

Electronically Filed  
Dec 17 2020 01:08 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

1 **NOTC**  
2 CHRISTOPHER R. ORAM, ESQ.  
3 Nevada Bar no. 4349  
4 520 South 4th Street, 2nd Floor  
5 Las Vegas, Nevada 89101  
6 (702) 384-5563  
7  
8 Attorney for Defendant  
9 CLEMON HUDSON

6 **DISTRICT COURT**  
7  
8 **CLARK COUNTY, NEVADA**

8 \* \* \* \* \*

9 THE STATE OF NEVADA,  
10  
11 Plaintiff,  
12  
13 vs.  
14  
15 CLEMON HUDSON,  
16  
17 Defendant.

CASE NO. A-18-783635-W  
DEPT. NO. 29

15 **NOTICE OF APPEAL**

16 NOTICE is hereby given that Defendant, CLEMON HUDSON, hereby appeals to the  
17 Supreme Court of the State of Nevada from the denial of claims contained within his Petition for  
18 Writ of Habeas Corpus (Post-Conviction), which was granted in part, and denied in part, by the  
19 Honorable David M. Jones on December 04, 2020. The Findings of Fact, Conclusions of Law and  
20 Order was entered December 16, 2020.

21 DATED this 16<sup>th</sup> day of December, 2020.

22 By: /s/ Christopher R. Oram  
23 CHRISTOPHER R. ORAM  
24 Nevada Bar #004349  
25 520 South Fourth Street.,  
26 Las Vegas, Nevada 89101

25 Attorney for Defendant  
26 CLEMON HUDSON

CHRISTOPHER R. ORAM, LTD.  
520 SOUTH 4<sup>TH</sup> STREET | SECOND FLOOR  
LAS VEGAS, NEVADA 89101  
TEL. 702.384-5563 | FAX. 702.974-0623

**CERTIFICATE OF MAILING**

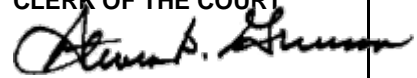
I hereby certify that I am an employee of CHRISTOPHER R ORAM and that on the 16<sup>th</sup> day of December 16, 2020, I did deposit in the United States Post Office, at Las Vegas, Nevada, in a sealed envelope with postage fully pre-paid thereon, a true and correct copy of the above and foregoing **NOTICE OF APPEAL**, addressed to:

Supreme Court Clerk  
Supreme Court Building  
201 S. Carson Street  
Carson City, Nevada 89701

Steve Wolfson  
District Attorney  
200 Lewis Avenue  
Las Vegas, Nevada 89101

Aaron Ford  
Attorney General  
100 North Carson Street  
Carson City, Nevada 89701

/s/ Nancy Medina  
An employee of Christopher R. Oram Esq.



CASA  
CHRISTOPHER R. ORAM, ESQ.  
Nevada State Bar #004349  
520 S. Fourth Street, 2nd Floor  
Las Vegas, Nevada 89101  
(702) 384-5563

Attorney for Defendant  
CLEMON HUDSON

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

\* \* \* \* \*

THE STATE OF NEVADA,  
  
Plaintiff,

vs.

CLEMON HUDSON,  
  
Defendant.

CASE NO. A-18-783635-W  
DEPT. NO. 29

**CASE APPEAL STATEMENT**

1.	Appellant	:	CLEMON HUDSON
2.	Judge	:	Hon. David M. Jones
3.	Parties in District Court	:	<u>State of Nevada v. Clemon Hudson</u>
4.	Parties in Appeal	:	<u>Clemon Hudson v. State of Nevada</u>
5.	Counsel on Appeal	:	Christopher R. Oram, Esq. 520 S. Fourth Street, 2nd Floor Las Vegas, Nevada 89101 (702) 384-5563  Steve Wolfson District Attorney 200 Lewis Avenue Las Vegas, NV 89155 (702) 671-2500  Aaron Ford Attorney General 100 North Carson Street Carson City, Nevada 89701

- 1 6. Appellant was represented by retained counsel in the district court.
- 2 7. Appellant is currently represented by retained counsel on appeal.
- 3 8. Appellant has not been granted leave to proceed in form pauperis as of this date.
- 4 9. On December 04, 2020 Mr. Hudson's Petition for Writ of Habeas Corpus (post-conviction) was granted in part, and denied in part by the Honorable Davis M. Jones. Mr. Hudson hereby appeals from the denial of claims contained within his Petition for Writ of Habeas Corpus (Post-Conviction). The Findings of Fact, Conclusions of Law and Order was entered December 16, 2020.

7 DATED this 16<sup>th</sup> day of December, 2020.

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9

Respectfully submitted by:

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11

/s/ Christopher R. Oram, Esq.  
CHRISTOPHER R. ORAM, ESQ.  
Nevada Bar No. 004349  
520 S. Fourth Street, 2nd Floor  
Las Vegas, Nevada 89101  
(702) 384-5563

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Attorney for Defendant  
CLEMON HUDSON

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 16<sup>th</sup> day of December, 2020, I served a true and correct copy  
3 of the foregoing document entitled **CASE APPEAL STATEMENT** to the Clark County District  
4 Attorney's Office by sending a copy via electronic mail to:

5  
6 CLARK COUNTY DISTRICT ATTORNEY'S OFFICE  
7 [motions@clarkcountyda.com](mailto:motions@clarkcountyda.com)

8 I further certify that on the 16<sup>th</sup> day of December, 2020, I did deposit in the United States  
9 Post Office, at Las Vegas, Nevada, in a sealed envelope with postage fully pre-paid thereon, a  
10 true and correct copy of the above and foregoing **CASE APPEAL STATEMENT** addressed to:

11  
12 Supreme Court Clerk  
13 Supreme Court Building  
14 201 S. Carson Street  
15 Carson City, Nevada 89701

16 Aaron Ford  
17 Attorney General  
18 100 North Carson Street  
19 Carson City, Nevada 89701

20 BY:

21 /s/ Nancy Medina .  
22 An employee of Christopher R. Oram, Esq.  
23  
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# CASE SUMMARY

## CASE NO. A-18-783635-W

State Of Nevada, Plaintiff(s)  
vs.  
Clemon Hudson, Defendant(s)

§  
§  
§  
§  
§

Location: **Department 29**  
Judicial Officer: **Jones, David M**  
Filed on: **10/25/2018**  
Case Number History:  
Cross-Reference Case Number: **A783635**

### CASE INFORMATION

**Related Cases**  
C-15-309578-2 (Writ Related Case)

Case Type: **Writ of Habeas Corpus**

Case Status: **10/25/2018 Open**

### DATE

### CASE ASSIGNMENT

#### Current Case Assignment

Case Number A-18-783635-W  
Court Department 29  
Date Assigned 10/31/2018  
Judicial Officer Jones, David M

### PARTY INFORMATION







<b>Plaintiff</b>	<b>Of Nevada, State</b>	<i>Lead Attorneys</i> <b>Demonte, Noreen C.</b> <i>Retained</i> 7026712750(W)
<b>Defendant</b>	<b>Hudson, Clemon</b>	<b>Oram, Christopher R</b> <i>Retained</i> 7023845563(W)

### DATE

### EVENTS & ORDERS OF THE COURT

### INDEX


#### EVENTS

10/25/2018	 Petition for Writ of Habeas Corpus <i>Petition for writ of habeas corpus</i>
10/31/2018	Trigger for Original Proceedings Packet
08/06/2019	 Motion <i>Motion to Place on Calendar to Extend the Time for the Filing of the Supplemental Brief</i>
08/06/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
12/10/2019	 Motion <i>Motion to Place on Calendar to Extend the Time for the Filing of the Supplemental Brief</i>
12/11/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
12/18/2019	 Supplemental Brief <i>Supplemental Brief in Support of Defendant's Petition for Writ of Habeas Corpus (Post-conviction)</i>

**CASE SUMMARY**  
**CASE NO. A-18-783635-W**

12/31/2019	 Response Filed by: Plaintiff Of Nevada, State <i>State's Response to Supplemental Brief in Support of Defendant's Petition for Writ of Habeas Corpus (Post-Conviction) and Request for Evidentiary Hearing)</i>
01/16/2020	 Petitioner's Reply Brief <i>Reply To State's Response To Defendant's Supplemental Brief In Support Of Petition For Writ Of Habeas Corpus (Post-Conviction)</i>
02/06/2020	 Order for Production of Inmate <i>ORDER FOR PRODUCTION OF INMATE</i>
12/16/2020	 Findings of Fact, Conclusions of Law and Order <i>Findings of Fact, Conclusions of Law and Order</i>
12/16/2020	 Notice of Appeal (criminal) <i>Notice of Appeal</i>
12/16/2020	 Case Appeal Statement <i>Case Appeal Statement</i>
12/17/2020	 Notice of Appeal Filed By: Defendant Hudson, Clemon <i>Notice of Appeal</i>
12/17/2020	 Case Appeal Statement Filed By: Defendant Hudson, Clemon <i>Case Appeal Statement</i>
12/17/2020	 Notice of Entry of Findings of Fact, Conclusions of Law Filed By: Plaintiff Of Nevada, State <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>

**HEARINGS**

12/18/2018	 <b>Petition for Writ of Habeas Corpus (8:30 AM)</b> (Judicial Officer: Jones, David M) <b>12/18/2018, 01/29/2019</b> Matter Continued; Matter Heard; Journal Entry Details: <i>Alexis Plunkett, Esq. also present. Defendant NOT present, noting Defendant is in Federal custody. Mr. Oram advised he did not have Deft's file and stated the other counsel had it. State offered the file from the prior attorney. Mr. Oram further advised that Mr. Mueller is not present and is in trial. Mr. Oram requested the State turn over their file. State had no objections. COURT ORDERED, the State turn over the file within 45 DAYS. COURT FURTHER ORDERED, matter SET for Status Check. 03/12/19 8:30 AM STATUS CHECK;</i> Matter Continued; Matter Heard; Journal Entry Details: <i>Mr. Oram advised Deft. had different counsel for both trial and sentencing. Further, Mr. Oram noted he had written to both previous counsel, Craig Mueller, Esq., and Alexis Plunkett, Esq., who both claimed they did not have Deft's file and stated the other counsel had it. State offered to provide Mr. Oram with copies of all discoverable material but could not provide any work product. COURT ORDERED, matter CONTINUED; Mr. Mueller and Ms. Plunkett are to appear and explain why they do not have Deft's file. NDC CONTINUED TO: 1/29/19 8:30 AM</i> <b>CLERK'S NOTE:</b> A copy of this minute order was placed in the attorney folder(s) of: Craig
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**CASE SUMMARY**  
**CASE NO. A-18-783635-W**

*Mueller, Esq., (MUELLER HINDS & ASSOCIATES) and Alexis Plunkett, Esq. 12/21/18 /mt;*

03/12/2019



**Status Check** (8:30 AM) (Judicial Officer: Jones, David M)

**03/12/2019, 04/09/2019**

*Status Check: File*

**MINUTES**

Matter Continued;

Briefing Schedule Set;

Journal Entry Details:

*Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Oram confirmed he received the file; and requested a briefing schedule. Mr. Oram inquired to Ms. Demonte about trial transcripts. Court told counsel to contact the Court, if he cannot get the transcripts. COURT ORDERED, briefing schedule SET as follows: Deft's supplemental pleading due August 6, 2019; State's response due October 5, 2019; and Deft's reply due November 4, 2019. FURTHER, hearing SET. NDC 11/14/19 8:30 A.M. DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION);*

Matter Continued;

Briefing Schedule Set;

Journal Entry Details:

*Defendant NOT present. Mr. Oram advised this matter was on for the status of the file, noting the State has not yet provided him with the file, and requested the matter be continued 30 days. Court advised State to provide Mr. Oram with the file. COURT ORDERED, matter CONTINUED. CONTINUED TO: 04/09/19 8:30 AM;*

**SCHEDULED HEARINGS**



**Petition for Writ of Habeas Corpus** (01/28/2020 at 8:30 AM) (Judicial Officer: Jones, David M)

**01/28/2020, 10/15/2020**

*Petition For Writ Of Habeas Corpus (Post-Conviction)*

09/10/2019



**Motion** (8:30 AM) (Judicial Officer: Jones, David M)

*Motion to Place on Calendar to Extend the Time for the Filing of the Supplemental Brief*

Granted;

Journal Entry Details:

*Ms. Folksted requested additional time for Mr. Oram to file a supplemental brief. Briefing schedule set. Supplemental Briefing DUE 12/10/19, State's Response DUE 01/10/20, Reply DUE 01/20/20. COURT ORDERED, Hearing SET. 01/28/20 8:30 AM HEARING;*

01/14/2020

**CANCELED Motion** (8:30 AM) (Judicial Officer: Jones, David M)

*Vacated*

*Motion to Place on Calendar to Extend the Time for the Filing of the Supplemental Brief*

01/28/2020



**Petition for Writ of Habeas Corpus** (8:30 AM) (Judicial Officer: Jones, David M)

**01/28/2020, 10/15/2020**

*Petition For Writ Of Habeas Corpus (Post-Conviction)*

Hearing Set;

Granted in Part;

Journal Entry Details:

*Testimony and exhibits presented (see worksheets). Argument by counsel. Argument by the State. COURT ORDERED, decision to issue via minute order. NDC;*

Hearing Set;

Granted in Part;

Journal Entry Details:

*At the request of counsel, COURT ORDERED, matter SET for hearing; State to prepare Transport Order. Mr. Oram stated he would have one witness. 5/1/20 11:00 AM EVIDENTIARY HEARING;*

04/15/2020



**Minute Order** (3:00 AM) (Judicial Officer: Jones, David M)

Minute Order - No Hearing Held;



**CASE SUMMARY**

**CASE NO. A-18-783635-W**

Journal Entry Details:

*Pursuant to Administrative orders 20-01 through 20-06, COURT ORDERED, the matter scheduled on April 24, 2020 is rescheduled to June 23, 2020 at 1:30 p.m. CLERK'S NOTE: This minute order has been distributed to counsel via email. /mt;*

12/03/2020



**Minute Order** (3:00 AM) (Judicial Officer: Jones, David M)

Minute Order - No Hearing Held;

Journal Entry Details:

*After review of all pleadings and evidence taken at the evidentiary hearing this Court finds Defendant was deprived of his right to direct appeal. As to all other issues raised in the Petition for Writ of Habeas Corpus, all other issues are DENIED. Counsel for Defendant is to prepare the order GRANTED in part as to Direct Appeal and DENIED as to all other claims. CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. /mt ;*

## DISTRICT COURT CIVIL COVER SHEET

County, Nevada

Case No. \_\_\_\_\_  
(Assigned by Clerk's Office)**I. Party Information** (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): Cleon Hudson, Petitioner	Defendant(s) (name/address/phone): The State of Nevada
Attorney (name/address/phone): Christopher R. Oram 520 South 4th Street, 2nd Floor Las Vegas, Nevada 89101	Attorney (name/address/phone): Steven B. Wolfson 200 Lewis Avenue Las Vegas, Nevada 89101

**II. Nature of Controversy** (please select the one most applicable filing type below)**Civil Case Filing Types**

<b>Real Property</b> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <b>Title to Property</b> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <b>Other Real Property</b> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<b>Negligence</b> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <b>Malpractice</b> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<b>Torts</b> <b>Other Torts</b> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
<b>Probate</b> <b>Probate</b> (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <b>Estate Value</b> <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	<b>Construction Defect &amp; Contract</b> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <b>Contract Case</b> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<b>Judicial Review/Appeal</b> <b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <b>Nevada State Agency Appeal</b> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<b>Civil Writ</b> <b>Civil Writ</b> <input checked="" type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		<b>Other Civil Filing</b> <b>Other Civil Filing</b> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

10/24/2018

Date

Signature of initiating party or representative

See other side for family-related case filings.

**ORDR**

CHRISTOPHER R. ORAM, ESQ.  
Nevada Bar No. 004349  
520 South 4<sup>th</sup> Street, Second Floor  
Las Vegas, Nevada 89101  
Telephone: (702) 384-5563

Attorney for Defendant  
CLEMON HUDSON

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CLEMON HUDSON,

Defendant.

CASE NO: A-18-783635-W

DEPT NO: XXIX

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

DATE OF HEARING: October 15, 2020  
TIME OF HEARING: 11:00 a.m.

THIS CAUSE having come on for hearing before the Honorable DAVID M. JONES, District Judge, on the 15<sup>th</sup> day of October, 2020, the Defendant being present, represented by CHRISTOPHER R. ORAM, the Respondent being represented by STEVE WOLFSON, District Attorney, by and through Leah Beverly, Chief Deputy District Attorney, and the Court having considered the matter, including all briefs, transcripts, arguments of counsel, documents on file herein, and the testimony adduced from the Evidentiary Hearing, now therefore, the Court makes the following findings of fact and conclusions of law:

## **FINDINGS OF FACT**

### ***Procedural History***

Mr. Hudson was charged by way of Indictment on September 23, 2015 as follows: Count 1: Conspiracy to Commit Burglary; Count 2: Attempt Burglary while in possession of a firearm or deadly weapon; Count 3: Attempt Murder with use of a deadly weapon; Count 4: Attempt Murder with use of a deadly weapon; Count 5: Battery with use of a deadly weapon resulting in substantial bodily harm; and Count 6: Discharging firearm at or into occupied structure, vehicle, aircraft, or watercraft. On October 1, 2015, Mr. Hudson was arraigned, pled not guilty and waived the sixty day rule.

On August 28, 2017, Mr. Hudson filed a motion to sever his case from co-defendant Steven Turner. Co-defendant Turner joined Mr. Hudson's motion on September 13, 2017. The State filed an opposition on September 18, 2019. The district court denied the motion for severance on October 12, 2017. Mr. Hudson renewed his motion for severance, but was again denied on November 16, 2017.

Mr. Hudson's trial began on April 16, 2018. On the first day of trial, the State filed an Amended Indictment dismissing count six. On April 27, 2018, the jury found Mr. Hudson guilty of all charges.

Mr. Hudson was sentenced on July 21, 2018, to an aggregate total of a maximum of 480 months with a minimum 168 months. Mr. Hudson received 1,022 days credit for time served. The Judgment of Conviction was filed July 2, 2018.

No direct appeal was filed on Mr. Hudson's behalf. On October 25, 2018, Mr. Hudson filed a timely post-conviction Petition for Writ of Habeas Corpus. Thereafter, supplemental briefing, through counsel, commenced. An Evidentiary Hearing took place on October 15, 2020, and the matter was taken under advisement.

### ***Facts of the offense***

Mr. Eric Clarkson was friends with Mr. Turner (JT Day 3 p. 57-58). Mr. Clarkson

did not know Mr. Hudson (JT Day 3 p. 80). Mr. Clarkson resided with his best friend Mr. Willoughby Potter de Grimaldi at a house located at 6729 Oveja Circle, Las Vegas, Clark County, Nevada (JT Day 3 p. 59-61, 92).

On September 4, 2015, around 3:30 a.m., Mr. Clarkson was in his bedroom watching television before going to sleep (JT Day 3 p. 61). Once Mr. Clarkson got into bed, he heard his metal outdoor patio furniture being moved outside (JT Day 3 p. 63-64). This caused Mr. Clarkson to look out the window where he saw a young African American man outside on the patio (JT Day 3 p. 65). Then, Mr. Clarkson grabbed his phone, let his roommate know what he saw and contacted 911 to report that someone was in his backyard (JT Day 3 p. 65). Moments later, Mr. Clarkson and Mr. Grimaldi heard someone banging on the front door and Mr. Grimaldi saw a figure outside (JT Day 3 p. 68, 97-98).

When Mr. Grimaldi went to the back window, he saw a shirtless African American man with a billed cap on his head, racking a shotgun (JT Day 3 p. 95, 119). When Mr. Grimaldi looked out the window, he saw a tall African American man with an afro wearing basketball shorts (JT Day 3 p. 98-99). Mr. Grimaldi then saw a third person out of the corner of his eye, describing the man as African American with a spiky afro (JT Day 3 p. 101-102). Mr. Grimaldi did not recognize any of the three individuals (JT Day 3 p. 104). Mr. Clarkson then relayed this information to the 911 operator (JT Day 3 p. 96-97).

When two police officers arrived (Officer Malik Grego-Smith and Officer Jeremy Robertson) Mr. Clarkson let them in the front door (JT Day 3 p. 71). Mr. Clarkson and Mr. Grimaldi explained to officers how to open the back door and then Officer Robertson opened the back door (JT Day 3 p. 71-72). Mr. Clarkson and Mr. Grimaldi recalled that immediately after the back door was opened there were gunshots (JT Day 3 p. 74-75, 107-108). Mr. Grimaldi had previously told detectives it was his belief that an officer fired the first gunshot, but testified at trial the first shots came from outside on the patio (JT Day 3 p. 124, 126-127). Mr. Clarkson and Mr. Grimaldi both saw different types of bullets enter

their home (JT Day 3 p. 75, 107-108). After the shots were fired, Mr. Clarkson and Mr. Grimaldi hid in a bedroom (JT Day 3 p. 76).

Officer Malik Grego-Smith, along with Officer Jeremy Robertson, responded to a dispatch call regarding a prowler at the Oveja circle residence (JT Day 5 p. 62, 65). After requesting dispatch inform the homeowner to open the front door, Officer Grego-Smith and Officer Robertson enter the residence (JT Day 5 p. 70). Once in the residence, the officers developed a plan to “clear the backyard” to see if anyone was out there (JT Day 5 p. 72). Officer Robertson was to open the back door, and as he opened the door, Officer Grego-Smith would go through and Officer Robertson would follow (JT Day 5 p. 73). Officer Grego-Smith drew his weapon and as he stepped outside two shots were fired from outside on the patio, one striking Officer Robertson (JT Day 5 p. 73, 76). Officer Grego-Smith returned fire towards the patio, firing twelve shots (JT Day 5 p. 76; JT Day 7 p. 29-30).

Officer Grego-Smith testified he turned his flashlight on right when he started shooting and saw “a light-skinned black male with no shirt and purple basketball shorts” on the patio (JT Day 5 p. 78). The man was approximately three to four feet from him (JT Day 5 p. 90). Officer Grego-Smith recalled yelling, “Don’t move, keep your hands up, don’t move or I’ll fucking shoot you.” (JT Day 5 p. 80). Officer Grego-Smith immediately radioed dispatch to inform them that shots had been fired and Officer Robertson had been shot (JT Day 5 p. 80). When back up arrived, Officer Grego-Smith entered the backyard area and witnessed Mr. Hudson being taken into custody (JT Day 5 p. 82). Officer Grego-Smith testified at trial that Mr. Hudson was not the shirtless African American man he had seen in the backyard when he turned on his flashlight (JT Day 5 p. 86).

Officer Jeremy Robertson recalled he had just opened the back door to the patio of the residence when he was shot and fell to the ground (JT Day 5 p. 120). Officer Robertson was struck in the upper thigh, fracturing his femur (JT Day 5 p. 122, 128).

Sergeant Joshua Bitsko, a K-9 officer, responded to the Oveja residence (JT Day 4 p. 127, 135). Upon arriving at the residence, Sergeant Bitsko learned from the air unit that the suspect was laying in the backyard with a rifle next to him (JT Day 4 p. 140). A Beretta .25 caliber handgun was also located nearby (JT Day 4 p. 81). Sergeant Bitsko deployed his police dog into the backyard who located and began biting the suspect (JT Day 4 p. 140-143). The suspect complied with all commands, was taken into custody and identified as Clemon Hudson (JT Day 4 p. 32, 143-145).

Police secured a perimeter around the crime scene approximately a mile and a half by a mile wide in order to search for additional suspects (JT Day 4 p. 153). Detective Jeremy Vance spent approximately three and a half hours driving around the perimeter looking for the suspect described by officer Grego-Smith (JT Day 4 p. 153).

After being notified of a call concerning a suspicious person in a backyard, Detective Vance came upon Mr. Turner and began to question him (JT Day 4 p. 154-158). Detective Vance noticed Mr. Turner was injured given the blood on his pants (JT Day 4 p. 158). When questioned about the injury, Mr. Turner indicated his leg was caught on a fence at his friend's house (JT Day 4 p. 158). Detective Vance believed the injury was caused by a gunshot wound (JT Day 4 p. 158-159).

Ms. Stephanie Fletcher, a senior crime scene analyst with the Las Vegas Metropolitan Police Department responded to the Oveja Circle residence (JT Day 5 p. 6). Twelve Speer .9 millimeter cartridge casings were recovered from the dining room area (JT Day 5 p. 14). There were three 7.62 rifle cartridge casings located on the backyard patio area (JT Day 5 p. 15). Analysts did not locate any expended shotgun shells or .25 caliber casings (JT Day 5 p. 16). Analysts located numerous shotgun pellets in the living room of the residence as well as pieces of a shotgun round located on top of the front window sill (JT Day 5 p. 32-34). Firearms recovered from the scene included a SKS rifle, a Mossberg 12-gauge shotgun and a Beretta .25 caliber handgun (JT Day 4 p. 78, 81).

Ms. Gayle Johnson, a forensic scientist with the Las Vegas Metropolitan Police Department, conducted latent print testing on several items (JT Day 6 p. 17-25). With regard to an AK-47 firearm, the analyst was unable to develop any suitable prints for testing (JT Day 6 p. 20). Two latent prints were recovered from a shotgun, both belonging to Mr. Hudson and located in the metal area above the trigger (JT Day 6 p. 23-24). DNA testing was conducted with regard to the firearms (JT Day 6 p. 29-48). No conclusions could be made about the DNA located on the rifle, the Mossberg shotgun or the Beretta handgun (JT Day 6 p. 35, 39-41).

A Toyota Camry located outside the residence was registered to Mr. Hudson's mother (JT Day 7 p. 50-51).

When analysts recovered the shotgun the State alleged Mr. Hudson to be holding, it was inoperable due to damage sustained (JT Day 7 p. 118-122). A fragment was removed from the shotgun, but analysts were unable to determine what weapon the fragment originated (JT Day 7 p. 136).

In September of 2015, Mr. Craig Jex was employed as a Detective with the Las Vegas Metropolitan Police Department (JT Day 6 p. 58). Mr. Jex documented Officer Robertson's injuries at the hospital (JT Day 6 p. 60-61). While at the hospital, Mr. Jex came into contact with Mr. Hudson and conducted an interview with him (JT Day 6 p. 61).

Mr. Jex testified Mr. Hudson relayed to him that he went to the house to obtain marijuana that night and no one was supposed to be home (JT Day 6 p. 65, 86). Mr. Hudson told him there was only one other person involved and the plan was to break in the back window of the residence (JT Day 6 p. 66-67, 74). When Mr. Jex questioned Mr. Hudson as to whether he brought and carried the shotgun, he indicated he did (JT Day 6 p. 66-67, 76-78). Mr. Hudson informed Mr. Jex that there was an SKS rifle and a shotgun in the backyard (JT Day 6 p. 76). Mr. Hudson also told Mr. Jex that he had also brought a small firearm in his shoe (JT Day 6 p. 78-80).



During the interview, Mr. Hudson told Mr. Jex he was not sure if he fired the shotgun, but if he did, he fired once (JT Day 6 p. 77, 88). Mr. Hudson indicated he shot towards the bottom of the window (JT Day 6 p. 78). It was Mr. Hudson's belief that the officers started shooting first (JT Day 6 p. 90).

Detective Eduardo Pazos conducted an interview with Mr. Turner (JT Day 6 p. 96-97). Mr. Turner told police that "someone came to pick him up" around midnight and it was just the two of them in the car (JT Day 6 p. 101, 104). When Mr. Turner got in the car, he saw two guns in the back (JT Day 6 p. 103-104). Mr. Turner indicated the SKS rifle belonged to his uncle (JT Day 6 p. 102, 105).

Mr. Turner explained to Detective Pazos that when he entered the backyard of the residence, shots were fired (JT Day 6 p. 105). When the shots were fired, he hopped over the wall to the back of the house (JT Day 6 p. 105). Mr. Turner told Detective Pazos that after he hopped over the wall, he sat on a couch he found in the neighborhood for a while and then began walking to a friend's house (JT Day 6 p. 105). As he was walking to a friend's house, he encountered police (JT Day 6 p. 105).

Mr. Turner told Detective Pazos he had been in the house before and knew who lived there (JT Day 6 p. 108). Mr. Turner admitted he was there to steal weed and if there was any money in the house, he would have taken that as well (JT Day 6 p. 108-110). Mr. Turner denied having a gun in his hand during the incident or firing a weapon (JT Day 6 p. 116-117). Mr. Turner indicated that when the shooting began, he ran away (JT Day 6 p. 112-113, 116).

### **CONCLUSIONS OF LAW**

***Mr. Hudson was wrongfully deprived of his right under established law to a direct appeal and is entitled to relief pursuant to Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994) and NRAP 4(c).***

In this case, Mr. Hudson was deprived of his right to a direct appeal based upon

counsel's rendering of ineffective assistance. As such, Mr. Hudson is permitted to file an untimely notice of appeal. Here, given the serious nature of the offenses for which he has been convicted and the lengthy sentence received, Mr. Hudson naturally desired to appeal the instant conviction. Due to counsel's failure, Mr. Hudson never received such an opportunity. In circumstances such as this, the Nevada Supreme Court has held the defendant must be granted an untimely direct appeal. This Court agrees and hereby directs the district court clerk to prepare and file, within 7 days of the entry of the instant order, a Notice of Appeal from the judgment of conviction and sentence on the petitioner's behalf in substantially the form provided in Form 1 in the Appendix of Forms in accordance with NRAP 4(c).

**A. STATE AND FEDERAL AUTHORITY PERMITS AN UNTIMELY DIRECT APPEAL UNDER THE CIRCUMSTANCES.**

In *Lozada v. State*, 110 Nev. 349, 354, 871 P.2d 944 (1994), the Nevada Supreme Court explained, "an attorney has a duty to perfect an appeal when a convicted defendant expresses a desire to appeal or indicates dissatisfaction with a conviction." If counsel fails to file an appeal after a convicted defendant makes a timely request, the defendant was entitled to the *Lozada* remedy, which consisted of filing a post-conviction petition with assistance of counsel in which the actual appellate claims could be raised. *Id.* Such a claim did not require any showing of merit as to the issues sought to be raised. As such, it is sufficient to receive the relief contemplated by *Lozada* if a petition shows that the defendant was deprived of his right to a direct appeal without his consent. *Id.* at 357.

The remedy contemplated by *Lozada* has been largely subsumed by revisions to the Nevada Rules of Appellate Procedure (NRAP), though the basis for obtaining relief remains generally the same. Under NRAP 4(c), an untimely notice of appeal may be filed if:

A) A post-conviction petition for a writ of habeas corpus has been timely and properly filed in accordance with the provisions of NRSs 34.720 to 34.830, asserting a viable claim that the petitioner was unlawfully deprived of the right to a timely direct appeal from a judgment of conviction and sentence; and

B) The district court in which the petition is considered enters a written order containing:

i) specific findings of fact and conclusions of law finding that the petitioner has established a valid appeal-deprivation claim and is entitled to a direct appeal with the assistance of appointed or retained appellate counsel;

ii) if the petitioner is indigent, directions for the appointment of appellate counsel, other than counsel for the defense in the proceedings leading to the conviction, to represent the petitioner in the direct appeal from the conviction and sentence; and

iii) directions to the district court clerk to prepare and file – within 7 days of the entry of the district court’s order – a notice of appeal from the judgment of conviction and sentence on the petitioner’s behalf in substantially the form provided in Form 1 in the Appendix of Forms.

The Nevada Supreme Court has been clear – counsel has a constitutional duty to file a direct appeal in two circumstances: when requested to do so and when the defendant expresses dissatisfaction with his conviction, and that the failure to do so in those circumstances is deficient for purposes of proving ineffective assistance of counsel. *Lozada*, 110 Nev. at 354–57; *Davis v. State*, 115 Nev. 17, 20, 974 P.2d 658, 660 (1999) (“[I]f the client does express a desire to appeal, counsel is obligated to file the notice of appeal on the client’s behalf.”)

To prove ineffective assistance of counsel, a petitioner must demonstrate that counsel’s performance was deficient in that it fell below an objective standard of reasonableness and resulting prejudice such that there is a reasonable probability that, but for counsel’s errors, the outcome of the proceedings would have been different. *Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 Led.2d 674 (1984); *Warden v. Lyons*, 100 Nev 430, 432–33, 683 P.2d 504, 505 (1984). Generally, both components of the inquiry must be shown, but in some instances, such as when the petitioner has been deprived of the right to appeal due to counsel’s deficient performance, the second

component – prejudice – may be presumed. *See Lozada*, 110 Nev. at 356–57. *See also Rodriguez v. United States*, 395 U.S. 327, 328, 23 L. Ed 2d 340, 89 S. T. 1715 (1969) (presuming prejudice when counsel failed to file a notice of appeal against his client’s wishes). The petitioner must demonstrate the underlying facts by a preponderance of the evidence. *Means v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). *See also Toston v. State*, 127 Nev. 971, 976, 267 P.3d 795 (2011).

In *Toston*, the Nevada Supreme Court provided guidance as to the meaning of “when the defendant expresses dissatisfaction with his conviction”. *See generally*, 127 Nev. at 978–79. The Nevada Supreme Court explained:

[T]rial counsel has a duty to file a direct appeal when the client’s desire to challenge the conviction or sentence can be reasonably inferred from the totality of the circumstances, focusing on the information that counsel new or should have known at the time. *Cf Flores v. Ortega*, 528 U.S. at 480 (discussing circumstances in which counsel must consult with a client regarding an appeal). In determining whether counsel knew or should have known that his client wanted to appeal the conviction, the courts may consider whether the conviction arose from a jury trial or a guilty plea, “both because a guilty plea reduces the scope of potentially appealable issues and because such a plea may indicate that the defendant seeks an end to judicial proceedings.” *Toston*, 127 Nev. at 979 (footnotes omitted).

Thus, when a defendant has been convicted pursuant to a jury verdict, counsel has a constitutional duty to inform the client of the right to appeal. *Lozada* 110 Nev. at 356. Counsel’s failure to do so is deficient performance for purposes of proving an ineffective assistance of counsel claim. *Roe v. Flores-Ortega*, 528 U.S. 470, 477–81, 120 S. Ct. 1029 (2000).

**B. MR. HUDSON WAS DEPRIVED OF HIS RIGHT TO A DIRECT APPEAL AND IS HEREBY PERMITTED AN OPPORTUNITY FOR AN UNIMELY DIRECT APPEAL.**

In order to prevail, Mr. Hudson must demonstrate by a preponderance of the evidence that 1) he filed a timely post-conviction Petition, and 2) his attorney had a duty to perfect an appeal because Mr. Hudson either expressed a desire to appeal, indicated dissatisfaction with his conviction, or his desire to challenge the conviction or sentence

can be reasonably inferred from the totality of the circumstances. *See Lozada v. State*, 110 Nev. at 354–57; *Toston*, 127 Nev. at 976–79. Mr. Hudson need not demonstrate prejudice as it is presumed. *Lozada*, 110 Nev. at 356–57. Mr. Hudson has demonstrated as such.

First, in this case, there is no question that Mr. Hudson filed a timely post-conviction petition. Mr. Hudson’s Judgment of Conviction was filed on July 2, 2018. On October 25, 2018, Mr. Hudson filed a timely Petition noting he received ineffective assistance of counsel for counsel’s failure to preserve his appellate rights (Petition, p. 3). Supplemental briefing was thereafter permitted. Thus, Mr. Hudson can demonstrate he began a timely post-conviction proceeding.

Next, Mr. Hudson can demonstrate that he was deprived of a direct appeal due to ineffective assistance of counsel not only because he expressed a desire that his direct appeal be perfected, but also because his desire to challenge the conviction can be reasonably inferred from the totality of the circumstances. This Court reviewed a declaration from Mr. Hudson confirming he expressed his desire to counsel that an appeal be filed on his behalf (Supplemental Brief, Exhibit A). Further, the nature and severity of the offenses, including the fact that Mr. Hudson proceeded to trial, demonstrated his desire to continue to challenge the conviction.

Additionally, counsel’s own statements demonstrate not only Mr. Hudson’s desire for an appeal, but counsel’s awareness that an appeal was to be filed. During Mr. Hudson’s sentencing on June 21, 2018, counsel stated: “Yes, Judge, and as I stated, I advised him, **due to the mandatory appeal**, to not give a statement today.” (emphasis added) (Reporter’s Transcript of Sentencing, p. 14) (Supplemental Brief, Exhibit B). Counsel continued, “I believe we are here because Mr. Hudson got some very bad advice, and I don’t believe that we should be here at a sentencing following a jury verdict, but hopefully **that will be addressed on appeal.**” (Emphasis added) (Reporter’s Transcript of

Sentencing, p. 14) (Exhibit B).

Unfortunately, counsel failed to preserve his direct appeal. The totality of the circumstances demonstrates Mr. Hudson's desire for preservation of his direct appeal and such a fact is obvious from a plain review of the record. In this case, Mr. Hudson received ineffective assistance of counsel concerning his right to file an appeal because a review of the record reveals that counsel was required to file the notice of appeal and failed to do so. In such a case, prejudice is presumed. This Court therefore grants the petition with regard to the failure to file a direct appeal.

Having carefully considered the record, pleadings on file herein, and evidence adduced at the Evidentiary Hearing, this Court is convinced that based upon the above Mr. Hudson has demonstrated he was deprived of his right to a direct appeal.

With regard to all other issues raised: alleged failure to object to jury instruction 38 (a flight instruction), alleged failure to object to jury instruction numbers 40 and 50, and alleged cumulative error, they are denied.

### **ORDER**

THEREFORE, IT IS HEREBY ORDERED that the Petition for Post-Conviction Relief shall be, granted in part and denied in part as described within this Order.

IT IS FURTHER ORDERED that the district court clerk is to prepare and file, within 7 days of the entry of the instant order, a Notice of Appeal from the judgment of conviction and sentence on the petitioner's behalf in substantially the form provided in Form 1 in the Appendix of Forms in accordance with NRAP 4(c).

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IT IS FURTHER ORDERED that all other issues raised: alleged failure to object to jury instruction 38 (a flight instruction), alleged failure to object to jury instruction numbers 40 and 50, and alleged cumulative error, they are denied.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Dated this 16th day of December, 2020



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DISTRICT JUDGE  
DCB 729 0934 B825  
David M Jones  
District Court Judge

SUBMITTED BY:

/s/ Christopher R. Oram, Esq.  
CHRISTOPHER R. ORAM, ESQ.  
NEVADA BAR NO. 4349  
520 SOUTH 4<sup>TH</sup> STREET, 2<sup>ND</sup> FLOOR  
LAS VEGAS, NEVADA 89101  
TELEHPONE: (702) 598-1471

Attorney for Defendant  
CLEMÓN HUDSON

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 State Of Nevada, Plaintiff(s)

CASE NO: A-18-783635-W

7 vs.

DEPT. NO. Department 29

8 Clemon Hudson, 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 Findings of Fact, Conclusions of Law and Order was served via the  
13 court's electronic eFile system to all recipients registered for e-Service on the above entitled  
case as listed below:

14 Service Date: 12/16/2020

15 Christopher Oram

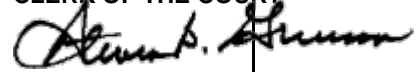
contact@christopheroramlaw.com

16 Jessie Folkestad

jfolkestad@christopheroramlaw.com

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1 NEFF

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

4 CLEMON HUDSON,

5  
6 Petitioner,

7 vs.

8 THE STATE OF NEVADA,

9 Respondent,

Case No: A-18-783635-W

Dept No: XXIX

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

10  
11 **PLEASE TAKE NOTICE** that on December 16, 2020, the court entered a decision or order in this  
12 matter, a true and correct copy of which is attached to this notice.

13 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you  
14 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is  
15 mailed to you. This notice was mailed on December 17, 2020.

16 STEVEN D. GRIERSON, CLERK OF THE COURT

17 /s/ Heather Ungermann

18 Heather Ungermann, Deputy Clerk

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

20 I hereby certify that on this 17 day of December 2020, I served a copy of this Notice of Entry on the  
21 following:

22 ☒ By e-mail:

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

24 ☒ The United States mail addressed as follows:

25 Clemon Hudson # 1200865  
P.O. Box 650  
Indian Springs, NV 89070

Christopher R. Oram, Esq.  
520 S. 4<sup>th</sup> St., Second Floor  
Las Vegas, NV 89101

26  
27 /s/ Heather Ungermann

28 Heather Ungermann, Deputy Clerk

**ORDR**

CHRISTOPHER R. ORAM, ESQ.  
Nevada Bar No. 004349  
520 South 4<sup>th</sup> Street, Second Floor  
Las Vegas, Nevada 89101  
Telephone: (702) 384-5563

Attorney for Defendant  
CLEMON HUDSON

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

CLEMON HUDSON,

Defendant.

CASE NO: A-18-783635-W

DEPT NO: XXIX

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

DATE OF HEARING: October 15, 2020  
TIME OF HEARING: 11:00 a.m.

THIS CAUSE having come on for hearing before the Honorable DAVID M. JONES, District Judge, on the 15<sup>th</sup> day of October, 2020, the Defendant being present, represented by CHRISTOPHER R. ORAM, the Respondent being represented by STEVE WOLFSON, District Attorney, by and through Leah Beverly, Chief Deputy District Attorney, and the Court having considered the matter, including all briefs, transcripts, arguments of counsel, documents on file herein, and the testimony adduced from the Evidentiary Hearing, now therefore, the Court makes the following findings of fact and conclusions of law:

## **FINDINGS OF FACT**

### ***Procedural History***

Mr. Hudson was charged by way of Indictment on September 23, 2015 as follows: Count 1: Conspiracy to Commit Burglary; Count 2: Attempt Burglary while in possession of a firearm or deadly weapon; Count 3: Attempt Murder with use of a deadly weapon; Count 4: Attempt Murder with use of a deadly weapon; Count 5: Battery with use of a deadly weapon resulting in substantial bodily harm; and Count 6: Discharging firearm at or into occupied structure, vehicle, aircraft, or watercraft. On October 1, 2015, Mr. Hudson was arraigned, pled not guilty and waived the sixty day rule.

On August 28, 2017, Mr. Hudson filed a motion to sever his case from co-defendant Steven Turner. Co-defendant Turner joined Mr. Hudson's motion on September 13, 2017. The State filed an opposition on September 18, 2019. The district court denied the motion for severance on October 12, 2017. Mr. Hudson renewed his motion for severance, but was again denied on November 16, 2017.

Mr. Hudson's trial began on April 16, 2018. On the first day of trial, the State filed an Amended Indictment dismissing count six. On April 27, 2018, the jury found Mr. Hudson guilty of all charges.

Mr. Hudson was sentenced on July 21, 2018, to an aggregate total of a maximum of 480 months with a minimum 168 months. Mr. Hudson received 1,022 days credit for time served. The Judgment of Conviction was filed July 2, 2018.

No direct appeal was filed on Mr. Hudson's behalf. On October 25, 2018, Mr. Hudson filed a timely post-conviction Petition for Writ of Habeas Corpus. Thereafter, supplemental briefing, through counsel, commenced. An Evidentiary Hearing took place on October 15, 2020, and the matter was taken under advisement.

### ***Facts of the offense***

Mr. Eric Clarkson was friends with Mr. Turner (JT Day 3 p. 57-58). Mr. Clarkson

did not know Mr. Hudson (JT Day 3 p. 80). Mr. Clarkson resided with his best friend Mr. Willoughby Potter de Grimaldi at a house located at 6729 Oveja Circle, Las Vegas, Clark County, Nevada (JT Day 3 p. 59-61, 92).

On September 4, 2015, around 3:30 a.m., Mr. Clarkson was in his bedroom watching television before going to sleep (JT Day 3 p. 61). Once Mr. Clarkson got into bed, he heard his metal outdoor patio furniture being moved outside (JT Day 3 p. 63-64). This caused Mr. Clarkson to look out the window where he saw a young African American man outside on the patio (JT Day 3 p. 65). Then, Mr. Clarkson grabbed his phone, let his roommate know what he saw and contacted 911 to report that someone was in his backyard (JT Day 3 p. 65). Moments later, Mr. Clarkson and Mr. Grimaldi heard someone banging on the front door and Mr. Grimaldi saw a figure outside (JT Day 3 p. 68, 97-98).

When Mr. Grimaldi went to the back window, he saw a shirtless African American man with a billed cap on his head, racking a shotgun (JT Day 3 p. 95, 119). When Mr. Grimaldi looked out the window, he saw a tall African American man with an afro wearing basketball shorts (JT Day 3 p. 98-99). Mr. Grimaldi then saw a third person out of the corner of his eye, describing the man as African American with a spiky afro (JT Day 3 p. 101-102). Mr. Grimaldi did not recognize any of the three individuals (JT Day 3 p. 104). Mr. Clarkson then relayed this information to the 911 operator (JT Day 3 p. 96-97).

When two police officers arrived (Officer Malik Grego-Smith and Officer Jeremy Robertson) Mr. Clarkson let them in the front door (JT Day 3 p. 71). Mr. Clarkson and Mr. Grimaldi explained to officers how to open the back door and then Officer Robertson opened the back door (JT Day 3 p. 71-72). Mr. Clarkson and Mr. Grimaldi recalled that immediately after the back door was opened there were gunshots (JT Day 3 p. 74-75, 107-108). Mr. Grimaldi had previously told detectives it was his belief that an officer fired the first gunshot, but testified at trial the first shots came from outside on the patio (JT Day 3 p. 124, 126-127). Mr. Clarkson and Mr. Grimaldi both saw different types of bullets enter

their home (JT Day 3 p. 75, 107-108). After the shots were fired, Mr. Clarkson and Mr. Grimaldi hid in a bedroom (JT Day 3 p. 76).

Officer Malik Grego-Smith, along with Officer Jeremy Robertson, responded to a dispatch call regarding a prowler at the Oveja circle residence (JT Day 5 p. 62, 65). After requesting dispatch inform the homeowner to open the front door, Officer Grego-Smith and Officer Robertson enter the residence (JT Day 5 p. 70). Once in the residence, the officers developed a plan to “clear the backyard” to see if anyone was out there (JT Day 5 p. 72). Officer Robertson was to open the back door, and as he opened the door, Officer Grego-Smith would go through and Officer Robertson would follow (JT Day 5 p. 73). Officer Grego-Smith drew his weapon and as he stepped outside two shots were fired from outside on the patio, one striking Officer Robertson (JT Day 5 p. 73, 76). Officer Grego-Smith returned fire towards the patio, firing twelve shots (JT Day 5 p. 76; JT Day 7 p. 29-30).

Officer Grego-Smith testified he turned his flashlight on right when he started shooting and saw “a light-skinned black male with no shirt and purple basketball shorts” on the patio (JT Day 5 p. 78). The man was approximately three to four feet from him (JT Day 5 p. 90). Officer Grego-Smith recalled yelling, “Don’t move, keep your hands up, don’t move or I’ll fucking shoot you.” (JT Day 5 p. 80). Officer Grego-Smith immediately radioed dispatch to inform them that shots had been fired and Officer Robertson had been shot (JT Day 5 p. 80). When back up arrived, Officer Grego-Smith entered the backyard area and witnessed Mr. Hudson being taken into custody (JT Day 5 p. 82). Officer Grego-Smith testified at trial that Mr. Hudson was not the shirtless African American man he had seen in the backyard when he turned on his flashlight (JT Day 5 p. 86).

Officer Jeremy Robertson recalled he had just opened the back door to the patio of the residence when he was shot and fell to the ground (JT Day 5 p. 120). Officer Robertson was struck in the upper thigh, fracturing his femur (JT Day 5 p. 122, 128).

Sergeant Joshua Bitsko, a K-9 officer, responded to the Oveja residence (JT Day 4 p. 127, 135). Upon arriving at the residence, Sergeant Bitsko learned from the air unit that the suspect was laying in the backyard with a rifle next to him (JT Day 4 p. 140). A Beretta .25 caliber handgun was also located nearby (JT Day 4 p. 81). Sergeant Bitsko deployed his police dog into the backyard who located and began biting the suspect (JT Day 4 p. 140-143). The suspect complied with all commands, was taken into custody and identified as Clemon Hudson (JT Day 4 p. 32, 143-145).

Police secured a perimeter around the crime scene approximately a mile and a half by a mile wide in order to search for additional suspects (JT Day 4 p. 153). Detective Jeremy Vance spent approximately three and a half hours driving around the perimeter looking for the suspect described by officer Grego-Smith (JT Day 4 p. 153).

After being notified of a call concerning a suspicious person in a backyard, Detective Vance came upon Mr. Turner and began to question him (JT Day 4 p. 154-158). Detective Vance noticed Mr. Turner was injured given the blood on his pants (JT Day 4 p. 158). When questioned about the injury, Mr. Turner indicated his leg was caught on a fence at his friend's house (JT Day 4 p. 158). Detective Vance believed the injury was caused by a gunshot wound (JT Day 4 p. 158-159).

Ms. Stephanie Fletcher, a senior crime scene analyst with the Las Vegas Metropolitan Police Department responded to the Oveja Circle residence (JT Day 5 p. 6). Twelve Speer .9 millimeter cartridge casings were recovered from the dining room area (JT Day 5 p. 14). There were three 7.62 rifle cartridge casings located on the backyard patio area (JT Day 5 p. 15). Analysts did not locate any expended shotgun shells or .25 caliber casings (JT Day 5 p. 16). Analysts located numerous shotgun pellets in the living room of the residence as well as pieces of a shotgun round located on top of the front window sill (JT Day 5 p. 32-34). Firearms recovered from the scene included a SKS rifle, a Mossberg 12-gauge shotgun and a Beretta .25 caliber handgun (JT Day 4 p. 78, 81).

Ms. Gayle Johnson, a forensic scientist with the Las Vegas Metropolitan Police Department, conducted latent print testing on several items (JT Day 6 p. 17-25). With regard to an AK-47 firearm, the analyst was unable to develop any suitable prints for testing (JT Day 6 p. 20). Two latent prints were recovered from a shotgun, both belonging to Mr. Hudson and located in the metal area above the trigger (JT Day 6 p. 23-24). DNA testing was conducted with regard to the firearms (JT Day 6 p. 29-48). No conclusions could be made about the DNA located on the rifle, the Mossberg shotgun or the Beretta handgun (JT Day 6 p. 35, 39-41).

A Toyota Camry located outside the residence was registered to Mr. Hudson's mother (JT Day 7 p. 50-51).

When analysts recovered the shotgun the State alleged Mr. Hudson to be holding, it was inoperable due to damage sustained (JT Day 7 p. 118-122). A fragment was removed from the shotgun, but analysts were unable to determine what weapon the fragment originated (JT Day 7 p. 136).

In September of 2015, Mr. Craig Jex was employed as a Detective with the Las Vegas Metropolitan Police Department (JT Day 6 p. 58). Mr. Jex documented Officer Robertson's injuries at the hospital (JT Day 6 p. 60-61). While at the hospital, Mr. Jex came into contact with Mr. Hudson and conducted an interview with him (JT Day 6 p. 61).

Mr. Jex testified Mr. Hudson relayed to him that he went to the house to obtain marijuana that night and no one was supposed to be home (JT Day 6 p. 65, 86). Mr. Hudson told him there was only one other person involved and the plan was to break in the back window of the residence (JT Day 6 p. 66-67, 74). When Mr. Jex questioned Mr. Hudson as to whether he brought and carried the shotgun, he indicated he did (JT Day 6 p. 66-67, 76-78). Mr. Hudson informed Mr. Jex that there was an SKS rifle and a shotgun in the backyard (JT Day 6 p. 76). Mr. Hudson also told Mr. Jex that he had also brought a small firearm in his shoe (JT Day 6 p. 78-80).

During the interview, Mr. Hudson told Mr. Jex he was not sure if he fired the shotgun, but if he did, he fired once (JT Day 6 p. 77, 88). Mr. Hudson indicated he shot towards the bottom of the window (JT Day 6 p. 78). It was Mr. Hudson's belief that the officers started shooting first (JT Day 6 p. 90).

Detective Eduardo Pazos conducted an interview with Mr. Turner (JT Day 6 p. 96-97). Mr. Turner told police that "someone came to pick him up" around midnight and it was just the two of them in the car (JT Day 6 p. 101, 104). When Mr. Turner got in the car, he saw two guns in the back (JT Day 6 p. 103-104). Mr. Turner indicated the SKS rifle belonged to his uncle (JT Day 6 p. 102, 105).

Mr. Turner explained to Detective Pazos that when he entered the backyard of the residence, shots were fired (JT Day 6 p. 105). When the shots were fired, he hopped over the wall to the back of the house (JT Day 6 p. 105). Mr. Turner told Detective Pazos that after he hopped over the wall, he sat on a couch he found in the neighborhood for a while and then began walking to a friend's house (JT Day 6 p. 105). As he was walking to a friend's house, he encountered police (JT Day 6 p. 105).

Mr. Turner told Detective Pazos he had been in the house before and knew who lived there (JT Day 6 p. 108). Mr. Turner admitted he was there to steal weed and if there was any money in the house, he would have taken that as well (JT Day 6 p. 108-110). Mr. Turner denied having a gun in his hand during the incident or firing a weapon (JT Day 6 p. 116-117). Mr. Turner indicated that when the shooting began, he ran away (JT Day 6 p. 112-113, 116).

### **CONCLUSIONS OF LAW**

***Mr. Hudson was wrongfully deprived of his right under established law to a direct appeal and is entitled to relief pursuant to Lozada v. State, 110 Nev. 349, 871 P.2d 944 (1994) and NRAP 4(c).***

In this case, Mr. Hudson was deprived of his right to a direct appeal based upon



counsel's rendering of ineffective assistance. As such, Mr. Hudson is permitted to file an untimely notice of appeal. Here, given the serious nature of the offenses for which he has been convicted and the lengthy sentence received, Mr. Hudson naturally desired to appeal the instant conviction. Due to counsel's failure, Mr. Hudson never received such an opportunity. In circumstances such as this, the Nevada Supreme Court has held the defendant must be granted an untimely direct appeal. This Court agrees and hereby directs the district court clerk to prepare and file, within 7 days of the entry of the instant order, a Notice of Appeal from the judgment of conviction and sentence on the petitioner's behalf in substantially the form provided in Form 1 in the Appendix of Forms in accordance with NRAP 4(c).

**A. STATE AND FEDERAL AUTHORITY PERMITS AN UNTIMELY DIRECT APPEAL UNDER THE CIRCUMSTANCES.**

In *Lozada v. State*, 110 Nev. 349, 354, 871 P.2d 944 (1994), the Nevada Supreme Court explained, "an attorney has a duty to perfect an appeal when a convicted defendant expresses a desire to appeal or indicates dissatisfaction with a conviction." If counsel fails to file an appeal after a convicted defendant makes a timely request, the defendant was entitled to the *Lozada* remedy, which consisted of filing a post-conviction petition with assistance of counsel in which the actual appellate claims could be raised. *Id.* Such a claim did not require any showing of merit as to the issues sought to be raised. As such, it is sufficient to receive the relief contemplated by *Lozada* if a petition shows that the defendant was deprived of his right to a direct appeal without his consent. *Id.* at 357.

The remedy contemplated by *Lozada* has been largely subsumed by revisions to the Nevada Rules of Appellate Procedure (NRAP), though the basis for obtaining relief remains generally the same. Under NRAP 4(c), an untimely notice of appeal may be filed if:

A) A post-conviction petition for a writ of habeas corpus has been timely and properly filed in accordance with the provisions of NRSs 34.720 to 34.830, asserting a viable claim that the petitioner was unlawfully deprived of the right to a timely direct appeal from a judgment of conviction and sentence; and

B) The district court in which the petition is considered enters a written order containing:

i) specific findings of fact and conclusions of law finding that the petitioner has established a valid appeal-deprivation claim and is entitled to a direct appeal with the assistance of appointed or retained appellate counsel;

ii) if the petitioner is indigent, directions for the appointment of appellate counsel, other than counsel for the defense in the proceedings leading to the conviction, to represent the petitioner in the direct appeal from the conviction and sentence; and

iii) directions to the district court clerk to prepare and file – within 7 days of the entry of the district court’s order – a notice of appeal from the judgment of conviction and sentence on the petitioner’s behalf in substantially the form provided in Form 1 in the Appendix of Forms.

The Nevada Supreme Court has been clear – counsel has a constitutional duty to file a direct appeal in two circumstances: when requested to do so and when the defendant expresses dissatisfaction with his conviction, and that the failure to do so in those circumstances is deficient for purposes of proving ineffective assistance of counsel. *Lozada*, 110 Nev. at 354–57; *Davis v. State*, 115 Nev. 17, 20, 974 P.2d 658, 660 (1999) (“[I]f the client does express a desire to appeal, counsel is obligated to file the notice of appeal on the client’s behalf.”)

To prove ineffective assistance of counsel, a petitioner must demonstrate that counsel’s performance was deficient in that it fell below an objective standard of reasonableness and resulting prejudice such that there is a reasonable probability that, but for counsel’s errors, the outcome of the proceedings would have been different. *Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 Led.2d 674 (1984); *Warden v. Lyons*, 100 Nev 430, 432–33, 683 P.2d 504, 505 (1984). Generally, both components of the inquiry must be shown, but in some instances, such as when the petitioner has been deprived of the right to appeal due to counsel’s deficient performance, the second

component – prejudice – may be presumed. *See Lozada*, 110 Nev. at 356–57. *See also Rodriguez v. United States*, 395 U.S. 327, 328, 23 L. Ed 2d 340, 89 S. T. 1715 (1969) (presuming prejudice when counsel failed to file a notice of appeal against his client’s wishes). The petitioner must demonstrate the underlying facts by a preponderance of the evidence. *Means v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). *See also Toston v. State*, 127 Nev. 971, 976, 267 P.3d 795 (2011).

In *Toston*, the Nevada Supreme Court provided guidance as to the meaning of “when the defendant expresses dissatisfaction with his conviction”. *See generally*, 127 Nev. at 978–79. The Nevada Supreme Court explained:

[T]rial counsel has a duty to file a direct appeal when the client’s desire to challenge the conviction or sentence can be reasonably inferred from the totality of the circumstances, focusing on the information that counsel new or should have known at the time. *Cf Flores v. Ortega*, 528 U.S. at 480 (discussing circumstances in which counsel must consult with a client regarding an appeal). In determining whether counsel knew or should have known that his client wanted to appeal the conviction, the courts may consider whether the conviction arose from a jury trial or a guilty plea, “both because a guilty plea reduces the scope of potentially appealable issues and because such a plea may indicate that the defendant seeks an end to judicial proceedings.” *Toston*, 127 Nev. at 979 (footnotes omitted).

Thus, when a defendant has been convicted pursuant to a jury verdict, counsel has a constitutional duty to inform the client of the right to appeal. *Lozada* 110 Nev. at 356. Counsel’s failure to do so is deficient performance for purposes of proving an ineffective assistance of counsel claim. *Roe v. Flores-Ortega*, 528 U.S. 470, 477–81, 120 S. Ct. 1029 (2000).

**B. MR. HUDSON WAS DEPRIVED OF HIS RIGHT TO A DIRECT APPEAL AND IS HEREBY PERMITTED AN OPPORTUNITY FOR AN UNIMELY DIRECT APPEAL.**

In order to prevail, Mr. Hudson must demonstrate by a preponderance of the evidence that 1) he filed a timely post-conviction Petition, and 2) his attorney had a duty to perfect an appeal because Mr. Hudson either expressed a desire to appeal, indicated dissatisfaction with his conviction, or his desire to challenge the conviction or sentence

can be reasonably inferred from the totality of the circumstances. *See Lozada v. State*, 110 Nev. at 354–57; *Toston*, 127 Nev. at 976–79. Mr. Hudson need not demonstrate prejudice as it is presumed. *Lozada*, 110 Nev. at 356–57. Mr. Hudson has demonstrated as such.

First, in this case, there is no question that Mr. Hudson filed a timely post-conviction petition. Mr. Hudson’s Judgment of Conviction was filed on July 2, 2018. On October 25, 2018, Mr. Hudson filed a timely Petition noting he received ineffective assistance of counsel for counsel’s failure to preserve his appellate rights (Petition, p. 3). Supplemental briefing was thereafter permitted. Thus, Mr. Hudson can demonstrate he began a timely post-conviction proceeding.

Next, Mr. Hudson can demonstrate that he was deprived of a direct appeal due to ineffective assistance of counsel not only because he expressed a desire that his direct appeal be perfected, but also because his desire to challenge the conviction can be reasonably inferred from the totality of the circumstances. This Court reviewed a declaration from Mr. Hudson confirming he expressed his desire to counsel that an appeal be filed on his behalf (Supplemental Brief, Exhibit A). Further, the nature and severity of the offenses, including the fact that Mr. Hudson proceeded to trial, demonstrated his desire to continue to challenge the conviction.

Additionally, counsel’s own statements demonstrate not only Mr. Hudson’s desire for an appeal, but counsel’s awareness that an appeal was to be filed. During Mr. Hudson’s sentencing on June 21, 2018, counsel stated: “Yes, Judge, and as I stated, I advised him, **due to the mandatory appeal**, to not give a statement today.” (emphasis added) (Reporter’s Transcript of Sentencing, p. 14) (Supplemental Brief, Exhibit B). Counsel continued, “I believe we are here because Mr. Hudson got some very bad advice, and I don’t believe that we should be here at a sentencing following a jury verdict, but hopefully **that will be addressed on appeal.**” (Emphasis added) (Reporter’s Transcript of

Sentencing, p. 14) (Exhibit B).

Unfortunately, counsel failed to preserve his direct appeal. The totality of the circumstances demonstrates Mr. Hudson's desire for preservation of his direct appeal and such a fact is obvious from a plain review of the record. In this case, Mr. Hudson received ineffective assistance of counsel concerning his right to file an appeal because a review of the record reveals that counsel was required to file the notice of appeal and failed to do so. In such a case, prejudice is presumed. This Court therefore grants the petition with regard to the failure to file a direct appeal.

Having carefully considered the record, pleadings on file herein, and evidence adduced at the Evidentiary Hearing, this Court is convinced that based upon the above Mr. Hudson has demonstrated he was deprived of his right to a direct appeal.

With regard to all other issues raised: alleged failure to object to jury instruction 38 (a flight instruction), alleged failure to object to jury instruction numbers 40 and 50, and alleged cumulative error, they are denied.

### **ORDER**

THEREFORE, IT IS HEREBY ORDERED that the Petition for Post-Conviction Relief shall be, granted in part and denied in part as described within this Order.

IT IS FURTHER ORDERED that the district court clerk is to prepare and file, within 7 days of the entry of the instant order, a Notice of Appeal from the judgment of conviction and sentence on the petitioner's behalf in substantially the form provided in Form 1 in the Appendix of Forms in accordance with NRAP 4(c).

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IT IS FURTHER ORDERED that all other issues raised: alleged failure to object to jury instruction 38 (a flight instruction), alleged failure to object to jury instruction numbers 40 and 50, and alleged cumulative error, they are denied.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Dated this 16th day of December, 2020



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DISTRICT JUDGE  
DCB 729 0934 B825  
David M Jones  
District Court Judge

SUBMITTED BY:

/s/ Christopher R. Oram, Esq.  
CHRISTOPHER R. ORAM, ESQ.  
NEVADA BAR NO. 4349  
520 SOUTH 4<sup>TH</sup> STREET, 2<sup>ND</sup> FLOOR  
LAS VEGAS, NEVADA 89101  
TELEHPONE: (702) 598-1471

Attorney for Defendant  
CLEMÓN HUDSON

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 State Of Nevada, Plaintiff(s)

CASE NO: A-18-783635-W

7 vs.

DEPT. NO. Department 29

8 Clemon Hudson, 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 Findings of Fact, Conclusions of Law and Order was served via the  
13 court's electronic eFile system to all recipients registered for e-Service on the above entitled  
case as listed below:

14 Service Date: 12/16/2020

15 Christopher Oram

contact@christopheroramlaw.com

16 Jessie Folkestad

jfolkestad@christopheroramlaw.com

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**December 18, 2018**

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A-18-783635-W      State Of Nevada, Plaintiff(s)  
vs.  
Clemon Hudson, Defendant(s)

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**December 18, 2018      8:30 AM      Petition for Writ of Habeas  
Corpus**

**HEARD BY:** Jones, David M      **COURTROOM:** RJC Courtroom 15A

**COURT CLERK:** Michaela Tapia

**RECORDER:** Melissa Delgado-Murphy

**REPORTER:**

**PARTIES**

**PRESENT:**      Demonte, Noreen C.      Attorney  
                         Oram, Christopher R      Attorney

**JOURNAL ENTRIES**

- Mr. Oram advised Deft. had different counsel for both trial and sentencing. Further, Mr. Oram noted he had written to both previous counsel, Craig Mueller, Esq., and Alexis Plunkett, Esq., who both claimed they did not have Deft's file and stated the other counsel had it. State offered to provide Mr. Oram with copies of all discoverable material but could not provide any work product. COURT ORDERED, matter CONTINUED; Mr. Mueller and Ms. Plunkett are to appear and explain why they do not have Deft's file.

NDC

CONTINUED TO: 1/29/19 8:30 AM

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Craig Mueller, Esq., (MUELLER HINDS & ASSOCIATES) and Alexis Plunkett, Esq. 12/21/18 /mt



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**January 29, 2019**

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A-18-783635-W      State Of Nevada, Plaintiff(s)  
vs.  
Clemon Hudson, Defendant(s)

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**January 29, 2019      8:30 AM      Petition for Writ of Habeas  
Corpus**

**HEARD BY:** Jones, David M

**COURTROOM:** RJC Courtroom 15A

**COURT CLERK:** Nancy Maldonado

**RECORDER:** Melissa Delgado-Murphy

**REPORTER:**

**PARTIES**

**PRESENT:**      Oram, Christopher R      Attorney  
                    Zadrowski, Bernard B.      Attorney

**JOURNAL ENTRIES**

- Alexis Plunkett, Esq. also present.

Defendant NOT present, noting Defendant is in Federal custody. Mr. Oram advised he did not have a file noting that Ms. Plunkett had not requested the file from the prior attorney. Mr. Oram further advised that Mr. Mueller is not present and is in trial. Mr. Oram requested the State turn over their file. State had no objections. COURT ORDERED, the State turn over the file within 45 DAYS. COURT FURTHER ORDERED, matter SET for Status Check.

03/12/19 8:30 AM STATUS CHECK

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**March 12, 2019**

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A-18-783635-W      State Of Nevada, Plaintiff(s)  
vs.  
Clemon Hudson, Defendant(s)

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**March 12, 2019      8:30 AM      Status Check**

**HEARD BY:** Jones, David M      **COURTROOM:** RJC Courtroom 15A

**COURT CLERK:** Nancy Maldonado

**RECORDER:** Sandra Pruchnic

**REPORTER:**

**PARTIES**

**PRESENT:** Demonte, Noreen C.      Attorney  
Oram, Christopher R      Attorney

**JOURNAL ENTRIES**

- Defendant NOT present. Mr. Oram advised this matter was on for the status of the file, noting the State has not yet provided him with the file, and requested the matter be continued 30 days. Court advised State to provide Mr. Oram with the file. COURT ORDERED, matter CONTINUED.

CONTINUED TO: 04/09/19 8:30 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**April 09, 2019**

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A-18-783635-W      State Of Nevada, Plaintiff(s)  
vs.  
Clemon Hudson, Defendant(s)

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**April 09, 2019      8:30 AM      Status Check**

**HEARD BY:** Jones, David M      **COURTROOM:** RJC Courtroom 15A

**COURT CLERK:** Susan Botzenhart

**RECORDER:** Melissa Delgado-Murphy

**REPORTER:**

**PARTIES**

**PRESENT:** Demonte, Noreen C.      Attorney  
Oram, Christopher R      Attorney

**JOURNAL ENTRIES**

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Oram confirmed he received the file; and requested a briefing schedule. Mr. Oram inquired to Ms. Demonte about trial transcripts. Court told counsel to contact the Court, if he cannot get the transcripts. COURT ORDERED, briefing schedule SET as follows: Deft's supplemental pleading due August 6, 2019; State's response due October 5, 2019; and Deft's reply due November 4, 2019. FURTHER, hearing SET.

NDC

11/14/19 8:30 A.M. DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**September 10, 2019**

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A-18-783635-W      State Of Nevada, Plaintiff(s)  
vs.  
Clemon Hudson, Defendant(s)

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**September 10, 2019      8:30 AM      Motion**

**HEARD BY:** Jones, David M      **COURTROOM:** RJC Courtroom 15A

**COURT CLERK:** Nancy Maldonado

**RECORDER:** Melissa Delgado-Murphy

**REPORTER:**

**PARTIES**

**PRESENT:**      Folkestad, Jessie Lee      Attorney  
                 Zadrowski, Bernard B.      Attorney

**JOURNAL ENTRIES**

- Ms. Folksted requested additional time for Mr. Oram to file a supplemental brief. Briefing schedule set. Supplemental Briefing DUE 12/10/19, State's Response DUE 01/10/20, Reply DUE 01/20/20.  
COURT ORDERED, Hearing SET.

01/28/20 8:30 AM HEARING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**January 28, 2020**

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A-18-783635-W      State Of Nevada, Plaintiff(s)  
vs.  
Clemon Hudson, Defendant(s)

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**January 28, 2020      8:30 AM      Petition for Writ of Habeas  
Corpus**

**HEARD BY:** Jones, David M

**COURTROOM:** RJC Courtroom 15A

**COURT CLERK:** Louisa Garcia

**RECORDER:** Melissa Delgado-Murphy

**REPORTER:**

**PARTIES**

**PRESENT:** Oram, Christopher R      Attorney

**JOURNAL ENTRIES**

- At the request of counsel, COURT ORDERED, matter SET for hearing; State to prepare Transport Order. Mr. Oram stated he would have one witness.

5/1/20 11:00 AM EVIDENTIARY HEARING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**April 15, 2020**

---

A-18-783635-W      State Of Nevada, Plaintiff(s)  
vs.  
Clemon Hudson, Defendant(s)

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**April 15, 2020      3:00 AM      Minute Order**

**HEARD BY:** Jones, David M      **COURTROOM:** Chambers

**COURT CLERK:** Michaela Tapia

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Pursuant to Administrative orders 20-01 through 20-06, COURT ORDERED, the matter scheduled on April 24, 2020 is rescheduled to June 23, 2020 at 1:30 p.m.

CLERK'S NOTE: This minute order has been distributed to counsel via email. /mt

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**October 15, 2020**

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A-18-783635-W      State Of Nevada, Plaintiff(s)  
vs.  
Clemon Hudson, Defendant(s)

---

**October 15, 2020      11:00 AM      Petition for Writ of Habeas  
Corpus**

**HEARD BY:** Jones, David M

**COURTROOM:** RJC Courtroom 15A

**COURT CLERK:** Michaela Tapia

**RECORDER:** Melissa Delgado-Murphy

**REPORTER:**

**PARTIES**

**PRESENT:**      Beverly, Leah C      Attorney  
Hudson, Clemon      Defendant  
Oram, Christopher R      Attorney

**JOURNAL ENTRIES**

- Testimony and exhibits presented (see worksheets). Argument by counsel. Argument by the State.  
COURT ORDERED, decision to issue via minute order.

NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**December 03, 2020**

---

A-18-783635-W      State Of Nevada, Plaintiff(s)  
vs.  
Clemon Hudson, Defendant(s)

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**December 03, 2020      3:00 AM      Minute Order**

**HEARD BY:** Jones, David M      **COURTROOM:** Chambers

**COURT CLERK:** Michaela Tapia

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- After review of all pleadings and evidence taken at the evidentiary hearing this Court finds Defendant was deprived of his right to direct appeal. As to all other issues raised in the Petition for Writ of Habeas Corpus, all other issues are DENIED.

Counsel for Defendant is to prepare the order GRANTED in part as to Direct Appeal and DENIED as to all other claims.

CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. /mt



## EXHIBIT(S) LIST

Case No.: **A783635**

Hearing Date:

10/15/20

Dept. No.: **XXIX**

**Judge:**

DAVID M. JONES

**Court Clerk:**

**MICHAELA TAPIA**

STATE'S: **State of Nevada**

**Recorder:**

**MELISSA MURPHY**

**Counsel for Plaintiff:**

Leah Beverly

**vs.**

**DEFENDANT'S: Clemon Hudson**

**Counsel for Defendant:**

Christopher Oram

## HEARING BEFORE THE COURT

## STATE'S EXHIBITS

[illegible]

# 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; CIVIL COVER SHEET; FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; DISTRICT COURT MINUTES; EXHIBITS LIST

CLEMON HUDSON,

Plaintiff(s),

vs.

THE STATE OF NEVADA,

Defendant(s),

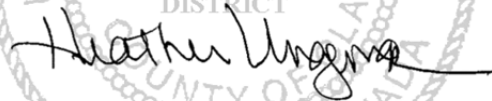
Case No: A-18-783635-W

Dept No: XXIX

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 17 day of December 2020.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk