

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDWARD JOSEPH HONABACH,
Appellant(s),

vs.

WILLIAM A. GITTERE, WARDEN,
Respondent(s),

Electronically Filed
Aug 04 2020 12:44 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No: A-20-812948-W

Docket No: 81402

RECORD ON APPEAL

ATTORNEY FOR APPELLANT
EDWARD HONABACH #1214257,
PROPER PERSON
P.O. BOX 208
INDIAN SPRINGS, NV 89070

ATTORNEY FOR RESPONDENT
AARON D. FORD,
ATTORNEY GENERAL
555 E. WASHINGTON AVE., STE. 3900
LAS VEGAS, NV 89101-1068

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
1	06/25/2020	CASE APPEAL STATEMENT	20 - 21
1	08/04/2020	CERTIFICATION OF COPY AND TRANSMITTAL OF RECORD	
1	07/23/2020	CIVIL ORDER TO STATISTICALLY CLOSE CASE	37 - 37
1	03/31/2020	CLERK'S NOTICE OF NONCONFORMING DOCUMENT	11 - 13
1	08/04/2020	DISTRICT COURT MINUTES	38 - 44
1	07/21/2020	FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER	28 - 31
1	06/10/2020	MOTION FOR RECONSIDERATION	14 - 16
1	06/24/2020	NOTICE OF APPEAL	18 - 19
1	03/30/2020	NOTICE OF DEPARTMENT REASSIGNMENT AND NOTICE OF HEARING	9 - 10
1	07/23/2020	NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER	32 - 36
1	06/18/2020	NOTICE OF HEARING	17 - 17
1	03/27/2020	PETITIONER'S POST-CONVICTION WRIT OF HABEAS CORPUS	1 - 8
1	07/17/2020	STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR RECONSIDERATION	22 - 27



PCHC
THE LAW OFFICE OF TRAVIS AKIN
Travis Akin, Esq.
Nevada Bar No. 13059
8275 S. Eastern Ave., Suite 200
Las Vegas, NV 89123
Phone: (702) 510-8567
Fax: (702) 778-6600
Former Attorney of Petitioner

CASE NO: A-20-812948-W
Department 26

**DISTRICT COURT
CLARK COUNTY, NEVADA**

EDWARD HONABACH
Plaintiff,

vs.

WILLIAM GITTERE,
Defendant.

CASE NO. :
DEPT. NO.:

**PETITIONER'S POST-CONVICTION
WRIT OF HABEAS CORPUS**

PETITIONER'S POST-CONVICTION WRIT OF HABEAS CORPUS

COMES NOW, Petitioner EDWARD HONABACH, by and through his former counsel, Travis Akin, Esq., hereby submits Petitioner's PETITION FOR POST-CONVICTION WRIT OF HABEAS CORPUS. Counsel was originally appointed to handle Petitioner's appeal. Counsel agreed with Petitioner that an appeal was not proper due to the guilty plea agreement, and Counsel dismissed Petitioner's appeal. Shortly thereafter, Petitioner moved to have Counsel withdrawn from this case. Out of an abundance of caution, Counsel calendared the deadline to file the instant petition. After checking the docket, it appears that Petitioner did not ask for and was not appointed a new attorney. Counsel now files the instant writ of habeas corpus for his former client to preserve the one year timebar and asks this Court to appoint a replacement attorney to file a supplement.

In addition to all documents, pleadings, and oral arguments in this case, Petitioner asserts:

1. Name of institution and county in which you are presently imprisoned or where and

1 how you are presently restrained of your liberty: **Ely State Prison**

2 2. Name and location of court which entered the judgment of conviction under attack:

3 **Eighth Judicial District Court Department 30, Clark County, NV**

4 3. Date of judgment of conviction: **March 28, 2019**

5 4. Case number: **C-16-314092-2**

6 5. (a) Length of sentence: **LIFE WITHOUT PAROLE**

7 (b) If sentence is death, state any date upon which execution is scheduled: **N/A**

8 6. Are you presently serving a sentence for a conviction other than the conviction under
9 attack in this motion? **No**

10 If "yes," list crime, case number and sentence being served at this time: **N/A**

11 7. Nature of offense involved in conviction being challenged: **FIRST DEGREE**
12 **KIDNAPPING RESULTING IN SUBSTANTIAL BODILY HARM (NRS 200.310, 200.320**
13 **- NOC 50052)**

14 8. What was your plea? (check one)

15 (a) Not guilty

16 (b) Guilty **X**

17 (c) Guilty but mentally ill

18 (d) Nolo contendere

19 9. If you entered a plea of guilty or guilty but mentally ill to one count of an indictment or
20 information, and a plea of not guilty to another count of an indictment or information, or if a plea
21 of guilty or guilty but mentally ill was negotiated, give details: **Guilty Plea was negotiated.**

22 10. If you were found guilty or guilty but mentally ill after a plea of not guilty, was the
23 finding made by: (check one)

24 (a) Jury: **N/A**

25 (b) Judge without a jury: **N/A**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

11. Did you testify at the trial? **N/A**
12. Did you appeal from the judgment of conviction? **N/A**
13. If you did appeal, answer the following:
- (a) Name of court: **Nevada Supreme Court**
 - (b) Case number or citation: **78694**
 - (c) Result: Voluntary Dismissal
 - (d) Date of result: **August 23, 2019**
- (Attach copy of order or decision, if available.)
14. If you did not appeal, explain briefly why you did not: **Conviction a result of plea deal.**
15. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any court, state or federal? **No**
16. If your answer to No. 15 was “yes,” give the following information:
- (a) (1) Name of court: **N/A**
 - (2) Nature of proceeding: **N/A**
 - (3) Grounds raised: **N/A**
 - (4) Did you receive an evidentiary hearing on your petition, application or motion? **N/A**
 - (5) Result: **N/A**
 - (6) Date of result: **N/A**
 - (7) If known, citations of any written opinion or date of orders entered pursuant to such result: **N/A**
- (b) As to any second petition, application or motion, give the same information:
- (1) Name of court: **N/A**
 - (2) Nature of proceeding: **N/A**
 - (3) Grounds raised:

1 (4) Did you receive an evidentiary hearing on your petition, application or motion? **N/A**
2 (5) Result:
3 (6) Date of result:
4 (7) If known, citations of any written opinion or date of orders entered pursuant to such
5 result:

6
7
8 (c) As to any third or subsequent additional applications or motions, give the same
9 information as above, list them on a separate sheet and attach.

10 (d) Did you appeal to the highest state or federal court having jurisdiction, the result or action
11 taken on any petition, application or motion?

12 (1) First petition, application or motion? **N/A**

13 Citation or date of decision: **N/A**

14 (2) Second petition, application or motion? **N/A**

15 Citation or date of decision: **N/A**

16 (3) Third or subsequent petitions, applications or motions? **N/A**

17 Citation or date of decision: **N/A**

18
19 (e) If you did not appeal from the adverse action on any petition, application or motion,
20 explain briefly why you did not. (You must relate specific facts in response to this question. Your
21 response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your
22 response may not exceed five handwritten or typewritten pages in length.) **N/A**

23
24 17. Has any ground being raised in this petition been previously presented to this or any
25 other court by way of petition for habeas corpus, motion, application or any other postconviction
26 proceeding? If so, identify: **No**

27 (a) Which of the grounds is the same: **None**

28 (b) The proceedings in which these grounds were raised: **N/A**

1 (c) Briefly explain why you are again raising these grounds. (You must relate specific facts
2 in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches
3 attached to the petition. Your response may not exceed five handwritten or typewritten pages in
4 length.) N/A

5 18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d), or listed on any additional
6 pages you have attached, were not previously presented in any other court, state or federal, list
7 briefly what grounds were not so presented, and give your reasons for not presenting them. (You
8 must relate specific facts in response to this question. Your response may be included on paper
9 which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten
10 or typewritten pages in length.) **This post-conviction claim was not available on appeal as it**
11 **comes from a conviction resulting from a plea agreement.**

13 19. Are you filing this petition more than 1 year following the filing of the judgment of
14 conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay.
15 (You must relate specific facts in response to this question. Your response may be included on
16 paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five
17 handwritten or typewritten pages in length.) No

19 20. Do you have any petition or appeal now pending in any court, either state or federal, as
20 to the judgment under attack? No

21 If yes, state what court and the case number: N/A

22 21. Give the name of each attorney who represented you in the proceeding resulting in your
23 conviction and on direct appeal: **Robert S. Beckett**

25 22. Do you have any future sentences to serve after you complete the sentence imposed by
26 the judgment under attack? No

27 If yes, specify where and when it is to be served, if you know: N/A

28 23. State concisely every ground on which you claim that you are being held unlawfully.

1 Summarize briefly the facts supporting each ground. If necessary you may attach pages stating
2 additional grounds and facts supporting same:

3 A. Petitioner entered his plea agreement involuntarily, unintelligently, and
4 unknowingly because he did not know that he could receive life without parole pursuant to
5 the guilty plea agreement, therefore, the guilty plea is invalid; Petitioner was under the
6 understanding that he would have, at minimum, a chance at parole;

7 B. Counsel was ineffective for failing to advise Petitioner that he could receive a life
8 without parole sentence on his guilty plea; Petitioner was under the understanding that he
9 would have, at minimum, a chance at parole;
10

11 C. Cumulative error.

12 **CONCLUSION**

13 Former counsel has not had an opportunity to investigate these claims has he has not been
14 counsel for the last 6 months. Counsel did meet with Petitioner prior to being withdrawn and
15 Petitioner did communicate to Counsel that Petitioner did not believe that his guilty plea
16 contemplated a life-without parole sentence. Former Counsel now files the instant writ of habeas
17 corpus to preserve Petitioner's timebar and asks the Court to appoint counsel to investigate these
18 claims and file supplemental briefs.
19

20 Dated this 27th day of March, 2020.

21
22 Respectfully submitted by:

23 **THE LAW OFFICE OF TRAVIS AKIN**

24 /s/ Travis Akin

25 _____
26 Travis Akin, Esq.
27 Nevada Bar No. 13059
28 8275 S. Eastern Ave., Suite 200
Las Vegas, NV 89123
Phone: (702) 510-8567
Fax: (702) 778-6600

Former Attorney for Petitioner

VERIFICATION

STATE OF NEVADA)
) SS:
COUNTY OF CLARK)

I, TRAVIS AKIN verify and declare under penalty of perjury:

1. That I am former counsel for the petitioner EDWARD HONABACH in the above-entitled action;

2. That I have read the foregoing Writ of Habeas Corpus (Post Conviction);

3. I know the contents thereof, and that the same is true of my own knowledge except for those matters stated on information and belief and as to those matters I believe to be true;

4. That my former client, EDWARD HONABACH is detained in the Ely State Prison and it is therefore unable to personally verify this petition.

FURTHER DECLARANT SAYETH NAUGHT

THE LAW OFFICE OF TRAVIS AKIN

/s/ Travis Akin

Travis Akin, Esq.
Nevada Bar No. 13059
8275 S. Eastern Ave., Suite 200
Las Vegas, NV 89134
Phone: (702) 510-8567
Fax: (702) 778-6600
Former Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of March, 2020, I served a true and correct copy of the
above and foregoing **SUPPLEMENTAL PETITION FOR POST CONVICTION WRIT OF
HABEAS CORPUS** electronically and via mail addressed to the following:

CLARK COUNTY DISTRICT ATTORNEY

200 Lewis Avenue
Las Vegas, Nevada 89101
Attorney for the State of Nevada

NEVADA ATTORNEY GENERAL

Adam Paul Laxalt
100 North Carson Street
Carson City, Nevada 89701-4717

/s/ Travis Akin

Travis Akin, Esq.



DISTRICT COURT
CLARK COUNTY, NEVADA

* * * *

EDWARD HONABACH,

PLAINTIFF(S)

VS.

WILLIAM GITTERE, DEFENDANT(S)

Case No.: A-20-812948-W

DEPARTMENT 30

NOTICE OF DEPARTMENT REASSIGNMENT and NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the above-entitled action has been reassigned to Judge Jerry A. Wiese.

☒ This reassignment is due to the filing of Petition for Writ of Habeas Coprus.

Notice of Hearing on Plaintiff's Post Conviction Petition for Writ of Habeas Corpus is set for May 14, 2020 AT 8:30 AM.

ANY TRIAL DATE AND ASSOCIATED TRIAL HEARINGS STAND BUT MAY BE RESET BY THE NEW DEPARTMENT. PLEASE INCLUDE THE NEW DEPARTMENT NUMBER ON ALL FUTURE FILINGS.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Irish Lapira

Irish Lapira,
Deputy Clerk of the Court

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16

CERTIFICATE OF SERVICE

I hereby certify that this 30th day of March, 2020

☒ The foregoing Notice of Department Reassignment was electronically served to all registered parties for case number A-20-812948-W.

/s/ Irish Lapira
Irish Lapira
Deputy Clerk of the Court



1 CNND

2
3 **DISTRICT COURT**
CLARK COUNTY, NEVADA

4 EDWARD HONABACH, Plaintiff(s) A-20-812948-W
5 vs. Department 30
6 William Gittere, Defendant(s)

7 **CLERK'S NOTICE OF NONCONFORMING DOCUMENT**

8
9 Pursuant to Rule 8(b)(2) of the Nevada Electronic Filing and Conversion Rules, notice is
10 hereby provided that the following electronically filed document does not conform to the
11 applicable filing requirements:

12 Title of Nonconforming Document: (Missing) Civil Cover Sheet
13 Party Submitting Document for Filing: Edward Honabach
14 Date and Time Submitted for Electronic Filing: 3/27/20 at 4:19 PM

15 Reason for Nonconformity Determination:

- 16 ☐ The document filed to commence an action is not a complaint, petition,
17 application, or other document that initiates a civil action. *See* Rule 3 of the
18 Nevada Rules of Civil Procedure. In accordance with Administrative Order 19-5,
19 the submitted document is stricken from the record, this case has been closed and
20 designated as filed in error, and any submitted filing fee has been returned to the
21 filing party.
- 22 ☐ The document initiated a new civil action and the case type designation does not
23 match the cause of action identified in the document.
- 24 ☒ The document initiated a new civil action and a cover sheet was not submitted as
25 required by NRS 3.275.
- 26 ☐ The submitted document initiated a new civil action and was made up of multiple
27 documents submitted together.
- 28 ☐ The case caption and/or case number on the document does not match the case
caption and/or case number of the case that it was filed into.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on March 31, 2020, I concurrently filed and served a copy of the foregoing Clerk’s Notice of Nonconforming Document, on the party that submitted the nonconforming document, via the Eighth Judicial District Court’s Electronic Filing and Service System.

By: /s/ Mary Anderson
Deputy District Court Clerk

original

District Court
Clark County, Nevada

FILED

JUN 10 2020

CLERK OF COURT

Edward Honabach,
Petitioner,

Case No: A-20-812948-W
Dept. No: XXX

vs

William Gittere, et al,
Respondent

Motion for Reconsideration

Comes Now, Petitioner In Proper Person, and moves this Court to Reconsider its decision regarding a Petition for Habeas Corpus submitted, without authorization, by Travis Atkins esq., issued on May 18, 2020.

This decision is inappropriate as this Habeas was submitted without the permission of the petitioner.

Travis Atkins esq. was appointed solely for the purpose of direct appeal which even after numerous orders from the Supreme Court he refused to act or file any papers until threatened to do so. Eventually, MR. Atkins dismissed the Appeal in August 2019. Then on October 31, 2019, the petitioner, after not hearing anything from MR. Atkins, moved to withdraw him as Attorney of Record. MR. Atkins even ignored this court's order to turn over the transcripts. MR. Atkins was in no way authorized to act as Counsel to file any documents whatsoever.

①

this Court cannot in any way allow this filing or

relying to stand and must seek monetary and punitive sanctions against Travis Akins for the injury he has caused the petitioner.

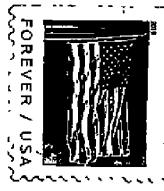
MR. Akins has not contacted the petitioner at all nor discussed anything with him. As the one-year does not expire until August, The petitioner shall have a petition filed on time. The instant petition must be vacated and not accepted by this Court.

Petitioner further urges this Court to order and conduct an investigation into the actions of Travis Akins esq. and order damages and sanctions in the appropriate amounts immediately.

Respectfully submitted this 24th day of May 2020

Edward Honabach
Edward Honabach
Petitioner In Proprietary Person

Edward Honaebach #1214257
PO-Box 1989-ESP
Elko, Nevada
89301



Legal Mail
Confidential

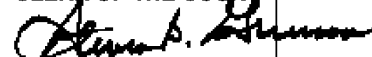
Clerk of the Court
Eight Judicial District
200 Lewis Ave.
Las Vegas, Nevada
89101-8300 COTB

NOV 26 2001

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
6/18/2020 1:15 PM
Steven D. Grierson
CLERK OF THE COURT



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

Case No.: A-20-812948-W
Department 30

NOTICE OF HEARING

Please be advised that the Plaintiff's Motion for Reconsideration in the above-entitled matter is set for hearing as follows:

Date: July 16, 2020
Time: 8:30 AM
Location: RJC Courtroom 14A
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Michelle McCarthy
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Michelle McCarthy
Deputy Clerk of the Court

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,

Case No: A-20-812948

vs.

Dept. No: _____

William Gattiere, 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.

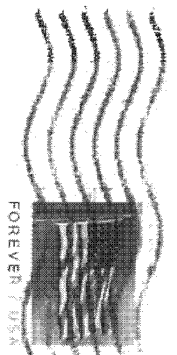
Dated this 14th day of June 2020

Edward Honabach
Edward Honabach
Appellant In Proper Person

RECEIVED
JUN 17 2020
CLERK OF THE COURT

Edward Honeback #1214257
P.O. Box 1989-ESP
Elko Nevada
89301

LAS VEGAS NV 890
15 JUN 2020 PM 3 L



Legal Mail
conditional

Clerk of the Court
Eighth Judicial District
200 Lewis Ave.

Las Vegas, Nevada 89101-63000
89101-63000
9155



1 ASTA

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

9 EDWARD HONABACH,

10 Plaintiff(s),

11 vs.

12 WILLIAM GITTERE,

13 Defendant(s),
14
15

Case No: A-20-812948-W

Dept No: XXX

16
17 **CASE APPEAL STATEMENT**

18 1. Appellant(s): Edward Honabach

19 2. Judge: Jerry A. Wiese

20 3. Appellant(s): Edward Honabach

21 Counsel:

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

25 4. Respondent (s): William Giettere

26 Counsel:

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

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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: No
7. Appellant Represented by Appointed Counsel On Appeal: Yes
8. Appellant Granted Leave to Proceed in Forma Pauperis**: N/A
***Expires 1 year from date filed*
Appellant Filed Application to Proceed in Forma Pauperis: No
Date Application(s) filed: N/A
9. Date Commenced in District Court: March 27, 2020
10. Brief Description of the Nature of the Action: Civil Writ
Type of Judgment or Order Being Appealed: Civil Writ of Habeas Corpus
11. Previous Appeal: No
Supreme Court Docket Number(s): N/A
12. Child Custody or Visitation: N/A
13. Possibility of Settlement: Unknown

Dated This 25 day of June 2020.

Steven D. Grierson, Clerk of the Court

/s/ Amanda Hampton
Amanda Hampton, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Edward Honabach



1 **OPPS**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 KAREN MISHLER
6 Deputy District Attorney
7 Nevada Bar #013730
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 EDWARD HONABACH,
13 aka Edward Joseph Honabach, #7029816
14 Defendant.

CASE NO: A-20-812948-W

DEPT NO: XXX

15 **STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR RECONSIDERATION**

16 DATE OF HEARING: JULY 23, 2020
17 TIME OF HEARING: 8:30 AM

18 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
19 District Attorney, through KAREN MISHLER, Deputy District Attorney, and hereby submits
20 the attached Points and Authorities in Opposition to Defendant's Motion For Reconsideration.

21 This Opposition is made and based upon all the papers and pleadings on file herein, the
22 attached points and authorities in support hereof, and oral argument at the time of hearing, if
23 deemed necessary by this Honorable Court.

24 ///

25 ///

26 ///

27 ///

28 ///

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On April 12, 2016, the State filed an Information charging Defendant Edward
4 Honabach (hereinafter "Defendant") with Conspiracy to Commit Murder (Category B Felony
5 – NRS 200.010, 200.030, 199.480); Attempt Murder With Use of a Deadly Weapon (Category
6 B Felony – NRS 200.010, 200.030, 193.330, 193.165); Mayhem With Use of a Deadly
7 Weapon (Category B Felony – NRS 200.280, 193.165); Battery With Use of a Deadly Weapon
8 Resulting in Substantial Bodily Harm (Category B Felony – NRS 200.481); First Degree
9 Kidnapping With Use of a Deadly Weapon Resulting in Substantial Bodily Harm (Category
10 A Felony – NRS 200.310, 200.320, 193.165); Extortion With Use of a Deadly Weapon
11 (Category B Felony – NRS 205.320, 193.165); Robbery With Use of a Deadly Weapon
12 (Category B Felony – NRS 200.380, 193.165); and First Degree Arson (Category B Felony –
13 NRS 205.010).

14 On April 14, 2016, Defendant was arraigned on the Information, at which time he
15 entered a plea of not guilty and waived his right to a speedy trial. On February 4, 2019,
16 pursuant to negotiations, the State filed an Amended Information charging Defendant with one
17 count of First Degree Kidnapping Resulting in Substantial Bodily Harm (Category A Felony
18 – NRS 200.310, 200.320). On that same date, Defendant pleaded guilty to the charge contained
19 in the Amended Information, and a signed Guilty Plea Agreement was filed in open court.

20 On March 26, 2019, Defendant was sentenced to life without the possibility of parole
21 in the Nevada Department of Corrections. The Judgment of Conviction was filed on March
22 28, 2019. On April 26, 2019, Defendant filed a Notice of Appeal. On August 13, 2019,
23 Appellant filed a Notice of Withdrawal of Appeal. On August 23, 2019, the Nevada Supreme
24 Court dismissed the appeal. No remittitur issued.

25 On March 27, 2020, Defendant filed, through counsel, a post-conviction Petition for
26 Writ of Habeas Corpus. On May 18, 2020, the Court issued a Minute Order denying the
27 Petition.
28

1 On June 10, 2020, Defendant filed the instant pro per Motion for Reconsideration. The
2 State responds as follows.

3 **ARGUMENT**

4 Defendant asks this Court to nullify its ruling denying Defendant's Post-Conviction
5 Petition for Writ of Habeas Corpus, not based on an alleged error in the Court's decision, but
6 because Defendant contends it was filed without his permission. Defendant also requests that
7 this Court provide him relief the Court does not have the authority to grant.

8 Defendant's claim that the Petition was filed by counsel without his permission is not
9 a basis for granting a motion for reconsideration. The District Court Rules ("DCR") of Nevada,
10 Rule 13, states, "No motion once heard and disposed of shall be renewed in the same cause,
11 nor shall the same matters therein embraced be reheard, unless by leave of the court granted
12 upon motion therefor, after notice of such motion to the adverse parties." DCR 13(7).
13 Reflecting this language, Eighth Judicial District Court Rule ("EDCR") 2.24 reads in relevant
14 part:

15 (a) No motions once heard and disposed of may be renewed in the
16 same cause, nor may the same matters therein embraced be reheard,
17 unless by leave of the court granted upon motion therefore, after
18 notice of such motion to the adverse parties.

19 (b) A party seeking reconsideration of a ruling of the court, other than
20 any order which may be addressed by motion pursuant to NRCP
21 50(b), 52(b), 59, or 60, must file a motion for such relief within 10
22 days after service of written notice of the order or judgment unless
23 the time is shortened or enlarged by order. A motion for rehearing or
24 reconsideration must be served, noticed, filed and heard as is any
25 other motion. A motion for reconsideration does not toll the 30-day
26 period for filing a notice of appeal from a final order or judgment.

27 That is, a defendant must obtain leave of the court before filing a motion to reconsider. EDCR
28 2.24(a).

29 Additionally, the Nevada Supreme Court has repeatedly noted that the law does not
30 favor multiple applications for the same relief. Whitehead v. Nevada Com'n. on Judicial
31 Discipline, 110 Nev. 380, 388, 873 P.2d 946, 951-52 (1994) ("it has been the law of Nevada
32 for 125 years that a party will not be allowed to file successive petitions for rehearing . . . The
33 obvious reason for this rule is that successive motions for rehearing tend to unduly prolong

1 litigation”); Groesbeck v. Warden, 100 Nev. 259, 260, 679 P.2d 1268, 1269 (1984),
2 superseded by statute as recognized by Hart v. State, 116 Nev. 558, 1 P.3d 969 (2000)
3 (“petitions that are filed many years after conviction are an unreasonable burden on the
4 criminal justice system. The necessity for a workable system dictates that there must exist a
5 time when a criminal conviction is final.”). The less than favorable view of successive
6 applications for the same relief explains why there is no right to appeal the denial of a motion
7 for reconsideration. See Phelps v. State, 111 Nev. 1021, 1022, 900 P.2d 344, 346 (1995). It
8 also justifies why a motion for reconsideration does not toll the time for filing a notice of
9 appeal. See In re Duong, 118 Nev. 920, 923, 59 P.3d 1210, 1212 (2002).

10 Defendant failed to secure leave of the court to seek reconsideration. DCR 13(7);
11 EDCR 2.24(a), 7.12. Accordingly, the instant Motion should be summarily dismissed.

12 Regardless, it is only in “very rare instances” that a motion for reconsideration should
13 be granted, as movants bear the burden of producing new issues of fact and/or law supporting
14 a ruling contrary to a prior ruling. Moore v. City of Las Vegas, 92 Nev. 402, 405, 551 P.2d
15 244, 246 (1976). Even if this Court could entertain a motion for reconsideration of its denial
16 of Defendant’s Petition, this Court should deny reconsideration because Defendant has not
17 presented this Court with new issues of fact or law that justify a reconsideration of this Court’s
18 denial of Defendant’s Petition.

19 Defendant’s Motion is not even truly a motion for reconsideration; it is an objection to
20 the previous filing. Defendant does not even claim that the Petition had merit and this Court
21 should reconsider the claims therein. Instead, Defendant complains that prior counsel filed the
22 Petition without his authorization, and requests that this Court not accept the Petition that was
23 filed. This is obviously impossible, as the Petition has already been filed and denied by this
24 Court. Defendant indicates an intention to file another petition for writ of habeas corpus; he is
25 free to do so, and this Court can then assess whether defendant has demonstrated good cause
26 for filing a successive petition.¹

27
28 ¹The State does not in any way concede that such a claim by Defendant would be meritorious. The State is merely
acknowledging the burden Defendant would be required to meet should he file another post-conviction petition for writ
of habeas corpus.

1 Furthermore, Defendant requests inappropriate relief from this Court. This Court does
2 not have authority to impose monetary sanctions against Defendant's prior counsel on the
3 basis of a mere allegation that counsel filed a Petition without Defendant's authorization.
4 Further, this Court is not an investigative body and does not have the authority to launch an
5 investigation into the actions of Defendant's previous counsel. In its Minute Order, this Court
6 correctly found that previous counsel went above and beyond by filing a Petition on
7 Defendant's behalf. Prior counsel was also correct that, by signing his Guilty Plea Agreement,
8 Defendant had waived his right to appeal. Guilty Plea Agreement, p. 4 ("I understand that I
9 am waiving my right to a direct appeal of this conviction, including any challenge based upon
10 reasonable constitutional, jurisdictional or other grounds....").

11 **CONCLUSION**

12 Defendant has presented this Court with no valid basis for reconsideration of its denial
13 of Defendant's Petition. Defendant also does not request reconsideration, but instead requests
14 inappropriate relief in the form of monetary sanctions against and an investigation of previous
15 counsel. Accordingly, the State respectfully requests that Defendant's Motion for
16 Reconsideration be denied.

17 DATED this _____ day of July, 2020.

18 Respectfully submitted,

19 STEVEN B. WOLFSON
20 Clark County District Attorney
Nevada Bar #001565

21 BY /s/KAREN MISHLER
22 KAREN MISHLER
23 Deputy District Attorney
24 Nevada Bar #013730

25 ///

26 ///

27 ///

28 ///

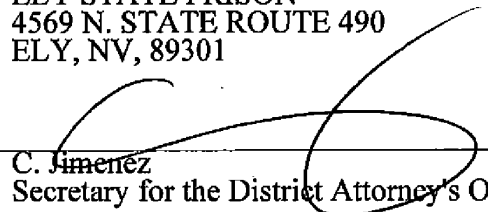
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF MAILING

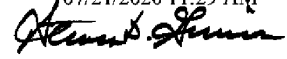
I hereby certify that service of the above and foregoing was made this 17th day of July, 2020, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

EDWARD HONABACH #1214257
ELY STATE PRISON
4569 N. STATE ROUTE 490
ELY, NV, 89301

BY


C. Jimenez
Secretary for the District Attorney's Office

KM/cmj/L3


CLERK OF THE COURT

1 **FCL**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 KAREN MISHLER
6 Deputy District Attorney
7 Nevada Bar #013730
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -VS-

12 EDWARD HONABACH, aka,
13 Edward Joseph Honabach, #7029816
14 Defendant.

CASE NO: A-20-812948-W
DEPT NO: XXX

15 **FINDINGS OF FACT, CONCLUSIONS OF**
16 **LAW AND ORDER**

17 THIS CAUSE having come before the Honorable JERRY WEISE, District Judge, on
18 the 18th day of May, 2020, the Court having concluded that pursuant to Administrative Order
19 20-01 and subsequent Administrative Orders, this matter is "non-essential" and thus may be
20 decided on the papers. The Court having considered the matter, including briefs, transcripts,
21 and documents on file herein, now therefore, the Court makes the following findings of fact
22 and conclusions of law:

23 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

24 **STATEMENT OF THE CASE**

25 On April 12, 2016, the State filed an Information charging Petitioner Edward Honabach
26 ("Petitioner") with Conspiracy to Commit Murder (Category B Felony – NRS 200.010,
27 200.030, 199.480); Attempt Murder With Use of a Deadly Weapon (Category B Felony – NRS
28 200.010, 200.030, 193.330, 193.165); Mayhem With Use of a Deadly Weapon (Category B

1 Felony – NRS 200.280, 193.165); Battery With Use of a Deadly Weapon Resulting in
2 Substantial Bodily Harm (Category B Felony – NRS 200.481); First Degree Kidnapping With
3 Use of a Deadly Weapon Resulting in Substantial Bodily Harm (Category A Felony – NRS
4 200.310, 200.320, 193.165); Extortion With Use of a Deadly Weapon (Category B Felony –
5 NRS 205.320, 193.165); Robbery With Use of a Deadly Weapon (Category B Felony – NRS
6 200.380, 193.165); and First Degree Arson (Category B Felony – NRS 205.010).

7 On April 14, 2016, Petitioner was arraigned on the Information, at which time he
8 entered a plea of not guilty and waived his right to a speedy trial. On February 4, 2019,
9 pursuant to negotiations, the State filed an Amended Information charging Petitioner with one
10 count of First Degree Kidnapping Resulting in Substantial Bodily Harm (Category A Felony
11 – NRS 200.310, 200.320). On that same date, Petitioner pleaded guilty to the charge contained
12 in the Amended Information, and the State filed a Guilty Plea Agreement in open court.

13 On March 26, 2019, Petitioner was sentenced to a life without the possibility of parole
14 in the Nevada Department of Corrections. The Judgment of Conviction was filed on March
15 28, 2019. On April 26, 2019, Petitioner filed a Notice of Appeal. On August 13, 2019,
16 Appellant filed a Notice of Withdrawal of Appeal. On August 23, 2019, the Nevada Supreme
17 Court dismissed the appeal. No remittitur issued.

18 On March 27, 2020, Petitioner filed the instant post-conviction Petition for Writ of
19 Habeas Corpus.

20 ANALYSIS

21 Petitioner claims he did not enter into the Guilty Plea Agreement voluntarily,
22 intelligently, and knowingly, because he did not know that he could receive a sentence of life
23 without the possibility of parole. He also claims that his plea counsel was ineffective for failing
24 to advise him that he could receive a sentence of life without the possibility of parole. Both of
25 these claims are clearly belied by the record. The Guilty Plea Agreement in this case clearly
26 states that “the State will have the right to argue for Life without the possibility of Parole, and
27 the Defense will argue for Life with the possibility of Parole after fifteen (15) years.”
28 Additionally, during the plea canvass on February 4, 2019, the Court accepted Petitioner’s plea

1 of guilty, and concluded that his guilty plea was made freely and voluntarily, and that he
2 understood the nature of the offense and the consequences of his plea.

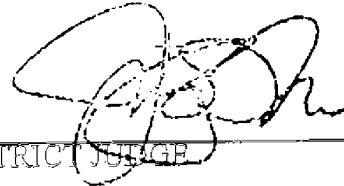
3 Petitioner's only other claim is of cumulative error. As all of Petitioner's claims are
4 clearly belied by the record, there is no suggestion or evidence of any cumulative error.

5 ORDER

6 THEREFORE, IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus
7 shall be, and it is, hereby denied.

Dated this 21st day of July, 2020

8 DATED this ____ day of July, 2020.


DISTRICT JUDGE

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

318 764 021C 7440
Jerry A. Wiese
District Court Judge

14 BY /s/KAREN MISHLER
15 KAREN MISHLER
16 Deputy District Attorney
17 Nevada Bar #013730

18 CERTIFICATE OF MAILING

19 I hereby certify that service of the above and foregoing was made this ____ day of
20 July, 2020, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:
21

22 EDWARD HONABACH #1214257
23 ELY STATE PRISON
24 4569 N. STATE ROUTE 490
25 ELY, NV, 89301

26 BY _____
27 Jimenez
28 Secretary for the District Attorney's Office

km/L3

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Edward Honabach, Plaintiff(s) CASE NO: A-20-812948-W
7 vs. DEPT. NO. Department 30
8 William Gittere, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 7/21/2020

15 Travis Akin travis@avalonlg.com



1 NEFF

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

4 EDWARD HONABACH,

5
6 Petitioner,

Case No: A-20-812948-W

Dept No: XXX

7 vs.

8 WILLIAM GITTERE,

9 Respondent,

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

10
11 **PLEASE TAKE NOTICE** that on July 21, 2020, the court entered a decision or order in this matter, a
true and correct copy of which is attached to this notice.

12 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you
13 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is
14 mailed to you. This notice was mailed on July 23, 2020.

15 STEVEN D. GRIERSON, CLERK OF THE COURT

16 /s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

17
18
19 **CERTIFICATE OF E-SERVICE / MAILING**

20 I hereby certify that on this 23 day of July 2020, I served a copy of this Notice of Entry on the following:

21 ☒ By e-mail:

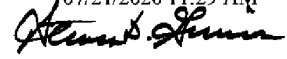
22 Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

23 ☒ The United States mail addressed as follows:

24 Edward Honabach # 1214257
25 P.O. Box 1989
Ely, NV 89301

26
27 /s/ Amanda Hampton

Amanda Hampton, Deputy Clerk


CLERK OF THE COURT

1 **FCL**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 KAREN MISHLER
6 Deputy District Attorney
7 Nevada Bar #013730
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -VS-

12 EDWARD HONABACH, aka,
13 Edward Joseph Honabach, #7029816
14 Defendant.

CASE NO: A-20-812948-W
DEPT NO: XXX

15 **FINDINGS OF FACT, CONCLUSIONS OF**
16 **LAW AND ORDER**

17 THIS CAUSE having come before the Honorable JERRY WEISE, District Judge, on
18 the 18th day of May, 2020, the Court having concluded that pursuant to Administrative Order
19 20-01 and subsequent Administrative Orders, this matter is "non-essential" and thus may be
20 decided on the papers. The Court having considered the matter, including briefs, transcripts,
21 and documents on file herein, now therefore, the Court makes the following findings of fact
22 and conclusions of law:

23 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

24 **STATEMENT OF THE CASE**

25 On April 12, 2016, the State filed an Information charging Petitioner Edward Honabach
26 ("Petitioner") with Conspiracy to Commit Murder (Category B Felony – NRS 200.010,
27 200.030, 199.480); Attempt Murder With Use of a Deadly Weapon (Category B Felony – NRS
28 200.010, 200.030, 193.330, 193.165); Mayhem With Use of a Deadly Weapon (Category B

1 Felony – NRS 200.280, 193.165); Battery With Use of a Deadly Weapon Resulting in
2 Substantial Bodily Harm (Category B Felony – NRS 200.481); First Degree Kidnapping With
3 Use of a Deadly Weapon Resulting in Substantial Bodily Harm (Category A Felony – NRS
4 200.310, 200.320, 193.165); Extortion With Use of a Deadly Weapon (Category B Felony –
5 NRS 205.320, 193.165); Robbery With Use of a Deadly Weapon (Category B Felony – NRS
6 200.380, 193.165); and First Degree Arson (Category B Felony – NRS 205.010).

7 On April 14, 2016, Petitioner was arraigned on the Information, at which time he
8 entered a plea of not guilty and waived his right to a speedy trial. On February 4, 2019,
9 pursuant to negotiations, the State filed an Amended Information charging Petitioner with one
10 count of First Degree Kidnapping Resulting in Substantial Bodily Harm (Category A Felony
11 – NRS 200.310, 200.320). On that same date, Petitioner pleaded guilty to the charge contained
12 in the Amended Information, and the State filed a Guilty Plea Agreement in open court.

13 On March 26, 2019, Petitioner was sentenced to a life without the possibility of parole
14 in the Nevada Department of Corrections. The Judgment of Conviction was filed on March
15 28, 2019. On April 26, 2019, Petitioner filed a Notice of Appeal. On August 13, 2019,
16 Appellant filed a Notice of Withdrawal of Appeal. On August 23, 2019, the Nevada Supreme
17 Court dismissed the appeal. No remittitur issued.

18 On March 27, 2020, Petitioner filed the instant post-conviction Petition for Writ of
19 Habeas Corpus.

20 ANALYSIS

21 Petitioner claims he did not enter into the Guilty Plea Agreement voluntarily,
22 intelligently, and knowingly, because he did not know that he could receive a sentence of life
23 without the possibility of parole. He also claims that his plea counsel was ineffective for failing
24 to advise him that he could receive a sentence of life without the possibility of parole. Both of
25 these claims are clearly belied by the record. The Guilty Plea Agreement in this case clearly
26 states that “the State will have the right to argue for Life without the possibility of Parole, and
27 the Defense will argue for Life with the possibility of Parole after fifteen (15) years.”
28 Additionally, during the plea canvass on February 4, 2019, the Court accepted Petitioner’s plea

1 of guilty, and concluded that his guilty plea was made freely and voluntarily, and that he
2 understood the nature of the offense and the consequences of his plea.

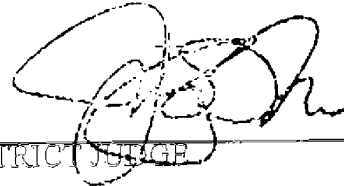
3 Petitioner's only other claim is of cumulative error. As all of Petitioner's claims are
4 clearly belied by the record, there is no suggestion or evidence of any cumulative error.

5 ORDER

6 THEREFORE, IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus
7 shall be, and it is, hereby denied.

Dated this 21st day of July, 2020

8 DATED this ____ day of July, 2020.


DISTRICT JUDGE

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

318 764 021C 7440
Jerry A. Wiese
District Court Judge

14 BY /s/KAREN MISHLER
15 KAREN MISHLER
16 Deputy District Attorney
17 Nevada Bar #013730

18 CERTIFICATE OF MAILING

19 I hereby certify that service of the above and foregoing was made this ____ day of
20 July, 2020, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:
21

22 EDWARD HONABACH #1214257
23 ELY STATE PRISON
24 4569 N. STATE ROUTE 490
25 ELY, NV, 89301

26 BY _____
27 Jimenez
28 Secretary for the District Attorney's Office

km/L3

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5	Edward Honabach, Plaintiff(s)	CASE NO: A-20-812948-W
6	vs.	DEPT. NO. Department 30
7	William Gittere, Defendant(s)	

8
9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 7/21/2020

15 Travis Akin	travis@avalonlg.com
----------------	---------------------



OSCC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

EDWARD HONABACH, PLAINTIFF(S)	CASE NO.: A-20-812948-W
VS.	
WILLIAM GITTERE, DEFENDANT(S)	DEPARTMENT 30

CIVIL ORDER TO STATISTICALLY CLOSE CASE

Upon review of this matter and good cause appearing,
IT IS HEREBY ORDERED that the Clerk of the Court is hereby directed to
statistically close this case for the following reason:

DISPOSITIONS:

- | | |
|-------------------------------------|--|
| <input type="checkbox"/> | Default Judgment |
| <input type="checkbox"/> | Judgment on Arbitration |
| <input type="checkbox"/> | Stipulated Judgment |
| <input checked="" type="checkbox"/> | Summary Judgment |
| <input type="checkbox"/> | Involuntary Dismissal |
| <input type="checkbox"/> | Motion to Dismiss by Defendant(s) |
| <input type="checkbox"/> | Stipulated Dismissal |
| <input type="checkbox"/> | Voluntary Dismissal |
| <input type="checkbox"/> | Transferred (before trial) |
| <input type="checkbox"/> | Non-Jury – Disposed After Trial Starts |
| <input type="checkbox"/> | Non-Jury – Judgment Reached |
| <input type="checkbox"/> | Jury – Disposed After Trial Starts |
| <input type="checkbox"/> | Jury – Verdict Reached |
| <input type="checkbox"/> | Other Manner of Disposition |

DATED this 22nd day of July, 2020.



JERRY A. WIESE
DISTRICT COURT JUDGE

**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

May 18, 2020

39

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

July 15, 2020

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

July 15, 2020 3:00 AM Minute Order

HEARD BY: Wiese, Jerry A. **COURTROOM:** No Location

COURT CLERK: Lauren Kidd

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- At the Court's request, COURT ORDERED, Status Check set for July 23, 2020 at 8:30 a.m. regarding the submission and completion of the Court's Order on Petition for Writ of Habeas Corpus. Should the Order be submitted to Chambers prior to July 23, 2020 the hearing will be vacated.

07/23/20 8:30 AM STATUS CHECK: SUBMISSION AND COMPLETION OF ORDER

CLERK'S NOTE: A copy of the above minute order was distributed to all parties with a copy of the minute order dated May 18, 2020.//lk

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus**COURT MINUTES****July 23, 2020**

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

**July 23, 2020 8:30 AM Motion For
 Reconsideration**

HEARD BY: Wiese, Jerry A.**COURTROOM:** RJC Courtroom 14A**COURT CLERK:** Lauren Kidd**RECORDER:** Trisha Garcia**REPORTER:****PARTIES**

PRESENT: Cole, Madilyn M. Attorney

JOURNAL ENTRIES

- Mr. Honabach not present, in custody in the Nevada Department of Corrections.

Court advised the Plaintiff was asking the Court to reconsider the Court's decision on a pretrial writ because he said former counsel submitted his petition for habeas corpus without his permission. Court advised the Court did not find a good basis under any of the rules to reconsider the prior decision and noted that counsel did not make any arguments as to why the Court's prior decisions was incorrect. Court noted the argument was that counsel was not supposed to file the petition for habeas corpus; however, if it had not been filed it would now be time barred so there would not be a habeas corpus petition on file. Further, Court noted if it had not been filed there would not have been anything for the Court to rule on and now the Defendant at least had the potential to appeal the habeas corpus decision that the Court made. COURT ORDERED motion DENIED. Court finds the Defendant is in a better position having the petition filed than he would have been otherwise. State DIRECTED to prepare the Order.

NDC

CLERK'S NOTE: A copy of the above minute order was distributed to all parties 08/03/20./ /lk

PRINT DATE: 08/03/2020

Page 6 of 7

Minutes Date:

May 13, 2020

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Supreme Court order dated July 29, 2020, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises one volume with pages numbered 1 through 44.

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 4 day of August 2020.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk