

Original

District Court
Clark County, Nevada

Electronically Filed
6/24/2020 8:06 AM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

Edward Honabach,
Appellant,
vs.

Electronically Filed
Jun 30 2020 10:54 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No. A-20-812948
Dept. No. _____

William Giffere, et al
Appellees

Notice of Appeal

Appellant In Proper Person hereby gives Notice of his Appeal in the above-titled matter. On or about May 18, 2020 this Court entered an Order denying the Appellant's Writ of Habeas Corpus. The Appellant filed a Motion for Reconsideration but has not been notified of the outcome. So to not lose his time frame for filing an appeal he now files this Notice.

Dated this 14th day of June 2020

Edward Honabach
Edward Honabach
Appellant In Proper Person

RECEIVED
JUN 17 2020
CLERK OF THE COURT

Edward Honelbach #1214257
P.O. Box 1989-ESP
Elko, Nevada

89301

Legal Mail
Court Order

LAS VEGAS NV 890
15 JUN 2000 PM 3 L



Clerk of the Court
Eighth Judicial District

200 Lewis Ave.

Las Vegas, Nevada

89101-63000



\$9.155



1 ASTA

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

9 EDWARD HONABACH,

10 Plaintiff(s),

11 vs.

12 WILLIAM GITTERE,

13 Defendant(s),

Case No: A-20-812948-W

Dept No: XXX

14
15
16 **CASE APPEAL STATEMENT**

17 1. Appellant(s): Edward Honabach

18 2. Judge: Jerry A. Wiese

19 3. Appellant(s): Edward Honabach

20 Counsel:

21 Edward Honabach #1214257
22 P.O. Box 1989
23 Ely, NV 89301

24 4. Respondent (s): William Giettere

25 Counsel:

26 Aaron D. Ford, Attorney General
27 555 E. Washington Ave., Ste. 3900
28 Las Vegas, NV 89101-1068

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

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

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

5 6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

6 7. Appellant Represented by Appointed Counsel On Appeal: Yes

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

8 **Expires 1 year from date filed

9 Appellant Filed Application to Proceed in Forma Pauperis: No
10 Date Application(s) filed: N/A

11 9. Date Commenced in District Court: March 27, 2020

12 10. Brief Description of the Nature of the Action: Civil Writ

13 Type of Judgment or Order Being Appealed: Civil Writ of Habeas Corpus

14 11. Previous Appeal: No

15 Supreme Court Docket Number(s): N/A

16 12. Child Custody or Visitation: N/A

17 13. Possibility of Settlement: Unknown

18 Dated This 25 day of June 2020.

19 Steven D. Grierson, Clerk of the Court

20 /s/ Amanda Hampton

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

26 cc: Edward Honabach
27
28

CASE SUMMARY

CASE NO. A-20-812948-W

Edward Honabach, Plaintiff(s)
vs.
William Gittere, Defendant(s)

§
§
§
§
§

Location: Department 30
Judicial Officer: Wiese, Jerry A.
Filed on: 03/27/2020
Case Number History:
Cross-Reference Case Number: A812948

CASE INFORMATION

Related Cases
C-16-314092-2 (Writ Related Case)

Case Type: **Writ of Habeas Corpus**

Case Status: **03/27/2020 Open**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-20-812948-W
Court Department 30
Date Assigned 03/30/2020
Judicial Officer Wiese, Jerry A.

PARTY INFORMATION

Plaintiff Honabach, Edward

Lead Attorneys
Akin, Travis D
Retained
702-522-6450(W)


Defendant Gittere, William


DATE


EVENTS & ORDERS OF THE COURT


INDEX


EVENTS


03/27/2020  Writ of Habeas Corpus
Party: Plaintiff Honabach, Edward
Petitioner's Post-Conviction Writ of Habeas Corpus


03/30/2020  Notice of Department Reassignment
Notice of Department Reassignment

03/31/2020  Clerk's Notice of Nonconforming Document
Clerk's Notice of Nonconforming Document (Missing Cover Sheet)

06/10/2020  Motion to Reconsider
Filed By: Plaintiff Honabach, Edward
Motion for Reconsideration

06/18/2020  Clerk's Notice of Hearing
Notice of Hearing

06/24/2020  Notice of Appeal
Notice of Appeal

06/25/2020  Case Appeal Statement

CASE SUMMARY**CASE NO. A-20-812948-W**

Filed By: Plaintiff Honabach, Edward
Case Appeal Statement

HEARINGS

05/13/2020

**Minute Order** (3:00 AM) (Judicial Officer: Wiese, Jerry A.)

Minute Order - No Hearing Held;
Journal Entry Details:

At the request of Court, for judicial economy, the PETITION FOR WRIT OF HABEAS CORPUS set for hearing on May 14, 2020 has been CONTINUED to May 28, 2020. 05/28/20 8:30 AM PETITION FOR WRIT OF HABEAS CORPUS CLERK'S NOTE: The above minute order was distributed to all parties 05-13-20./lk;

05/18/2020

**Minute Order** (3:00 AM) (Judicial Officer: Wiese, Jerry A.)

Minute Order - No Hearing Held;
Journal Entry Details:

The above-referenced matter is scheduled for hearing on May 28, 2020, with regard to the Petition for Writ of Habeas Corpus. Pursuant to A.O. 20-01 and subsequent Administrative Orders, this matter is deemed "non-essential," and may be decided after a hearing (held by alternative means), decided on the papers, or continued. Having reviewed the papers and pleadings on file, this Court has determined that it would be appropriate to decide this matter on the papers. Consequently, this minute order issues. It should initially be noted that Mr. Honabach was represented by attorney Robert Beckett, at the time of the guilty plea. Mr. Honabach was sentenced on 3/26/2019, to Life Without the Possibility of Parole. Mr. Beckett filed a Motion to Withdraw, and on 4/23/2019, the Motion to Withdraw was Granted, and Travis Akin, Esq., was appointed for Appeal. Although Mr. Akin was appointed to handle Mr. Honabach's direct appeal, he filed and then voluntarily dismissed the appeal, based on the conclusion that an appeal was improper following a guilty plea agreement. Mr. Honabach then filed a Motion to Withdraw Counsel, which was granted on 10/31/2019. Out of an abundance of caution, and because the time for filing a Writ was about to expire, Mr. Akin went above and beyond the call of duty and filed the instant Petition for Writ of Habeas Corpus, on behalf of the Petitioner, Edward Honabach. In the Petition, it is alleged that 1) Petitioner did not voluntarily, intelligently, and knowingly enter his plea agreement, because he did not know that he could receive life without parole. He was of the understanding that he would have a chance at parole; 2) Counsel was ineffective for failing to advise Petitioner that he could receive a sentence of life without the possibility of parole; and 3) Cumulative Error. Mr. Akin indicated that he did not have the opportunity to investigate these claims since he has not been counsel for the Petitioner for many months, and asked that Petitioner be appointed counsel to investigate these claims and file supplemental briefs. The State was apparently served with the Petition for Writ of Habeas Corpus, electronically and via mail, on March 27, 2020. The State has not filed a responsive pleading. The Court notes that the Petitioner has not sought post-conviction appointment of counsel for purposes of the Writ Petition, and even if he had, there is nothing complex or difficult about the issues presented, that would require the appointment of counsel. The suggestion that Mr. Honabach was unaware that he could receive "Life Without the Possibility of Parole," is clearly belied by the record. The first page of the Guilty Plea Agreement include the following: GUILTY PLEA AGREEMENT I hereby agree to plead guilty to: FIRST DEGREE KIDNAPPING RESULTING IN SUBSTANTIAL BODILY HARM (Category A Felony NRS 200.310, 200.320 NOC 50052), as more fully alleged in the charging document attached hereto as Exhibit 1. My decision to plead guilty is based upon the plea agreement in this case which is as follows: This offer is conditional upon all four (4) Defendants accepting their respective negotiations and being sentenced. All parties agree the State will have the right to argue for Life without the possibility of Parole, and the Defense will argue for Life with the possibility of Parole after fifteen (15) years. All parties agree that no one will seek the term of years. . . . (See Guilty Plea Agreement, filed 2/4/2019, emphasis added.) A plea canvass occurred on February 4, 2019, and the Court accepted Mr. Honabach's plea of guilty, and concluded that Mr. Honabach's plea was made freely and voluntarily, and that he understood the nature of the offense, and the consequences of his plea. As the grounds for the Petition for Writ of Habeas Corpus are clearly belied by the record, and there is no suggestion or evidence of any cumulative error, and other good cause appearing, IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus is hereby DENIED. The Request for Appointment of Counsel is also DENIED, as there is no suggestion that the issues presented are complex or difficult, or that counsel is necessary. The Court requests the State prepare an Order consistent with the foregoing, and have it submitted to the Court for signature within 10 days. A Status Check re: Submission and Completion of Order is hereby set for May 28, 2020. As this matter has been resolved on the papers, the hearing set for May 28, 2020, regarding the Petition for Writ of Habeas Corpus, will be taken "off calendar," and there

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-20-812948-W

will be no need for any attorney or party to appear on that date as long as the Order has been prepared, and submitted to Chambers. Otherwise, counsel for the State is to appear regarding the Status of the Order. CLERK'S NOTE: A copy of the above minute order was distributed 05-18-20./lk ;

| | |
|------------|--|
| 05/28/2020 | CANCELED Petition for Writ of Habeas Corpus (8:30 AM) (Judicial Officer: Wiese, Jerry A.) <i>Vacated</i> |
| 07/16/2020 | Motion For Reconsideration (8:30 AM) (Judicial Officer: Wiese, Jerry A.) <i>Plaintiff's Motion for Reconsideration</i> |

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

May 13, 2020

A-20-812948-W Edward Honabach, Plaintiff(s)
vs.
William Gittere, Defendant(s)

May 13, 2020 3:00 AM Minute Order

HEARD BY: Wiese, Jerry A. **COURTROOM:** Chambers

COURT CLERK: Lauren Kidd

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- At the request of Court, for judicial economy, the PETITION FOR WRIT OF HABEAS CORPUS set for hearing on May 14, 2020 has been CONTINUED to May 28, 2020.

05/28/20 8:30 AM PETITION FOR WRIT OF HABEAS CORPUS

CLERK'S NOTE: The above minute order was distributed to all parties 05-13-20./ /lk

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus**COURT MINUTES****May 18, 2020**

A-20-812948-W Edward Honabach, Plaintiff(s)
 vs.
 William Gittere, Defendant(s)

May 18, 2020 3:00 AM Minute Order

HEARD BY: Wiese, Jerry A. **COURTROOM:** Chambers

COURT CLERK: Lauren Kidd

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The above-referenced matter is scheduled for hearing on May 28, 2020, with regard to the Petition for Writ of Habeas Corpus. Pursuant to A.O. 20-01 and subsequent Administrative Orders, this matter is deemed "non-essential," and may be decided after a hearing (held by alternative means), decided on the papers, or continued. Having reviewed the papers and pleadings on file, this Court has determined that it would be appropriate to decide this matter on the papers. Consequently, this minute order issues.

It should initially be noted that Mr. Honabach was represented by attorney Robert Beckett, at the time of the guilty plea. Mr. Honabach was sentenced on 3/26/2019, to Life Without the Possibility of Parole. Mr. Beckett filed a Motion to Withdraw, and on 4/23/2019, the Motion to Withdraw was Granted, and Travis Akin, Esq., was appointed for Appeal. Although Mr. Akin was appointed to handle Mr. Honabach's direct appeal, he filed and then voluntarily dismissed the appeal, based on the conclusion that an appeal was improper following a guilty plea agreement. Mr. Honabach then filed a Motion to Withdraw Counsel, which was granted on 10/31/2019. Out of an abundance of caution, and because the time for filing a Writ was about to expire, Mr. Akin went above and beyond the call of duty and filed the instant Petition for Writ of Habeas Corpus, on behalf of the Petitioner, Edward Honabach. In the Petition, it is alleged that 1) Petitioner did not voluntarily, intelligently, and knowingly enter his plea agreement, because he did not know that he could receive life without

parole. He was of the understanding that he would have a chance at parole; 2) Counsel was ineffective for failing to advise Petitioner that he could receive a sentence of life without the possibility of parole; and 3) Cumulative Error. Mr. Akin indicated that he did not have the opportunity to investigate these claims since he has not been counsel for the Petitioner for many months, and asked that Petitioner be appointed counsel to investigate these claims and file supplemental briefs. The State was apparently served with the Petition for Writ of Habeas Corpus, electronically and via mail, on March 27, 2020. The State has not filed a responsive pleading.

The Court notes that the Petitioner has not sought post-conviction appointment of counsel for purposes of the Writ Petition, and even if he had, there is nothing complex or difficult about the issues presented, that would require the appointment of counsel.

The suggestion that Mr. Honabach was unaware that he could receive "Life Without the Possibility of Parole," is clearly belied by the record. The first page of the Guilty Plea Agreement include the following:

GUILTY PLEA AGREEMENT

I hereby agree to plead guilty to: FIRST DEGREE KIDNAPPING RESULTING IN SUBSTANTIAL BODILY HARM (Category A Felony NRS 200.310, 200.320 NOC 50052), as more fully alleged in the charging document attached hereto as Exhibit 1 .

My decision to plead guilty is based upon the plea agreement in this case which is as follows: This offer is conditional upon all four (4) Defendants accepting their respective negotiations and being sentenced. All parties agree the State will have the right to argue for Life without the possibility of Parole, and the Defense will argue for Life with the possibility of Parole after fifteen (15) years. All parties agree that no one will seek the term of years.

....

(See Guilty Plea Agreement, filed 2/4/2019, emphasis added.)

A plea canvass occurred on February 4, 2019, and the Court accepted Mr. Honabach's plea of guilty, and concluded that Mr. Honabach's plea was made freely and voluntarily, and that he understood the nature of the offense, and the consequences of his plea.

As the grounds for the Petition for Writ of Habeas Corpus are clearly belied by the record, and there is no suggestion or evidence of any cumulative error, and other good cause appearing,

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus is hereby DENIED. The Request for Appointment of Counsel is also DENIED, as there is no suggestion that the issues presented are complex or difficult, or that counsel is necessary.

The Court requests the State prepare an Order consistent with the foregoing, and have it submitted to the Court for signature within 10 days. A Status Check re: Submission and Completion of Order is hereby set for May 28, 2020.

As this matter has been resolved on the papers, the hearing set for May 28, 2020, regarding the Petition for Writ of Habeas Corpus, will be taken "off calendar," and there will be no need for any attorney or party to appear on that date as long as the Order has been prepared, and submitted to Chambers. Otherwise, counsel for the State is to appear regarding the Status of the Order.

CLERK'S NOTE: A copy of the above minute order was distributed 05-18-20./ /lk



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

EDWARD HONABACH #1214257
P.O. BOX 1989
ELY, NV 89301

DATE: June 25, 2020
CASE: A-20-812948-W

RE CASE: EDWARD HONABACH vs. WILLIAM GITTERE

NOTICE OF APPEAL FILED: June 24, 2020

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

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

- ☐ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☐ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ 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.

***Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.*

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; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

EDWARD HONABACH,

Plaintiff(s),

vs.

WILLIAM GITTERE,

Defendant(s),

Case No: A-20-812948-W

Dept No: XXX

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 25 day of June 2020.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk