Electronically Filed

12000 3H上GGMBGRM 26.064

CERTIFICATE OF SERVICE I do certify that I mailed a true and correct copy of the foregoing NOTICE OF APPEAL to the below address(es) on this day of DCAober , 20 do , by placing same in the U.S. Mail via prison law library staff:

1200 Prison Road Lovelock, Nevada 89419

Defendant In Pro Se

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding NOTICE OF APPEAL filed in District Court Case No. C-293296 does not contain the social security number of any person.

Dated this 29 day of OC+Ober

Defendant In Pro Se

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Mos Prison Ad

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Steven O. GRierson, Clerk of the Cart Goo Lewis Avenue, 340 Floor -AS VegAS, NV 89 115-1160

PLOC COMMENTERS

MAIL CONFIDENTIAL

NWATELEGAL

Electronically Filed 11/12/2020 11:33 AM Steven D. Grierson CLERK OF THE COURT

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IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK

DARION MUHAMMAD-COLEMAN,

Plaintiff(s),

VS.

RENEE BAKER, WARDEN,

Defendant(s),

Case No: A-19-806521-W

Dept No: X

CASE APPEAL STATEMENT

- 1. Appellant(s): Darion Muhammad-Coleman
- 2. Judge: Tierra Jones
- 3. Appellant(s): Darion Muhammad-Coleman

Counsel:

Darion Muhammad-Coleman #1144228 1200 Prison Rd. Lovelock, NV 89419

4. Respondent (s): Renee Baker, Warden

Counsel:

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

A-19-806521-W

Case Number: A-19-806521-W

-1-

2	5. Appellant(s)'s Attorney Licensed in Nevada: N/A Permission Granted: N/A				
3	Respondent(s)'s Attorney Licensed in Nevada: Yes Permission Granted: N/A				
5	6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No				
6	7. Appellant Represented by Appointed Counsel On Appeal: N/A				
7 8	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	9. Date Commenced in District Court: December 6, 2019				
10	10. Brief Description of the Nature of the Action: Civil Writ				
12	Type of Judgment or Order Being Appealed: Civil Writ of Habeas Corpus				
13	11. Previous Appeal: No				
14	Supreme Court Docket Number(s): N/A				
15	12. Child Custody or Visitation: N/A				
16	13. Possibility of Settlement: Unknown				
17	Dated This 12 day of November 2020.				
18	Steven D. Grierson, Clerk of the Court				
19					
20	/s/ Amanda Hampton Amanda Hampton, Deputy Clerk				
21	200 Lewis Ave				
22 23	PO Box 551601 Las Vegas, Nevada 89155-1601				
24	(702) 671-0512				
25					
26					
27	cc: Darion Muhammad-Coleman				

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EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY CASE No. A-19-806521-W

Darion Coleman, Plaintiff(s) Renee Baker, Defendant(s)

C-13-293296-2 (Writ Related Case)

Location: Department 10 Judicial Officer: Jones, Tierra Filed on: 12/06/2019

Case Number History:

Cross-Reference Case A806521

Number:

CASE INFORMATION

§ §

Related Cases Case Type: Writ of Habeas Corpus

12/06/2019 Open Status:

DATE **CASE ASSIGNMENT**

Current Case Assignment

Case Number A-19-806521-W Court Department 10 Date Assigned 09/08/2020 Judicial Officer Jones, Tierra

PARTY INFORMATION

Lead Attorneys **Plaintiff** Coleman, Darion M

Zaman, Waleed Retained 702-359-0157(W)

Defendant Baker, Renee Wolfson, Steven B Retained

702-671-2700(W)

DATE **EVENTS & ORDERS OF THE COURT** INDEX

EVENTS

12/06/2019 Petition for Writ of Habeas Corpus

Filed by: Plaintiff Coleman, Darion M

Petition for Writ of Habeas Corpus (post trial) - Muhammad-Coleman, Darion

12/09/2019 Notice of Department Reassignment

Notice of Department Reassignmnet

03/05/2020 Opposition

Filed By: Defendant Baker, Renee

State's Opposition to Defendant's Post-Conviction Petition for Writ of Habeas COrpus and

Request for Evidentiary Hearing

04/17/2020 Reply to Opposition

Filed by: Plaintiff Coleman, Darion M

Reply to State's Opposition to Petition for Writ of Habeas Corpus (Post-Conviction)

09/08/2020 Case Reassigned to Department 10

Case Reassignment from Judge Douglas W. Herndon to Judge Tierra Jones

10/27/2020 Order for Production of Inmate

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY CASE NO. A-19-806521-W

 ${\it Order for Production of Via Video \ Conference of Inmate \ Darion \ Muhammad-Coleman, \ BAC} \\ {\it \#114428}$

11/10/2020

Notice of Appeal

Notice of Appeal

11/12/2020

Case Appeal Statement

Filed By: Plaintiff Coleman, Darion M

Case Appeal Statement

HEARINGS

01/23/2020

Petition for Writ of Habeas Corpus (9:00 AM) (Judicial Officer: Jones, Tierra) 01/23/2020, 06/04/2020, 08/06/2020, 09/30/2020, 10/12/2020

Matter Continued:

Matter Continued;

Matter Continued:

Continued:

Matter Heard;

Journal Entry Details:

Defendant Coleman NOT PRESENT in custody at NDC. Following arguments by counsel, Court INDICATED it would review the Woodstone case and issue a minute order.:

Matter Continued;

Matter Continued;

Matter Continued;

Continued;

Matter Heard;

Journal Entry Details:

Darion Coleman not present and in the Nevada Department of Corrections. Court noted the Court is not ready to proceed today as it has not read the Reply and the State provided a Video yesterday, that's referred to in the pleadings, however, the Court needs additional time to prepared. COURT ORDERED, matter CONTINUED to the date given. Mr. Schwartzer advised as to the video provided to the Court and that counsel can provide it to defense counsel also. Mr. Zaman advised he has seen them. 10/12/20 8:30 A.M. PETITION FOR WRIT OF HABEAS CORPUS;

Matter Continued;

Matter Continued;

Matter Continued;

Continued;

Matter Heard;

Journal Entry Details:

Defendant not present and in custody in the Nevada Department of Corrections; Waleed Zaman Esq. not present. COURT STATED this matter was continued for Mr. Zaman to be present to argue the matter, adding the Courthouse is not allowing people in due to COVID and ORDERED, matter CONTINUED. NDC CONTINUED TO: 10/1/2020 9:00 A.M.;

Matter Continued:

Matter Continued;

Matter Continued;

Continued:

Matter Heard;

Journal Entry Details:

Defendant not present and in custody in the Nevada Department of Corrections. COURT STATED there is a limited amount of people able to enter the building due to COVID-19. Mr. Zaman stated no objection to continuing the matter for him to be present in person. Mr. Scarborough stated the appeals department was not served and they were requesting 45 days to prepare a response. Mr. Zaman informed the Court the State has responded. Mr. Scarborough stated the information must have been an old note. COURT ORDERED, matter CONTINUED and to the extent the State is wishing to file supplemental pleading, the State can. NDC /CONTINUED TO: 7/16/2020 9:00 A.M.;

Matter Continued;

Matter Continued;

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY CASE NO. A-19-806521-W

Matter Continued;

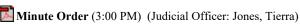
Continued:

Matter Heard;

Journal Entry Details:

Defendant not present and in custody in the Nevada Department of Corrections. Mr. Zaman indicated he spoke with Mr. Chen and they are requesting forty-five days to respond. Mr. Osman confirmed the representations. COURT ORDERED, briefing schedule SET as follows: State's Opposition shall be due on or before March 5, 2020; Defendant's Reply shall be due on or before April 2, 2020; matter CONTINUED. NDC CONTINUED TO: 4/9/2020 9:00 A.M.;

10/13/2020

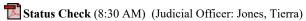


Minute Order - No Hearing Held;

Journal Entry Details:

Following review of the papers and pleadings on file herein, and considering the arguments of counsel, the COURT FINDS as follows. The Court finds that the Petition is not procedurally barred under NRS 34.726. The Court finds good cause for the delay. The COURT FURTHER FINDS that none of Petitioner's claims are waived pursuant to NRS 34.810. As for the claim regarding the sentencing court's reliance on improper evidence, the COURT FINDS that this claim lacks merit. The COURT FINDS that the sentencing court did not rely on improper evidence as there is no language in the sentencing transcript to indicate that the Court specifically relied on Detective Miller's testimony. The sentencing Court specifically stated that it had presided over the entire trial and that it was considering the evidence that was presented at trial to determine that the Petitioner was the first person to fire his weapon. The COURT FURTHER FINDS that the Detective Miller's testimony did not amount to comment on the Defendant's post-arrest silence. The COURT FURTHER FINDS that Petitioner did not receive ineffective assistance of counsel in counsel s cross examination and failure to object to the testimony of Detective Miller. Under Strickland v. Washington, the Petitioner must show that counsel s cross-examination of Detective Miller or failure to object to the Detective s testimony fell below an objective standard of reasonableness and that but for the errors, there is a reasonable probability that the result of the proceedings would have been different. Neither of those prongs are met here. The COURT FURTHER FINDS that Petitioner's PTSD self-defense theory claim warrants an evidentiary hearing. Accordingly, the Petition for Writ of Habeas Corpus is DENIED IN PART. The State is to prepare a Findings of Fact and Conclusions of Law consistent with this Order and submit it to the Court for signature within 10 days of the date of filing of this order. This case will be set for a status check hearing on October 21, 2020 at 8:30 to set a time and date for an evidentiary hearing. Clerk's Note: This Minute Order was electronically served by Courtroom Clerk, Teri Berkshire, to all registered parties for Odyssey File & Serve. /tb;

10/21/2020



Setting of Evidentiary Hearing

Hearing Set;

Journal Entry Details:

APPEARANCES CONTINUED: Mr. Schwartzer present on behalf of the State, via video, through bluejeans technology. Mr. Coleman not present and in the Nevada Department of Corrections. Court noted this matter is on for the limited PTSD issue. Colloquy regarding hearing times, counsel's availability, and coordinating with the Jail. Court directed Mr. Schwartzer to do an order to produce, so the deft. will be transferred from NDC to CCDC. Mr. Zaman requested to expand the record and get the evaluation done by an independent doctor. COURT ORDERED request DENIED. Court noted what the Court is interested in, is the limited issue as to what Mr. Schwarz knew at the time, so any evaluation that occurs at this point, Mr. Schwarz would have no knowledge of that, at the time he should have argued the PTSD. Court noted this Court's JEA will be in touch with counsel after she confirms with DC7, that we can do this. FURTHER ORDERED, matter set for Hearing on the date given. Mr. Schwartzer to prepare an order to transport. NDC 12/04/20 from 8:00 a.m. to 10:00 a.m. HEARING - LIMITED ISSUE;

12/18/2020

Evidentiary Hearing (9:00 AM) (Judicial Officer: Jones, Tierra)

DISTRICT COURT CLARK COUNTY, NEVADA

Writ of Habeas Corpus

COURT MINUTES

January 23, 2020

A-19-806521-W

Darion Coleman, Plaintiff(s)

Renee Baker, Defendant(s)

January 23, 2020

9:00 AM

Petition for Writ of Habeas

Corpus

HEARD BY: Herndon, Douglas W.

COURTROOM: RJC Courtroom 16C

COURT CLERK: Kory Schlitz

RECORDER:

Jill Jacoby

REPORTER:

PARTIES

PRESENT:

Osman, Adam B.

Attorney

Zaman, Waleed

Attorney

JOURNAL ENTRIES

- Defendant not present and in custody in the Nevada Department of Corrections.

Mr. Zaman indicated he spoke with Mr. Chen and they are requesting forty-five days to respond. Mr. Osman confirmed the representations. COURT ORDERED, briefing schedule SET as follows: State's Opposition shall be due on or before March 5, 2020; Defendant's Reply shall be due on or before April 2, 2020; matter CONTINUED.

NDC

CONTINUED TO: 4/9/2020 9:00 A.M.

PRINT DATE: 11/12/2020 Page 1 of 9 Minutes Date: January 23, 2020

DISTRICT COURT CLARK COUNTY, NEVADA

Writ of Habeas Corpus

COURT MINUTES

June 04, 2020

A-19-806521-W

Darion Coleman, Plaintiff(s)

Renee Baker, Defendant(s)

June 04, 2020

3:30 PM

Petition for Writ of Habeas

Corpus

HEARD BY: Herndon, Douglas W.

COURTROOM: RJC Courtroom 16C

COURT CLERK: Kory Schlitz

RECORDER:

Stacey Ray

REPORTER:

PARTIES

PRESENT:

Scarborough, Michael J.

Attorney

Zaman, Waleed

Attorney

JOURNAL ENTRIES

- Defendant not present and in custody in the Nevada Department of Corrections.

COURT STATED there is a limited amount of people able to enter the building due to COVID-19. Mr. Zaman stated no objection to continuing the matter for him to be present in person. Mr. Scarborough stated the appeals department was not served and they were requesting 45 days to prepare a response. Mr. Zaman informed the Court the State has responded. Mr. Scarborough stated the information must have been an old note. COURT ORDERED, matter CONTINUED and to the extent the State is wishing to file supplemental pleading, the State can.

NDC

/CONTINUED TO: 7/16/2020 9:00 A.M.

PRINT DATE: 11/12/2020 Page 2 of 9 Minutes Date: January 23, 2020

DISTRICT COURT CLARK COUNTY, NEVADA

Writ of Habeas Corpus

COURT MINUTES

August 06, 2020

A-19-806521-W

Darion Coleman, Plaintiff(s)

vs.

Renee Baker, Defendant(s)

August 06, 2020

3:30 PM

Petition for Writ of Habeas

Corpus

HEARD BY: Herndon, Douglas W.

COURTROOM: RJC Courtroom 16C

COURT CLERK: Kory Schlitz

RECORDER: Stacey Ray

REPORTER:

PARTIES

PRESENT: Scarborough, Michael J.

Attorney

JOURNAL ENTRIES

- Defendant not present and in custody in the Nevada Department of Corrections; Waleed Zaman Esq. not present.

COURT STATED this matter was continued for Mr. Zaman to be present to argue the matter, adding the Courthouse is not allowing people in due to COVID and ORDERED, matter CONTINUED.

NDC

CONTINUED TO: 10/1/2020 9:00 A.M.

PRINT DATE: 11/12/2020 Page 3 of 9 Minutes Date: January 23, 2020

DISTRICT COURT CLARK COUNTY, NEVADA

Writ of Habeas Corpus

COURT MINUTES

September 30, 2020

A-19-806521-W

Darion Coleman, Plaintiff(s)

Renee Baker, Defendant(s)

September 30, 2020

8:30 AM

Petition for Writ of Habeas

Corpus

HEARD BY: Jones, Tierra

COURTROOM: RJC Courtroom 14B

COURT CLERK: Teri Berkshire

RECORDER:

Victoria Boyd

REPORTER:

PARTIES

PRESENT:

Hamner, Christopher S. Attorney Schwartzer, Michael J. Attorney Attorney

Zaman, Waleed

JOURNAL ENTRIES

- Darion Coleman not present and in the Nevada Department of Corrections. Court noted the Court is not ready to proceed today as it has not read the Reply and the State provided a Video yesterday, that's referred to in the pleadings, however, the Court needs additional time to prepared. COURT ORDERED, matter CONTINUED to the date given. Mr. Schwartzer advised as to the video provided to the Court and that counsel can provide it to defense counsel also. Mr. Zaman advised he has seen them.

10/12/20 8:30 A.M. PETITION FOR WRIT OF HABEAS CORPUS

PRINT DATE: Page 4 of 9 Minutes Date: 11/12/2020 January 23, 2020

DISTRICT COURT CLARK COUNTY, NEVADA

Writ of Habeas Corpus

COURT MINUTES

October 12, 2020

A-19-806521-W

Darion Coleman, Plaintiff(s)

vs.

Renee Baker, Defendant(s)

October 12, 2020

8:30 AM

Petition for Writ of Habeas

Corpus

HEARD BY: Jones, Tierra

COURTROOM: RJC Courtroom 14B

COURT CLERK: Michele Tucker

RECORDER: Toshiana Pierson

REPORTER:

PARTIES

PRESENT: Schwartzer, Michael J.

Attorney

Zaman, Waleed

Attorney

JOURNAL ENTRIES

- Defendant Coleman NOT PRESENT in custody at NDC.

Following arguments by counsel, Court INDICATED it would review the Woodstone case and issue a minute order.

PRINT DATE: 11/12/2020 Page 5 of 9 Minutes Date: January 23, 2020

DISTRICT COURT CLARK COUNTY, NEVADA

Writ of Habeas Corpus

COURT MINUTES

October 13, 2020

A-19-806521-W

Darion Coleman, Plaintiff(s)

VS.

Renee Baker, Defendant(s)

October 13, 2020

3:00 PM

Minute Order

HEARD BY: Jones, Tierra

COURTROOM: RJC Courtroom 14B

COURT CLERK: Teri Berkshire

RECORDER:

REPORTER:

PARTIES PRESENT:

JOURNAL ENTRIES

- Following review of the papers and pleadings on file herein, and considering the arguments of counsel, the COURT FINDS as follows. The Court finds that the Petition is not procedurally barred under NRS 34.726. The Court finds good cause for the delay. The COURT FURTHER FINDS that none of Petitioner's claims are waived pursuant to NRS 34.810. As for the claim regarding the sentencing court's reliance on improper evidence, the COURT FINDS that this claim lacks merit. The COURT FINDS that the sentencing court did not rely on improper evidence as there is no language in the sentencing transcript to indicate that the Court specifically relied on Detective Miller's testimony. The sentencing Court specifically stated that it had presided over the entire trial and that it was considering the evidence that was presented at trial to determine that the Petitioner was the first person to fire his weapon. The COURT FURTHER FINDS that the Detective Miller's testimony did not amount to comment on the Defendant's post-arrest silence. The COURT FURTHER FINDS that Petitioner did not receive ineffective assistance of counsel in counsel s cross examination and failure to object to the testimony of Detective Miller. Under Strickland v. Washington, the Petitioner must show that counsel's cross-examination of Detective Miller or failure to object to the Detective's testimony fell below an objective standard of reasonableness and that but for the errors, there is a reasonable probability that the result of the proceedings would have been different. Neither of those prongs are met here. The COURT FURTHER FINDS that Petitioner's PTSD self-defense theory claim warrants an evidentiary hearing. Accordingly, the Petition for Writ of Habeas Corpus is DENIED IN

PRINT DATE: 11/12/2020 Page 6 of 9 Minutes Date: January 23, 2020

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The State is to prepare a Findings of Fact and Conclusions of Law consistent with this Order and submit it to the Court for signature within 10 days of the date of filing of this order. This case will be set for a status check hearing on October 21, 2020 at 8:30 to set a time and date for an evidentiary hearing.

Clerk's Note: This Minute Order was electronically served by Courtroom Clerk, Teri Berkshire, to all registered parties for Odyssey File & Serve. /tb

PRINT DATE: 11/12/2020 Page 7 of 9 Minutes Date: January 23, 2020

DISTRICT COURT CLARK COUNTY, NEVADA

Writ of Habeas Corpus

COURT MINUTES

October 21, 2020

A-19-806521-W

Darion Coleman, Plaintiff(s)

vs.

Renee Baker, Defendant(s)

October 21, 2020

8:30 AM

Status Check

HEARD BY: Jones, Tierra

COURTROOM: RJC Courtroom 14B

COURT CLERK: Teri Berkshire

RECORDER: Victoria Boyd

REPORTER:

PARTIES

PRESENT: Schwartzer, Michael J.

Attorney

Zaman, Waleed

Attorney

JOURNAL ENTRIES

- APPEARANCES CONTINUED: Mr. Schwartzer present on behalf of the State, via video, through bluejeans technology.

Mr. Coleman not present and in the Nevada Department of Corrections. Court noted this matter is on for the limited PTSD issue. Colloquy regarding hearing times, counsel's availability, and coordinating with the Jail. Court directed Mr. Schwartzer to do an order to produce, so the deft. will be transferred from NDC to CCDC. Mr. Zaman requested to expand the record and get the evaluation done by an independent doctor. COURT ORDERED request DENIED. Court noted what the Court is interested in, is the limited issue as to what Mr. Schwarz knew at the time, so any evaluation that occurs at this point, Mr. Schwarz would have no knowledge of that, at the time he should have argued the PTSD. Court noted this Court's JEA will be in touch with counsel after she confirms with DC7, that we can do this. FURTHER ORDERED, matter set for Hearing on the date given. Mr. Schwartzer to prepare an order to transport.

NDC

PRINT DATE: 11/12/2020 Page 8 of 9 Minutes Date: January 23, 2020

12/04/20 from 8:00 a.m. to 10:00 a.m. HEARING - LIMITED ISSUE

PRINT DATE: 11/12/2020 Page 9 of 9 Minutes Date: January 23, 2020



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

DARION MUHAMMAD-COLEMAN #1144228 1200 PRISON RD. LOVELOCK, NV 89419

DATE: November 12, 2020 CASE: A-19-806521-W

RE CASE: DARION MUHAMMAD-COLEMAN vs. RENEE BAKER, WARDEN

NOTICE OF APPEAL FILED: November 10, 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 Previously paid Bonds are not transferable between appeals without an order of the court. 		
	Case Appeal Statement - NRAP 3 (a)(1), Form 2		
\boxtimes	Order		
\boxtimes	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	}	SS:
County of Clark		

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

DARION MUHAMMAD-COLEMAN,

Plaintiff(s),

VS.

RENEE BAKER, WARDEN,

Defendant(s),

now on file and of record in this office.

Case No: A-19-806521-W

Dept No: X

IN WITNESS THEREOF, I have hereunto Set my hand and Affixed the seal of the Court at my office, Las Vegas, Nevada This 12 day of November 2020.

Steven D. Grierson, Clerk of the Court

Amanda Hampton, Deputy Clerk