

The Supreme Court of Nevada  
Supreme Court No. 81648

Jeffrey Kent Brown,  
Appellant  
Vs.  
The State of Nevada,  
Respondent

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Clerk of Supreme Court

APPELLANT'S REPLY BRIEF  
(Appeal from Denial of Post-conviction Habeas Petition)

NRAP 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

DATED THIS 25th day of February, 2021.

Jeannie Hua, Esq., Attorney of record for Appellant, Jeffrey Kent Brown  
Clark County District Attorney's Office for the State of Nevada

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**I. District Court erred by denying Appellant's claim that trial counsel was not ineffective in his investigation of Appellant's self-defense claim**

The State argued that Appellant didn't "allege with specificity what the investigation would have revealed and how it would have altered the outcome of the trial." However, in Appellant's Pro Per Petition for Writ of Habeas Corpus, Appellant told trial counsel "that the alleged victim "Moneque Short" approached the driver's side of his vehicle in an aggressive manner and said: "Do you have a problem with me muthafucka?!" "Short" went on to grab him [Appellant] by the collar" coupled with Appellant's PTSD, Appellant's only recourse was to grab his gun. (AA 67). A self-defense claim would have cancelled out the specific intent element for the charge of Attempt Murder with Use of a Deadly Weapon. Trial counsel even admitted the importance of self-defense claim when he raised the issue at sentencing. But it was too little too late at that point. The chance to defend his client according to an objective standard of reasonableness at trial had passed. By failing to investigate self defense, trial Counsel's representation fell below an object standard of reasonableness.

**II. The trial court erred by concluding that trial counsel was not ineffective regarding presenting evidence before the grand jury.**

State argued that Appellant waived his claim that he would have testified that he acted in self defense before the grand jury when he pled guilty. However, Appellant didn't waive any ineffective assistance of counsel claim when he pled guilty. Because trial counsel failed to tell Appellant how the grand jury proceeding works and his opportunity to testify, Appellant lost the opportunity to testify how he was forced to defend himself and receive a potential outcome of grand jury deciding to not indict on the Attempt Murder charge because it cancels

out specific intent to kill. By failing to inform Appellant his right to testify and present evidence and failing to offer exculpatory evidence at grand jury proceeding, pursuant to Hayes, this Court should find trial counsel had rendered ineffective assistance of counsel, vacate Appellant's convictions and remand his case to trial court. By not getting the case dismissed and receiving incomplete information from his trial counsel, Appellant was forced to plead guilty, believing that it was his only choice. His decision to plead guilty was involuntary and unknowing because it was a result of his trial counsel's ineffective assistance of counsel.

### **CONCLUSION**

Since Trial Court had erred by denying Appellant's Pro Per Petition for Habeas Corpus and Supplemental, Appellant respectfully requests this Court to remand Appellant's case back to Trial Court for an evidentiary hearing.

DATED this 25th day of February, 2021.

Respectfully submitted,  
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### **CERTIFICATE OF COMPLIANCE**

I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface, using Microsoft Word in 14 point Times New Roman font.

I further certify that this brief complies with the page- or type-volume limitations of NRAP 32(a)(7)(A) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C) it does not exceed 10 pages.

Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 25th day of February, 2021.

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### **CERTIFICATE OF SERVICE**

I hereby certify that Appellant's Opening Brief was filed electronically with the Nevada Supreme Court on the 25th day of February, 2021. Electronic service of the foregoing document shall be made in accordance with the Master Service List as follows:

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