Michelle)
Minute Order Re: Recusal
Minute Order - No Hearing Held;
Journal Entry Details:
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;

03/06/2017  **Trial Setting** (8:30 AM) (Judicial Officer: Kephart, William D.)
Trial Date Set;
Journal Entry Details:
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;

03/14/2017 **CANCELED Calendar Call** (8:00 AM) (Judicial Officer: Leavitt, Michelle)

CASE SUMMARY

CASE NO. C-16-315718-1

Vacated - per Judge

03/21/2017 **CANCELED Jury Trial** (1:30 PM) (Judicial Officer: Leavitt, Michelle)

Vacated - per Judge

03/22/2017  **Calendar Call** (8:30 AM) (Judicial Officer: Kephart, William D.)


Matter Heard;

Journal Entry Details:

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;

03/27/2017 **CANCELED Jury Trial** (10:00 AM) (Judicial Officer: Kephart, William D.)

Vacated - per Judge

04/03/2017  **Status Check** (8:30 AM) (Judicial Officer: Kephart, William D.)

04/03/2017, 05/01/2017

Status Check: Negotiations / Trial Setting

Matter Continued;

Trial Date Set;

Journal Entry Details:


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 10/02/2017 10:00 AM JURY TRIAL;

Matter Continued;

Trial Date Set;

Journal Entry Details:

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;


05/31/2017  **Status Check** (8:30 AM) (Judicial Officer: Kephart, William D.)

Status Check: Negotiations

Matter Heard;

Journal Entry Details:

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);


06/12/2017  **Motion to Withdraw as Counsel** (8:30 AM) (Judicial Officer: Kephart, William D.)

Tony Abbatangelo, Esq's Motion to Withdraw as Attorney of Record

Granted;

Journal Entry Details:

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);

07/10/2017  **Status Check** (8:30 AM) (Judicial Officer: Kephart, William D.)

Status Check: Confirmation of Counsel (PD)

Counsel Confirmed;






Journal Entry Details:

Mr. Rusley confirmed as counsel on behalf of Defendant. COURT ORDERED, trial date STANDS. BOND (COC-NDC);

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-16-315718-1

08/30/2017	 Pre Trial Conference (8:30 AM) (Judicial Officer: Kephart, William D.) Matter Heard; Journal Entry Details: <i>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) 9/20/17 9:00 AM STATUS CHECK: NEGOTIATIONS;</i>
09/27/2017	Calendar Call (9:00 AM) (Judicial Officer: Kephart, William D.) Matter Heard;
09/27/2017	Status Check (9:00 AM) (Judicial Officer: Kephart, William D.) 09/27/2017, 10/25/2017 <i>Status Check: Negotiations</i> Matter Continued; Matter Heard; Matter Continued; Matter Heard;
09/27/2017	 All Pending Motions (9:00 AM) (Judicial Officer: Kephart, William D.) Matter Heard; Journal Entry Details: <i>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;</i>
10/02/2017	CANCELED Jury Trial (10:00 AM) (Judicial Officer: Kephart, William D.) <i>Vacated - per Judge</i>
10/25/2017	Status Check (8:30 AM) (Judicial Officer: Kephart, William D.) <i>Status Check: Supreme Court Decision / Trial Setting</i> Trial Date Set;
10/25/2017	 All Pending Motions (8:30 AM) (Judicial Officer: Kephart, William D.) Matter Heard; Journal Entry Details: <i>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;</i>
04/11/2018	 Pre Trial Conference (8:30 AM) (Judicial Officer: Kephart, William D.) Matter Heard; Journal Entry Details: <i>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);</i>
04/23/2018	 Petition for Writ of Habeas Corpus (8:30 AM) (Judicial Officer: Kephart, William D.) 04/23/2018, 05/09/2018 <i>Amended Courtesy Filing Of Defendant's Pro Per Petition For Writ Of Habeas Corpus</i> Matter Heard; Journal Entry Details:

CASE SUMMARY

CASE NO. C-16-315718-1

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** ;

05/09/2018  **Calendar Call (8:30 AM)** (Judicial Officer: Kephart, William D.)

Matter Heard;

Journal Entry Details:

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** ;


05/09/2018 **Motion to Dismiss (8:30 AM)** (Judicial Officer: Kephart, William D.)

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

Matter Continued;

05/14/2018 **CANCELED Jury Trial (10:00 AM)** (Judicial Officer: Kephart, William D.)

Vacated - per Judge


06/06/2018  **Status Check (8:30 AM)** (Judicial Officer: Kephart, William D.)

SUPREME COURT DECISION/ RESET TRIAL

Matter Heard;

Journal Entry Details:

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**;

07/11/2018  **Status Check: Trial Setting (8:30 AM)** (Judicial Officer: Kephart, William D.)

Trial Date Set;

Journal Entry Details:

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 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** ;

08/15/2018 **Petition (8:30 AM)** (Judicial Officer: Kephart, William D.)

08/15/2018, 08/29/2018

Defendant's Pro Per Petition for Writ of Habeas Corpus

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

08/15/2018 **Motion to Withdraw as Counsel (8:30 AM)** (Judicial Officer: Kephart, William D.)

Defendant's Motion to Withdraw as Counsel of Record

Granted;

CASE SUMMARY

CASE NO. C-16-315718-1


08/15/2018	 All Pending Motions (8:30 AM) (Judicial Officer: Kephart, William D.) Matter Heard; Journal Entry Details: <i>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;</i>
08/29/2018	Confirmation of Counsel (8:30 AM) (Judicial Officer: Kephart, William D.) <i>Confirmation of Counsel (Sanft)</i> Counsel Confirmed;
08/29/2018	 All Pending Motions (8:30 AM) (Judicial Officer: Kephart, William D.) Matter Heard; Journal Entry Details: <i>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 Court is unable to consider the Petition. BOND (COC) ;</i>
09/26/2018	 Status Check (8:30 AM) (Judicial Officer: Kephart, William D.) <i>Status Check: Negotiations / Pre Trial Conference</i> Matter Heard; Journal Entry Details: <i>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);</i>
10/10/2018	CANCELED Pre Trial Conference (8:30 AM) (Judicial Officer: Kephart, William D.) <i>Vacated - per Judge</i>
11/07/2018	 Calendar Call (8:30 AM) (Judicial Officer: Kephart, William D.) Plea Entered; Journal Entry Details: <i>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;</i>
11/13/2018	CANCELED Jury Trial (10:00 AM) (Judicial Officer: Kephart, William D.) <i>Vacated - per Judge</i>
02/04/2019	 Motion (8:30 AM) (Judicial Officer: Kephart, William D.) <i>State's Notice of Motion and Motion to Revoke Bail</i> Granted; Journal Entry Details: <i>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);</i>
03/06/2019	 Sentencing (8:30 AM) (Judicial Officer: Kephart, William D.) Defendant Sentenced; Journal Entry Details:

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-16-315718-1

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;

06/03/2019  **Motion** (8:30 AM) (Judicial Officer: Kephart, William D.)

06/03/2019, 07/15/2019

Defendant's Pro Per Motion to Withdraw Counsel

Matter Continued;

Granted;

Journal Entry Details:


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 ;

Matter Continued;

Granted;

Journal Entry Details:

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;


10/07/2019  **Motion** (8:30 AM) (Judicial Officer: Bonaventure, Joseph T.)

Defendant's Pro Per Motion In the Nature of a Writ of Coram Nobis

Denied;

Journal Entry Details:

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 ;


01/06/2020  **Motion to Modify Sentence** (8:30 AM) (Judicial Officer: Kephart, William D.)

Defendant's Pro Per Motion to Correct An Illegal Sentence

Off Calendar;

Journal Entry Details:

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;

03/18/2020  **Motion** (8:30 AM) (Judicial Officer: Kephart, William D.)

Defendant's Pro Per Motion for Ruling on Motion to Correct an Illegal Sentence

Denied;

Journal Entry Details:

Court noted Defendant not present and in custody with the Nevada Department of Corrections. Court reviewed the procedural history of case. Court FINDS, Defendant's claims are similar to those filed in the appeal; however, Defendant fails to provide any statutory basis and/or authority to support the motion; Defendant's additional claims are substantive and should have been raised on appeal; therefore, COURT ORDERED, Defendant's Motion to Correct an Illegal Sentence shall be DENIED in its totality. NDC ;

DATE

FINANCIAL INFORMATION

Defendant Hayes, James Howard

Total Charges

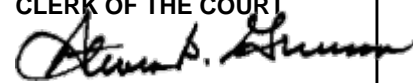
28.00

Total Payments and Credits

0.00

Balance Due as of 4/23/2020

28.00



ORDR
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
PARKER BROOKS
Deputy District Attorney
Nevada Bar #11927
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JAMES HOWARD HAYES, aka,
James Howard Hayes, Jr., #2796708

Defendant.

CASE NO: C-16-315718-1

DEPT NO: XIX

**ORDER DENYING DEFENDANT'S PRO PER MOTION FOR RULING ON
MOTION TO CORRECT AN ILLEGAL SENTENCE**

DATE OF HEARING: March 18, 2020
TIME OF HEARING: 8:30 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 18th day of March, 2020, the Defendant not being present, represented in PROPER PERSON, the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through PARKER BROOKS, Deputy District Attorney, and the Court having heard without argument, based on the pleadings and good cause appearing therefor,

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(DENY_ILL_SENT)-001.DOCX

1 ///

2 Court FINDS, Defendant's claims are similar to those filed in the appeal; however,
3 Defendant fails to provide any statutory basis and/or authority to support the motion;
4 Defendant's additional claims are substantive and should have been raised on appeal;
5 therefore, IT IS HEREBY ORDERED that the Defendant's Pro Per Motion for Ruling on
6 Motion to Correct an Illegal Sentence, shall be, and it is DENIED.

7 DATED this 6th day of April, 2020.

8 Will Kph
9 DISTRICT JUDGE

10 STEVEN B. WOLFSON
11 Clark County District Attorney
12 Nevada Bar #001565

13 BY Parker Brooks
14 PARKER BROOKS
15 Deputy District Attorney
16 Nevada Bar #11927

17 CERTIFICATE OF SERVICE

18 I certify that on the 7th day of April, 2020, I mailed a copy of the foregoing

19 Order to:

20
21 JAMES HAYES, BAC #1175077
22 HIGH DESERT STATE PRISON
23 P.O. BOX 650
24 INDIAN SPRINGS, NV 89018

25 BY James Hayes
26 Secretary for the District Attorney's Office
27
28

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 23, 2016

C-16-315718-1 State of Nevada
vs
JAMES HAYES

June 23, 2016 10:00 AM Initial Arraignment

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

COURT CLERK: Kristen Brown

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PRESENT: Devaney, Kelli M. Attorney
HAYES, JAMES HOWARD Defendant
Public Defender Attorney

JOURNAL ENTRIES

- Deputized Law Clerk, Kelsey Einhorn appearing for the State.

DEFT. HAYES ARRAIGNED, PLED NOT GUILTY, and WAIVED the 60-DAY RULE. COURT ORDERED, matter set for trial. COURT FURTHER ORDERED, Deft's Request for Discovery is GRANTED pursuant to NRS 174.235 and 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.

BOND

12/27/16 8:30 AM CALENDAR CALL (DEPT. 12)

1/03/16 1:30 PM JURY TRIAL (DEPT. 12)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 06, 2016

C-16-315718-1 State of Nevada
vs
JAMES HAYES

December 06, 2016 8:30 AM Motion for Discovery

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT:	Holiday, Kristy	Attorney
	Mendoza, Erika	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft. not present. Ms. Holiday requested Deft's presence be waived, further noting he resides in California and has had excellent communication with Ms. Sauter. Additionally, Ms. Sauter is on vacation, and defense will request a continuance for Ms. Sauter to appear and handle proceedings. COURT ORDERED, matter CONTINUED. Court noted for the record State had filed their written opposition yesterday. Ms. Holiday noted this in her file.

BOND

12/08/16 8:30 A.M. DEFT'S MOTION FOR DISCOVERY

12/20/16 8:30 A.M. CALENDAR CALL

1/03/17 1:30 P.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 08, 2016

C-16-315718-1 State of Nevada
 vs
 JAMES HAYES

December 08, 2016 8:30 AM Motion for Discovery

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT:	DeVaney-Sauter, Kelli M.	Attorney
	Public Defender	Attorney
	Rogan, Jeffrey	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft. not present; PRESENCE WAIVED.

COURT ORDERED, as follows:

1. Court noted this request is overly broad, however, it will GRANT it to extent it is required by NRS 174.235.
2. State to comply with NRS 174.234.
3. State to comply with NRS 174.235.
4. State to comply with NRS 174.235.
5. State to comply with NRS 174.235.
6. State to provide anything other than statutory witness fee.
7. State to comply with Brady obligations.
8. State is to disclose prior felony information or crimes involving moral turpitude.
9. MOTION DENIED.
10. If there are any informants, the State is to disclose this information to Court, for determination as

to whether the information needs to be turned over.

11. MOTION GRANTED; State to provide defense with all chain of custody regarding evidence.

Ms. Sauter to prepare the order.

BOND

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 20, 2016

C-16-315718-1 State of Nevada
 vs
 JAMES HAYES

December 20, 2016 8:30 AM Calendar Call

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT:	DeVaney-Sauter, Kelli M.	Attorney
	HAYES, JAMES HOWARD	Defendant
	Public Defender	Attorney
	Scow, Richard H.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. Devaney-Sauter informed Court there is a pending motion to consolidate this case and another criminal case before Judge Eric Johnson on December 22, 2016. Additionally, defense has to do further investigation, and will not be ready for trial. At request of counsel, COURT ORDERED, trial date VACATED; matter SET for status check.

BOND

1/26/17 8:30 A.M. STATUS CHECK: FURTHER PROCEEDINGS / RESET TRIAL DATE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****December 22, 2016**

C-16-315718-1 State of Nevada
vs
JAMES HAYES

December 22, 2016 8:30 AM Motion to Admit Evidence

HEARD BY: Leavitt, Michelle**COURTROOM:** RJC Courtroom 14D**COURT CLERK:** Susan Botzenhart**RECORDER:** Kristine Santi**REPORTER:****PARTIES**

PRESENT:	DeVaney-Sauter, Kelli M.	Attorney
	Dickerson, Michael	Attorney
	Gaston, Tyler	Attorney
	Public Defender	Attorney
	Rowles, William C.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft. not present. Mr. Gaston informed Court Deft. was told he did not have to be here. COURT ORDERED, Deft's presence WAIVED. Mr. Dickerson provided details surrounding the allegations; and argued in support of admission of Deft's other burglary acts from three years prior, and further argued as to State's theory of Deft's probable defense, State needing to prove intent. Court stated it was not provided Deft's Opposition to State's Motion. Ms. Sauter apologized; and provided a copy of the Opposition to Court for consideration. COURT ORDERED, matter CONTINUED for Court to review this Opposition, prior to further arguments. Upon Court's inquiry, Mr. Dickerson clarified the request to consolidate this case and C315125 from Department 20 was denied by Judge Eric Johnson, and Judge Johnson had said he would entertain another bad acts motion by State. Discussions as to trial date of January 3, 2017 already having been vacated by this Court.

BOND

1/12/17 8:30 A.M. STATE'S MOTION TO ADMIT EVIDENCE OF OTHER ACTS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 22, 2016

C-16-315718-1 State of Nevada
 vs
 JAMES HAYES

December 22, 2016 9:00 AM Motion to Consolidate

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 10D

COURT CLERK: Tia Everett
 Natalie Ortega

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT:	DeVaney-Sauter, Kelli M.	Attorney
	Dickerson, Michael	Attorney
	Gaston, Tyler	Attorney
	Rowles, William C.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Rowles and Ms. Devaney-Sauter argued their respective positions. COURT ORDERED, Motion DENIED.

BOND

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 12, 2017**

C-16-315718-1 State of Nevada
vs
JAMES HAYES

January 12, 2017 8:30 AM Motion to Admit Evidence

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT:	DeVaney-Sauter, Kelli M.	Attorney
	Dickerson, Michael	Attorney
	HAYES, JAMES HOWARD	Defendant
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Dickerson informed Court Deft. was convicted of burglary in his jury trial. Thereafter, Mr. Dickerson argued in support of the burglary matter to be admitted, and there having been no lawful intent on Deft's acts. Ms. Sauter opposed; and argued as to NRS 48.045, and State having given an overbroad reading of intent. Further arguments as to case law cited by State in the pleadings, State having failed to establish the relief being sought on using any intent evidence, common schemer plan exception, Newman vs. State case law, and prejudice outweighing probative value for Deft. if the act comes in for trial. Ms. Sauter added the State cannot establish introduction of this evidence, and based on a prior, the jury in this case may convict him just on this, and not on any evidence. Further arguments as to Nevada Supreme Court decision. Ms. Sauter requested Court to consider setting an evidentiary hearing on the issue, if Court is inclined to grant State's Motion. Mr. Dickerson stated he will submit a trial transcript from the other case to this Court. Further arguments as to case law being clear. COURT ORDERED, Motion DENIED. Ms. Sauter to prepare the order.

BOND

1/26/17 8:30 A.M. STATUS CHECK: FURTHER PROCEEDINGS / RESET TRIAL DATE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 26, 2017

C-16-315718-1 State of Nevada
vs
JAMES HAYES

**January 26, 2017 8:30 AM Status Check: Reset Trial
Date**

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT:	Brouwers, Shana S.	Attorney
	HAYES, JAMES HOWARD	Defendant
	Public Defender	Attorney
	Rogan, Jeffrey	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- COURT ORDERED, trial date SET.

CUSTODY

3/14/17 8:30 A.M. CALENDAR CALL

3/21/17 1:30 P.M. TRIAL BY JURY

**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

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)

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

**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

**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 03E

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

**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 03E

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

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

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 18, 2020

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

March 18, 2020 8:30 AM Motion

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 reviewed the procedural history of case. Court FINDS, Defendant's claims are similar to those filed in the appeal; however, Defendant fails to provide any statutory basis and/or authority to support the motion; Defendant's additional claims are substantive and should have been raised on appeal; therefore, COURT ORDERED, Defendant's Motion to Correct an Illegal Sentence shall be DENIED in its totality.

NDC

EXHIBIT(S) LIST

Case No.: ~~6294640~~ C315718

Hearing / Trial Date: 8/22/2018

Dept. No.: 19

Judge: William Kephart

Court Clerk: Tia Everett /Shannon Emmons

Plaintiff: The State of Nevada

Recorder / Reporter: Christine Erickson

Counsel for Plaintiff: Michael Dickerson & William Roles

vs.

Defendant: James Howard Hayes

Counsel for Defendant: Michael Sanft

HEARING / TRIAL BEFORE THE COURT

STATE'S EXHIBITS

[illegible]



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

JAMES H. HAYES #1175077
P.O. BOX 208
INDIAN SPRINGS, NV 89070

DATE: April 23, 2020
CASE: C-16-315718-1

RE CASE: STATE OF NEVADA vs. JAMES HOWARD HAYES aka JAMES HOWARD HAYES, JR.

NOTICE OF APPEAL FILED: March 30, 2020

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☐ Case Appeal Statement
- NRAP 3 (a)(1), Form 2
- ☐ Order
- ☒ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

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; ORDER DENYING DEFENDANT'S PRO PER MOTION FOR RULING ON MOTION TO CORRECT AN ILLEGAL SENTENCE; DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

STATE OF NEVADA,

Plaintiff(s),

vs.

JAMES HOWARD HAYES
aka JAMES HOWARD HAYES, JR.,

Defendant(s).

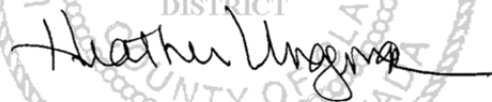
Case No: C-16-315718-1

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 23 day of April 2020.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk