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Douglas County
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Jan 29 2021 11:02 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

IN AND FOR THE COUNTY OF DOUGLAS

Respondent.

Dated this 22nd day of Jan, 2021.

Docket 82405 Document 2021-02795

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11-CR-00159B

CERTIFICATE OF SERVICE

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2021 JAN 22 PM 3:53

Pursuant to NRCP 5 (b) I hereby certify that on this date I sent via first class mail, facsimile, electronic mail and/or hand delivery in Minden, Nevada, a true and correct copy of the foregoing

DOUGLAS COUNTY CLERK
BY *M. H. [Signature]* DEPUTY

NOTICE OF APPEAL to the following:

Douglas County District Attorney
1038 Buckeye Rd.
Minden, NV 89423

DATED this 22 day of January, 2021.

[Signature]

JOHN E. MALONE, ESQ.
Attorney for Defendant

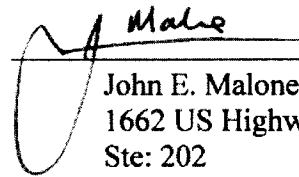
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I affirm that this document does not contain the social security number of any person.

NRS 239B.030

Respectfully submitted:

DATED: 1-22-21


John E. Malone
1662 US Highway 395
Ste: 202
Minden, NV 89423
775-392-3342
Attorney for Defendant

FILED

1 11-CR-00159B

CERTIFICATE OF SERVICE

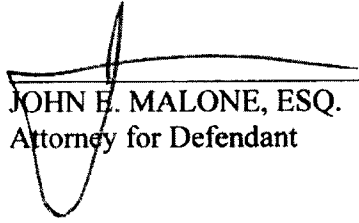
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2 Pursuant to NRCP 5 (b) I hereby certify that on this date I sent ^{CLERK} via first class mail, facsimile,
3 electronic mail and/or hand delivery in Minden, Nevada, a true and correct copy of the foregoing

4 CASE APPEAL STATEMENT to the following:

5
6 Douglas County District Attorney
7 1038 Buckeye Rd.
8 Minden, NV 89423
9

10 DATED this 22 day of January, 2021.

11
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14 JOHN E. MALONE, ESQ.
15 Attorney for Defendant
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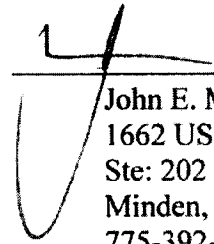
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I affirm that this document does not contain the social security number of any person.

NRS 239B.030

Respectfully submitted:

DATED: 10-22-21



John E. Malone
1662 US Highway 395
Ste: 202
Minden, NV 89423
775-392-3342
Attorney for Defendant

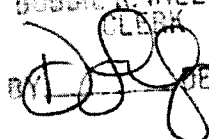
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JAN 22 2021

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District Court Clerk

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2021 JAN 22 PM 2:15

DOUGLAS R. WILLIAMS
CLERK
BY  DEPUTY

JOHN E. MALONE
State Bar No. 5706
1662 N. U.S. Hwy 395
Suite 202
Minden, Nevada 89423
(775) 392-3342
jmalonelaw@gmail.com

IN THE NINTH JUDICIAL DISTRICT COURT, STATE OF NEVADA

IN AND FOR THE COUNTY OF DOUGLAS

JOHN FRANCIS DUNHAM,

Appellant,

vs.

STATE OF NEVADA,

Respondent.

) Case No. 16-CR-0159

) Dept. I

) CASE APPEAL STATEMENT

1. Appellant is John Francis Dunham.
2. The judge issuing the order appealed from is the Honorable Nathan Tod Young
3. Appellant is represented by appointed counsel John E. Malone, 1662 N. U.S. Hwy 395, Suite 202, Minden, NV 89423.
4. The respondent is the State of Nevada represented by the Douglas County District Attorney's Office, P.O. Box 218, Minden, Nevada 89423.
5. All attorneys involved in this matter are licensed to practice in Nevada.
6. The appellant was represented by appointed counsel John Malone in the district court for the postconviction petition.
7. Appellant is represented by appointed counsel on appeal.

1 8. Appellant has not sought or been granted leave to proceed in forma pauperis.

2 9. This case commenced in the District Court with two informations filed on November
3 18, 2016 and December 16, 2016. The cases were ordered joined on December 20, 2016, and
4 proceeded under a single case number. Appellant filed his postconviction petition on July 3,
5 2019. Counsel was appointed and filed a supplemental petition on April 22, 2020.

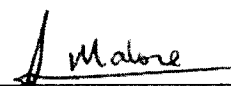
6 10. The appellant was charged by information with burglary, a violation of NRS 28
7 205.060, a category B felony and home invasion, a violation of NRS 205.067 a category B
8 felony. The appellant pled "not guilty" to both charges. The matter proceeded to jury trial. On
9 February 15, 2017, the jury returned a verdict of guilty on the charge of home invasion and not
10 guilty on the charge of burglary. Appellant was sentenced to a maximum term of 96 (ninety-six)
11 months with a minimum parole eligibility of 38 (thirty-eight) months. Appellant has been
12 paroled. Appellant appealed, and this court affirmed the conviction. This is an appeal from the
13 district court's order denying appellant's postconviction petition for a writ of habeas corpus,
14 entered on December 29, 2020.
15

16 11. This case has previously been the subject of a direct appeal to the Nevada Supreme
17 Court from the judgment of conviction. Docket No. 73143.

18 12. This case does not involve child custody or visitation.

19 13. N/A.

20 Dated this 2nd day of Jan, 2021.

21
22 
23 John E. Malone
24 1662 N. U.S. Hwy 395
25 Suite 202
Minden, Nevada 89423
(775) 392-3342

Douglas County District Court

Case Summary Report

Case #: 2016-CR-00159

Case Title: State Of Nevada vs. John F Dunham(LEAD CASE CONSOLIDATED W/16-CR-0173)

Filed: 11/15/2016

Cause: Felony: Crimes Against Property

DV: N

Case Status: Disposed

Date: 02/15/2017

Parties

<u>Party</u>	<u>Name</u>	<u>Status</u>		
Plaintiff	State Of Nevada			
Plaintiff	State Of Nevada			
Plaintiff	State Of Nevada			
Defendant	Dunham, John Francis			
Defendant	Dunham, John Francis			
Defendant	Dunham, John Francis			
<u>Party</u>	<u>Name</u>	<u>Bar #</u>	<u>Status</u>	<u>Representing</u>
Attorney	ATTORNEY, DISTRICT	9999	Current	
Attorney	Brown, Kristine	003026	Current	
Attorney	ATTORNEY, DISTRICT	9999	Current	
Attorney	Brown, Kristine	003026	Current	
Attorney	ATTORNEY, DISTRICT	9999	Current	
Attorney	Brown, Kristine	003026	Current	

Charge/Sentence Information

<u>CNT</u>	<u>Section Code</u>	<u>Charge Description</u>
1	205.067.2	Home invasion, (1st)
1	205.060.2	Burglary, (1st)
2	205.060.2	Burglary, (1st)

Events

<u>Date/Time</u>	<u>Type</u>	<u>Result</u>	<u>Reason</u>
11/22/2016	Arraignment	Concluded	
12/06/2016	Other Hearing	Concluded	
12/20/2016	Arraignment	Concluded	
01/24/2017	Pre-Trial Conference	Concluded	
01/24/2017	Pre-Trial Conference	Concluded	
01/31/2017	Pre-Trial Conference	Vacated	
01/31/2017	Pre-Trial Conference	Vacated	
02/06/2017	Other Hearing	Concluded	
02/13/2017	Criminal Jury Trial	Concluded	
02/13/2017	Criminal Jury Trial	Concluded	
02/14/2017	Criminal Jury Trial	Concluded	
02/14/2017	Criminal Jury Trial	Concluded	
02/15/2017	Criminal Jury Trial	Concluded	
02/15/2017	Criminal Jury Trial	Concluded	
02/16/2017	Criminal Jury Trial	Vacated	
02/16/2017	Criminal Jury Trial	Concluded	
02/17/2017	Criminal Jury Trial	Concluded	
02/17/2017	Criminal Jury Trial	Vacated	
03/07/2017	Civil/Probate Hearings	Concluded	
03/21/2017	Civil/Probate Hearings	Concluded	
04/11/2017	Sentencing Hearing	Vacated	
04/14/2017	Sentencing Hearing	Concluded	

Documents

<u>Date</u>	<u>Code</u>	<u>Description</u>
11/15/2016	DOCO	Order and Commitment - Order and Commitment
11/18/2016	DINF	Information - Information
11/21/2016	DTRN	Transcript of Proceedings - Transcript of Proceedings (Pre Lim)
11/22/2016	DORD	Order - Order Appointing Counsel
11/30/2016	DTRN	Transcript of Proceedings - Transcript of Proceedings Arraignment November 22, 2016
12/12/2016	DOST	Order Setting Trial - Order Setting Trial
12/12/2016	DOCO	Order and Commitment - Order and Commitment
12/14/2016	DTRN	Transcript of Proceedings - Transcript of Proceedings (Cont Arrign)
12/16/2016	DINF	Information - Information
12/20/2016	DORD	Order - Order Appointing Counsel
12/28/2016	DORD	Order - Order Setting Trial
01/04/2017	DAOR	Amended Order - Amended Order Setting Hearing
01/05/2017	DAOR	Amended Order - Amended Order Setting Hearing
01/09/2017	DREQ	Request - Request for Discovery
01/09/2017	DIRO	Auto Reopen (not for manual use)
01/09/2017	DIRO	Auto Reopen (not for manual use)
01/09/2017	MMOT	Motion - (SEALED) Ex Parte Application for Fees
01/09/2017	DIRO	Auto Reopen (not for manual use)
01/10/2017	DORD	Order - SEALED - Order Authorizing Fees for Employment of an Investigator and to Seal Pleadings
01/11/2017	DTRN	Transcript of Proceedings - Transcript of Proceedings (Arraign)
01/13/2017	DIRO	Auto Reopen (not for manual use)
01/13/2017	MMOT	Motion - Motion in Limine Regarding Uncharged Misconduct and Collateral Offenses
01/18/2017	DIRO	Auto Reopen (not for manual use)
01/18/2017	MMOT	Motion - Motion to Dismiss
01/23/2017	DLJU	List of Trial Jurors - List of Trial Jurors
01/23/2017	DASM	Affidavit of Service by Mail - Affidavit of Service by Mail
01/23/2017	DIRO	Auto Reopen (not for manual use)
01/23/2017	MMOT	Motion - Motion in Limine Regarding Other Uncharged Conduct; Opposition to Defendant's January 13, 2017, Motion in Limine Regarding Uncharged Conduct and Collateral Offenses
01/23/2017	DVEN	Jury Venire - Jury Venire
01/23/2017	DORD	Order - Order Calling Jury
01/24/2017	DAMI	Amended Information - Amended Information
01/24/2017	DORD	Order - Order for Discovery
01/30/2017	MMOT	Motion - Motion in Limine #2 Regarding Other Uncharged Conduct: Home Invasion
01/30/2017	DTRN	Transcript of Proceedings - Transcript of Proceedings (Prelim)
01/30/2017	DOPP	Opposition to Motion - Opposition to State's Motion in Limine Regarding Uncharged Misconduct and Collateral Offenses and Reply
01/30/2017	DTRN	Transcript of Proceedings - Transcript of Proceedings (prelim)
01/31/2017	DIRO	Auto Reopen (not for manual use)
02/01/2017	MMOT	Motion - Opposition to Motion to Dismiss and Request for Submission; Motion to File a Second Amended Information
02/01/2017	DORD	Order - Order Setting Hearing
02/01/2017	DRSU	Request for Submission - Request for Submission Motion to Dismiss
02/02/2017	DIRO	Auto Reopen (not for manual use)
02/03/2017	DMIS	Misc. Document - Documents Related to State's January 23, 2017, Motion in Limine Regarding Other Uncharged Conduct
02/03/2017	DN	Notice of - Notice of Prosecution Trial Witnesses
02/06/2017	DOPP	Opposition to Motion - Opposition to State's Motion in Limine #2 Regarding Other Uncharged Conduct: Home Invasion
02/08/2017	DREQ	Request - SEALED - Ex Parte Request for Payment
02/08/2017	DORD	Order - SEALED - Order for Payment
02/08/2017	DIRO	Auto Reopen (not for manual use)
02/08/2017	MMOT	Motion - SEALED - Ex Application for Additional Investigator Fees
02/08/2017	DIRO	Auto Reopen (not for manual use)
02/08/2017	DAMI	Amended Information - Second Amended Information
02/09/2017	DIRO	Auto Reopen (not for manual use)
02/09/2017	MMOT	Motion - Motion in Limine Regarding Publication of Admitted Exhibits
02/10/2017	DCOS	Certificate of Service - Certificate of Service

<u>Date</u>	<u>Code</u>	<u>Description</u>
02/10/2017	DOBJ	Objection to - Objection to Defendant's Proffered Jury Instruction Regarding the Word "Resides"
02/10/2017	DREP	Reply to - Reply to Opposition to Motion in Limine Regarding Publication of Admitted Exhibits
02/10/2017	DOPT	Opposition to - Opposition To Motion in Limine Regarding Publication of Admitted Evidence
02/10/2017	DSTI	Stipulation - Stipulation Filed by DEF001-Dunham, John Francis, PLT001-State Of Nevada,
02/15/2017	DJUI	Jury Instructions - Jury Instructions
02/15/2017	DJV	Jury Verdict - Jury Verdict - Burglary
02/15/2017	DJV	Jury Verdict - Jury Verdict - Invasion of the Home
02/15/2017	DTRN	Transcript of Proceedings - Transcript of Proceedings (Pre-Trial)
02/15/2017	DTRN	Transcript of Proceedings - Transcript of Proceedings (Pre-Trial)
02/17/2017	DOFM	Affidavit of Mailing - Affidavit of Service by Mail
02/17/2017	DN	Notice of - Notice and Order to Show Cause David Peterson
02/17/2017	DN	Notice of - Notice and Order to Show Cause Marian Polichnowski
02/17/2017	DN	Notice of - Notice and Order to Show Cause Lanette Marie Regales
02/17/2017	DN	Notice of - Notice and Order to Show Cause Bendan Smith
02/17/2017	DN	Notice of - Notice and Order to Show Cause Lauretta Saldivar
02/17/2017	DN	Notice of - Notice and Order to Show Cause Gregory P. Cohen
02/17/2017	DN	Notice of - Notice and Order to Show Cause Justin Adie
02/17/2017	DN	Notice of - Notice and Order to Show Cause Delinda Jo Hamilton
02/17/2017	DN	Notice of - Notice and Order to Show Cause Monhsian Keyzer
02/17/2017	DN	Notice of - Notice and Order to Show Cause Brandianne Ledbetter
02/17/2017	DN	Notice of - Notice and Order to Show Cause Luis Nunez
02/17/2017	DN	Notice of - Notice and Order to Show Cause Janet Melander
02/22/2017	DTRN	Transcript of Proceedings - Transcript of Proceedings (Motions)
02/27/2017	DIRO	Auto Reopen (not for manual use)
02/27/2017	MMOT	Motion - (SEALED) Ex Parte Request for Payment
02/28/2017	DORD	Order - SEALED - Order for Payment
03/09/2017	DOSC	Order to Show Cause - Notice and Order to Show Cause
03/13/2017	DPRS	Proof of Service - Affidavit of Telephonic Service
03/24/2017	DN	Notice of - Notice of Prosecution Sentencing Witnesses
03/27/2017	DPIR	(Sealed) - CONFIDENTIAL Pre-Sent. Investigation - (SEALED) CONFIDENTIAL Pre-Sent. Invest
04/03/2017	DORD	Order - Order
04/03/2017	DSTI	Stipulation - Stipulation to Continue Filed by DEF001-Dunham, John Francis, PLT001-State Of Nevada,
04/12/2017	DMIS	Misc. Document - SEALED - Substance Abuse Evaluation
04/13/2017	DMIS	Misc. Document - Evidence in Mitigation
04/19/2017	DJOC	Judgment of Conviction - Judgment of Conviction
05/01/2017	DTRN	Transcript of Proceedings - Transcript of Proceedings (Sentencing)
05/15/2017	DCAP	Case Appeal Statement - Case Appeal Statement
05/15/2017	DNOA	Notice of Appeal - Notice of Appeal
05/15/2017	DREQ	Request - Request for Transcripts
06/01/2017	DRFD	Receipt for Documents (Supreme Court) - Receipt for Documents (Supreme Court)
06/16/2017	DTRN	Transcript of Proceedings - Transcript of Proceedings (Trial)
06/16/2017	DTRN	Transcript of Proceedings - Transcript of Proceedings (Opening)
06/16/2017	DTRN	Transcript of Proceedings - Transcript of Proceedings (Trial)
09/10/2018	DOPN	Opinion - Advance Opinion
10/02/2018	DRMT	Remittitur - Remittitur (Supreme Court)
10/02/2018	DCLC	Clerk's Certificate - Clerk's Certificate (Supreme Court)
10/02/2018	DOPN	Opinion - Opinion (Supreme Court)
03/16/2020	DEXM	Ex Parte Motion - for the Disposition of Fines
03/18/2020	DORD	Order
03/18/2020	DNON	Non-Opposition to - Motion for the Disposition of Fines
04/14/2020	DORD	Order
10/05/2020	DEXM	Ex Parte Motion - Ex Parte Invoice and Request for Payment
12/16/2020	DORD	Order - for Payment

Douglas County District Court

Case Summary Report

Case #: 2016-CR-00159BD

Case Title: John F Dunham vs. Jerry Howell

Filed: 07/03/2019

Cause: Pre-Conviction Writ

DV: N

Case Status: Active

Date: 07/03/2019

Parties

<u>Party</u>	<u>Name</u>	<u>Status</u>		
Petitioner	Dunham, John Francis			
Respondent	Howell, Jerry			
<u>Party</u>	<u>Name</u>	<u>Bar #</u>	<u>Status</u>	<u>Representing</u>
Attorney	Malone, John	5706	Current	

Documents

<u>Date</u>	<u>Code</u>	<u>Description</u>
07/03/2019	MMOT	Motion - Petition for Writ of Habeas Corpus(Post Conviction)
07/05/2019	DIRO	Auto Reopen (not for manual use)
07/16/2019	DOAC	Order Appointing Counsel - Order Appointing Counsel - Malone
08/16/2019	DREQ	Request - Request for Case Summary/Documents
01/13/2020	DMIS	Misc. Document - Letter from John F. Dunham
03/20/2020	DREQ	Request - for the Court to Relieve Appointed Counsel and Appoint New Counsel
04/22/2020	DPRS	Proof of Service - by Mail
04/23/2020	DSUP	Supplement - Supplemental Post Conviction Petition for a Writ of Habeas Corpus
04/23/2020	DAPX	Appendix - to the Supplemental Post Conviction Petition for a Writ of Habeas Corpus Volume 1
04/23/2020	DAPX	Appendix - to the Supplemental Post Conviction Petition for a Writ of Habeas Corpus Volume II
04/23/2020	DAPX	Appendix - to the Supplemental Post Conviction Petition for a Writ of Habeas Corpus Volume III
05/19/2020	DORD	Order
06/12/2020	DBRF	Brief of - Answering Brief
06/30/2020	DREP	Reply to - Reply in Support of Petitioner's Supplemental Postconviction Petition for a Writ of Habeas Corpus
07/01/2020	MOST	Motion to Strike
07/02/2020	DOPP	Opposition to Motion - to Strike and Countermotion for Leave to File Reply in Support of Petitioner's Supplemental Post Conviction Petition for Writ of Habeas Corpus
08/14/2020	DNCA	Notice of Change of Address
09/29/2020	DRSU	Request for Submission
09/29/2020	DRSU	Request for Submission
11/25/2020	DRTS	Request to Submit
12/29/2020	WHDPOST	Order Denying Writ of Habeas Corpus - Post Conviction
12/29/2020	DNEO	Notice of Entry of Order
01/22/2021	DCAP	Case Appeal Statement
01/22/2021	DNOA	Notice of Appeal
01/22/2021	DCOS	Certificate of Service
01/22/2021	DCOS	Certificate of Service

Douglas County District Court

Case Summary Report

Case #: 2016-CR-00173

Case Title: State Of Nevada vs. John F Dunham (CONSOLIDATED INTO 16-CR-0159)

Filed: 12/12/2016

Cause: Felony: Crimes Against Property

DV: N

Case Status: Disposed

Date: 04/19/2017

Parties

<u>Party</u>	<u>Name</u>	<u>Status</u>		
Plaintiff	State Of Nevada			
Defendant	Dunham, John Francis			
<u>Party</u>	<u>Name</u>	<u>Bar #</u>	<u>Status</u>	<u>Representing</u>
Attorney	Brown, Kristine	003026	Current	
Attorney	ATTORNEY, DISTRICT	9999	Current	

Charge/Sentence Information

<u>CNT</u>	<u>Section Code</u>	<u>Charge Description</u>
1	205.060.2	Burglary, (1st)

Events

<u>Date/Time</u>	<u>Type</u>	<u>Result</u>	<u>Reason</u>
12/20/2016	Arraignment	Concluded	
01/24/2017	Pre-Trial Conference	Concluded	
01/31/2017	Pre-Trial Conference	Vacated	
02/13/2017	Criminal Jury Trial	Concluded	
02/14/2017	Criminal Jury Trial	Concluded	
02/15/2017	Criminal Jury Trial	Concluded	
02/16/2017	Criminal Jury Trial	Concluded	
02/17/2017	Criminal Jury Trial	Concluded	

Documents

<u>Date</u>	<u>Code</u>	<u>Description</u>
12/12/2016	DOCO	Order and Commitment - Order and Commitment
12/16/2016	DINF	Information - Information
12/20/2016	DORD	Order - Order Appointing Counsel
12/28/2016	DORD	Order - Order Setting Trial
01/05/2017	DAOR	Amended Order - Amended Order Setting Hearing
01/09/2017	DIRO	Auto Reopen (not for manual use)
01/11/2017	DTRN	Transcript of Proceedings - Transcript of Proceedings (Arraign)
01/30/2017	DTRN	Transcript of Proceedings - Transcript of Proceedings (prelim)
02/15/2017	DTRN	Transcript of Proceedings - Transcript of Proceedings (Pre-Trial)

1 Case No. 2016-CR-00159-B

2 Dept. No. I

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DEC 29 2020

Douglas County
District Court Clerk

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2020 DEC 29 PM 1:34

CLERK

BY ANOWE DEPUTY

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4
5 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

6
7 IN AND FOR THE COUNTY OF DOUGLAS

8
9 JOHN F. DUNHAM,

10 Petitioner,

11 v.

ORDER

12 THE STATE OF NEVADA,

13 Respondent.
14 _____ /

15 Petitioner John Dunham filed a *pro se* Petition for Writ of Habeas Corpus on July 3,
16 2019. Counsel for petitioner was appointed on July 16, 2019, with a supplemental petition
17 filed on April 23, 2020. The State filed its answer on June 12, 2020. Petitioner, through
18 counsel, filed a reply thereafter, resulting in the State's motion to strike the reply as a fugitive
19 document. Petitioner responded to the motion, adding a countermotion for leave to file the
20 reply in support of the supplemental post-conviction petition to issue a Writ of Habeas
21 Corpus.
22

23 Pursuant to NRS 34.770(1-2), "[t]he judge or justice, upon review of the return,
24 answer and all supporting documents which are filed, shall determine whether an evidentiary
25 hearing is required. . . . If the judge or justice determines that the petitioner is not entitled to
26 relief and an evidentiary hearing is not required, the judge or justice shall dismiss the petition
27 without a hearing."
28

1 Having reviewed all pleadings and papers newly filed, the court determines that an
2 evidentiary hearing is not required. The petition is dismissed.¹

3 **Findings of Fact**

4 1. By 2013, John Dunham and Patricia Scripko were already married to each other;
5 they continued to be married to each other into 2017. Trial Transcript, February 14, 2017.

6 2. Effective as of August 23, 2016, a protective order issued by a California court
7 restricted John Dunham from being less than 100 yards from 311 Olympic Court, Stateline,
8 Nevada. Trial Exhibit 128; Trial Transcript, February 14, 2017.

9 3. The court ordered restriction continued through February 23, 2017. *Id.*

10 4. The condominium, unit D, was purchased during marriage but placed in the name
11 of Patricia Scripko only. Trial Transcript, February 14, 2017.

12 5. On October 26, 2016, a Douglas County Sheriff's Deputy inspected condominium
13 D, located at 311 Olympic Court, finding both evidence of forced entry into the condominium
14 and John Dunham present within the condominium. Trial Transcript, February 14, 2017.

15 6. Patricia Scripko did not consent to the presence of John Dunham at 311 Olympic
16 Court, Stateline, Nevada. Trial Transcript, February 14, 2017.

17 7. On February 15, 2017, a jury returned a verdict against John Dunham of 'not
18 guilty' to the charged offense of Burglary but guilty of Invasion of the Home. The court had
19 required that the two separately charged statutory violations be compiled into one Information
20 and tried together since both charges involved the same set of facts.

21 8. Relying within his reply brief upon a 1996 appellate opinion issued in Illinois,
22
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27 _____
28 Petitioner's request for leave to file a reply is granted, rendering the motion to strike moot.

1 *People v Moulton*, 282 Ill.App.3d 102, 668 N.E.2d 1078 (1996) (*superceded by statute* -
2 *People v Howard*, 374 Ill.App.3d 705, 870 N.E.2d 959 (2007)), John Dunham proffered
3 within his supplemental petition that his trial counsel was ineffective for failing to seek
4 dismissal of the Home Invasion allegation.

5 9. The Illinois case involved a state statute that was different than the applicable
6 statute in Nevada. The Illinois statute required entry into the dwelling place of another; since
7 the Illinois defendant was a joint tenancy owner of the dwelling, the charge of Home Invasion
8 was dismissed by the trial court, which was then upheld on appeal.

9 (The statute at issue was amended thereafter, allowing an order of protection to
10 overcome a possessory interest. *Howard*, 374 Ill.App.3d at 712, 870 N.E.2d at 965; *but see*
11 *People v Witherspoon*, 2017 IL App (4th) 150512, 419 Ill.Dec. 183, 92 N.E.3d 594 (2017)
12 (“Resident’s consent for defendant to enter dwelling trumped, for purposes of home invasion
13 statute, court order that prohibited defendant from entering.”) (*reversed - People v*
14 *Witherspoon*, 432 Ill.Dec. 665, 129 N.E.3d 1208 (2019) (“Evidence sufficient to prove that
15 defendant knowingly entered victim’s home ‘without authority,’ as element of home invasion
16 statute.”).)

17 10. In Nevada, NRS 205.067(1) provided that a “person who, by day or night, forcibly
18 enters an inhabited dwelling without permission of the owner, resident or lawful occupant,
19 whether or not a person is present at the time of the entry, is guilty of invasion of the home.”

20 11. On January 18, 2017, trial counsel for John Dunham did file a pre-trial Motion to
21 Dismiss attacking the broadness of the Burglary charge set forth within the original, separate
22 Information. An Amended Information was filed on January 24, 2017, restating the Invasion
23 of the Home and Burglary counts in one charging document. A Second Amended Information
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1 was filed on February 8, 2017, removing reference within the count of Burglary to "or any
2 violent felony therein," thereby addressing the issue raised by defense counsel in the motion
3 to dismiss the Burglary charge.

4 12. Regarding the charge of Invasion of the Home, trial defense counsel objected to
5 the exclusion of Jury Instruction 35 which contained a definition of 'reside' proffered by the
6 defendant. The court excluded that instruction from the set of instructions given to the jury.
7 Transcript of Trial, February 15, 2017, p. 3. (On February 10, 2017, the State filed a written
8 "Objection to Defendant's Proffered Jury Instruction Regarding the Word 'Resides.'")
9

10 13. Defense counsel advocated to the jury regarding application of the common
11 definition of reside during closing arguments. Transcript of Trial, February 15, 2017.
12

13 14. Trial counsel did not object to the court's pre-trial direction to unite the two
14 charges into one charging document nor seek severance of the two charges thereafter.

15 15. Trial counsel did not pursue defendant's current allegations of prosecutorial
16 misconduct or judicial misconduct during trial or upon appeal.

17 16. The exclusion of Jury Instruction 35 was upheld on appeal, among other things.

18 17. Trial counsel and appellate counsel were the same individual.
19

20 **Conclusions of Law**

21 1. Pursuant to NRS 123.220, John Dunham claims an unrebutted community property
22 interest in the purchased condominium, located at 311 Olympic Court, Stateline, Nevada.

23 2. The protective order constituted a lawful restriction against John Dunham being
24 present in the condominium, regardless of his ownership interest.

25 3. The protective order prevented John Dunham from being classified as a lawful
26 occupant or resident of the home.
27
28

1 4. A "person cannot commit the crime of home invasion by forcibly entering his or
2 her own home if that person is a lawful occupant or resident of the home." *Truesdell v. State*,
3 129 Nev. 194, 202; 304 P.3d 396, 401 (2013).

4 5. John Dunham's presence in the condominium on October 26, 2016, constituted a
5 violation of the protective order, regardless of any alleged consent to be present in the
6 condominium which John Dunham claims to have received from his spouse, but is contrary to
7 the spouse's trial testimony, if not authorized by him personally.

8 6. Failure to argue a change in the interpretation of a law does not constitute
9 ineffective assistance of counsel. While "counsel can present any good faith argument on the
10 merits, a good faith challenge to the sufficiency of the evidence, or argue in good faith for an
11 extension, modification or reversal of existing law," *Ramos v. State*, 113 Nev. 1081, 1085,
12 944 P.2d 856, 858 (1997), in this instance defense counsel pursued her defense theory of the
13 case which was objectively reasonable and based upon sound professional judgment.

14 7. Counsel's choice not to object to the two counts being tried at the same time, nor
15 seeking their severance, was an objectively reasonable tactical judgment given the court's
16 direction to try the charges together based upon the same facts to be presented during trial and
17 the parameters of NRS 173.115. The unified Amended Information applied the same set of
18 facts to the two charged statutory violations arising therein.

19 8. Trying the two counts together did not prevent the jury from reliably determining
20 guilt. The cumulative effect of trying the two counts together was not so prejudicial as to
21 affect John Dunham's right to a fair trial. Indeed, the jury found John Dunham to be guilty of
22 one charge and not the other, rather than possibly finding him guilty of both.

23 9. Claims of prosecutorial and judicial misconduct could have been presented to the
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1 trial court or raised in a direct appeal. Therefore, such claims now raised within a writ
2 petition are to be dismissed unless the court finds both cause for the failure to present the
3 grounds and actual prejudice to the petitioner. NRS 34.810(1). No cause for the failure has
4 been presented to the court by petitioner. The allegations of prosecutorial and judicial
5 misconduct appear self-serving.

6
7 10. Regarding John Dunham's claim of ineffective assistance of counsel, without both
8 prejudice to the defendant and deficient performance by counsel present, no such claim is
9 valid.

10 The question of whether a criminal defendant has received ineffective assistance of
11 counsel presents mixed questions of law and fact, and is subject to independent review. We
12 review claims of ineffective assistance of counsel under the two-part test set forth in *Strickland*
13 *v. Washington*. Under *Strickland*, the defendant must demonstrate that his counsel's
14 performance was deficient, i.e., it fell below an objective standard of reasonableness, and that
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both prongs of the test if the defendant makes an insufficient showing on either one.

15 *Molina v. State*, 120 Nev. 185, 190, 87 P.3d 533, 537 (2004) (footnotes and citations
16 omitted).

17
18 11. "A defendant's right to assistance of counsel is satisfied only when such counsel
19 is effective. Effective counsel does not mean errorless counsel, but rather counsel whose
20 assistance is '(w)ithin the range of competence demanded of attorneys in criminal cases."

21 *Jackson v. Warden, Nev. State Prison*, 91 Nev. 430, 432, 537 P.3d 473, 474 (1975).

22 12. "In order to satisfy the objective standard of reasonableness, trial counsel must
23 make a sufficient inquiry into the information that is pertinent to h[er] client's case. Once a
24 reasonable inquiry is made, counsel should make a reasonable strategy decision on how to
25 proceed with h[er] client's defense." *Doleman v. State*, 112 Nev. 843, 848, 921 P.2d 278, 280
26 (1996) (citations omitted).

1 13. "To satisfy the second element [regarding ineffective assistance of counsel], a
2 defendant must demonstrate prejudice by showing 'a reasonable probability that, but for
3 counsel's errors, the result of the trial would have been different.' In addition, trial counsel's
4 strategic or tactical decisions will be 'virtually unchallengeable absent extraordinary
5 circumstances.'" *Lara v. State*, 120 Nev. 177, 180, 87 P.3d 528, 530 (2004) (citations
6 omitted).

8 14. "[R]easonable minds can most certainly differ on how a defendant in a criminal
9 prosecution should be defended." *Lara*, 120 Nev. at 185, 87 P.3d at 533 (citing *Strickland*,
10 466 U.S. at 689, 104 S.Ct. at 2065 ("Even the best criminal defense attorneys would not
11 defend a particular client in the same way.")).

13 15. Reviewing counsel's performance reflected within the record of this matter, the
14 court finds no strategic or tactical error committed by trial counsel with regard to the motion
15 to dismiss.

16 16. Even if trial counsel made a strategic or tactical error while conducting her
17 defense, the evidence presented was compelling that John Dunham was present where he was
18 not legally allowed; thus, there was no prejudice to petitioner based upon the alleged error(s)
19 of counsel, having been rightfully convicted by a jury of Invasion of the Home, but not
20 Burglary.

22 17. John Dunham, through his writ petition counsel, also argued that his appellant
23 counsel should have raised the issue of trying the two different criminal counts together, on
24 direct appeal as 'plain error' despite her initial failure to object during or prior to trial. "'The
25 constitutional right to effective assistance of counsel extends to a direct appeal.' Th[e] court
26 reviews a claim of ineffective assistance of appellate counsel under the *Strickland* test. 'To
27

1 establish prejudice based on the deficient assistance of appellate counsel, the defendant must
2 show that the omitted issue would have a reasonable probability of success on appeal.” *Lara*,
3 120 Nev. at 183-184, 87 P.3d at 532 (citations omitted).

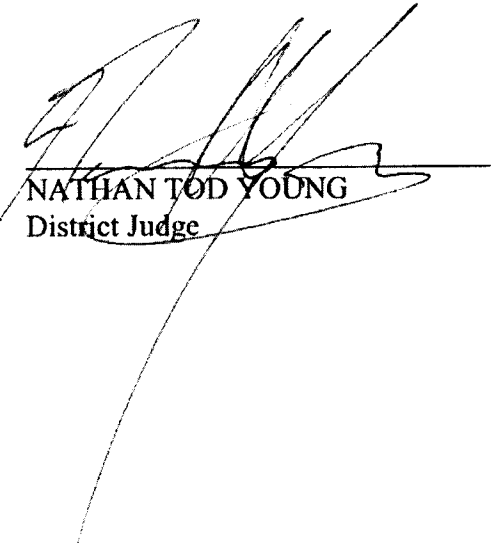
4 18. Petitioner has not shown that the omitted issue would have a reasonable
5 probability of success on appeal. Therefore, the claimed ineffective assistance of appellate
6 counsel is not valid.

7
8 19. All other issues raised within the *pro se* petition and the supplemental petition are
9 without merit.

10 IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the petition and
11 amended petition to issue a writ of habeas corpus is dismissed.²

12 IT IS SO ORDERED.

13 Dated this 29 day of December, 2020.

14
15 
16 NATHAN TOD YOUNG
17 District Judge
18
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26 ² The Presentence Investigation Report included within Volume 1 of the Appendix to
27 the Supplemental Post Conviction Petition for a Writ of Habeas Corpus is to be sealed
28 by the court clerk. The Appendix was filed into the record on April 23, 2020.

1 Copies served this 29 day of December, 2020, to:

2 Douglas County District Attorney
3 (via hand delivery to front office)

4 John E. Malone, Esq.
5 1662 US Hwy 395, Ste. 202
6 Minden, NV 89423

7 John F. Dunham
8 1035 Haight St.
9 San Francisco, CA 94117


Judicial Executive Assistant

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2 John E. Malone, Esq.
3 1662 US Hwy 395, Ste. 202
4 Minden, NV 89423 (folder at clerk's window)

5 John F. Dunham
6 1035 Haight St.
7 San Francisco, CA 94117

8 Attorney General's Office
9 100 N. Carson Street
10 Carson City, NV 89701

11 Douglas County District Attorney
12 1038 Buckeye Road
13 Minden, NV 89423 (hand delivered)

14 

15 _____
16 Deputy Court Clerk
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1 Case No. 2016-CR-00159-B

2 Dept. No. 1

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DEC 29 2020

Douglas County
District Court Clerk

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2020 DEC 29 PM 1:34

BOBBIE R. WILLIAMS
CLERK

BY: ANOWA DEPUTY

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5 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

6
7 IN AND FOR THE COUNTY OF DOUGLAS

8
9 JOHN F. DUNHAM,

10 Petitioner,

11 v.

ORDER

12 THE STATE OF NEVADA,

13 Respondent.
14 _____ /

15 Petitioner John Dunham filed a *pro se* Petition for Writ of Habeas Corpus on July 3,
16 2019. Counsel for petitioner was appointed on July 16, 2019, with a supplemental petition
17 filed on April 23, 2020. The State filed its answer on June 12, 2020. Petitioner, through
18 counsel, filed a reply thereafter, resulting in the State's motion to strike the reply as a fugitive
19 document. Petitioner responded to the motion, adding a countermotion for leave to file the
20 reply in support of the supplemental post-conviction petition to issue a Writ of Habeas
21 Corpus.
22

23 Pursuant to NRS 34.770(1-2), "[t]he judge or justice, upon review of the return,
24 answer and all supporting documents which are filed, shall determine whether an evidentiary
25 hearing is required. . . . If the judge or justice determines that the petitioner is not entitled to
26 relief and an evidentiary hearing is not required, the judge or justice shall dismiss the petition
27 without a hearing."
28

1 Having reviewed all pleadings and papers newly filed, the court determines that an
2 evidentiary hearing is not required. The petition is dismissed.¹

3 **Findings of Fact**

4 1. By 2013, John Dunham and Patricia Scripko were already married to each other;
5 they continued to be married to each other into 2017. Trial Transcript, February 14, 2017.
6

7 2. Effective as of August 23, 2016, a protective order issued by a California court
8 restricted John Dunham from being less than 100 yards from 311 Olympic Court, Stateline,
9 Nevada. Trial Exhibit 128; Trial Transcript, February 14, 2017.

10 3. The court ordered restriction continued through February 23, 2017. *Id.*

11 4. The condominium, unit D, was purchased during marriage but placed in the name
12 of Patricia Scripko only. Trial Transcript, February 14, 2017.
13

14 5. On October 26, 2016, a Douglas County Sheriff's Deputy inspected condominium
15 D, located at 311 Olympic Court, finding both evidence of forced entry into the condominium
16 and John Dunham present within the condominium. Trial Transcript, February 14, 2017.

17 6. Patricia Scripko did not consent to the presence of John Dunham at 311 Olympic
18 Court, Stateline, Nevada. Trial Transcript, February 14, 2017.
19

20 7. On February 15, 2017, a jury returned a verdict against John Dunham of 'not
21 guilty' to the charged offense of Burglary but guilty of Invasion of the Home. The court had
22 required that the two separately charged statutory violations be compiled into one Information
23 and tried together since both charges involved the same set of facts.

24 8. Relying within his reply brief upon a 1996 appellate opinion issued in Illinois,
25

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Petitioner's request for leave to file a reply is granted, rendering the motion to strike
28 moot.

1 *People v Moulton*, 282 Ill.App.3d 102, 668 N.E.2d 1078 (1996) (*superceded by statute* -
2 *People v Howard*, 374 Ill.App.3d 705, 870 N.E.2d 959 (2007)), John Dunham proffered
3 within his supplemental petition that his trial counsel was ineffective for failing to seek
4 dismissal of the Home Invasion allegation.

5
6 9. The Illinois case involved a state statute that was different than the applicable
7 statute in Nevada. The Illinois statute required entry into the dwelling place of another; since
8 the Illinois defendant was a joint tenancy owner of the dwelling, the charge of Home Invasion
9 was dismissed by the trial court, which was then upheld on appeal.

10 (The statute at issue was amended thereafter, allowing an order of protection to
11 overcome a possessory interest. *Howard*, 374 Ill.App.3d at 712, 870 N.E.2d at 965; *but see*
12 *People v Witherspoon*, 2017 IL App (4th) 150512, 419 Ill.Dec. 183, 92 N.E.3d 594 (2017)
13 (“Resident’s consent for defendant to enter dwelling trumped, for purposes of home invasion
14 statute, court order that prohibited defendant from entering.”) (*reversed - People v*
15 *Witherspoon*, 432 Ill.Dec. 665, 129 N.E.3d 1208 (2019) (“Evidence sufficient to prove that
16 defendant knowingly entered victim’s home ‘without authority,’ as element of home invasion
17 statute.”).)
18

19
20 10. In Nevada, NRS 205.067(1) provided that a “person who, by day or night, forcibly
21 enters an inhabited dwelling without permission of the owner, resident or lawful occupant,
22 whether or not a person is present at the time of the entry, is guilty of invasion of the home.”

23 11. On January 18, 2017, trial counsel for John Dunham did file a pre-trial Motion to
24 Dismiss attacking the broadness of the Burglary charge set forth within the original, separate
25 Information. An Amended Information was filed on January 24, 2017, restating the Invasion
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6 defendant. The court excluded that instruction from the set of instructions given to the jury.
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11 definition of reside during closing arguments. Transcript of Trial, February 15, 2017.
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14 charges into one charging document nor seek severance of the two charges thereafter.

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16 misconduct or judicial misconduct during trial or upon appeal.

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22 interest in the purchased condominium, located at 311 Olympic Court, Stateline, Nevada.

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24 present in the condominium, regardless of his ownership interest.

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26 occupant or resident of the home.
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7 the spouse's trial testimony, if not authorized by him personally.

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9 ineffective assistance of counsel. While "counsel can present any good faith argument on the
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18 facts to the two charged statutory violations arising therein.

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20 guilt. The cumulative effect of trying the two counts together was not so prejudicial as to
21 affect John Dunham's right to a fair trial. Indeed, the jury found John Dunham to be guilty of
22 one charge and not the other, rather than possibly finding him guilty of both.

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12 15. Reviewing counsel's performance reflected within the record of this matter, the
13 court finds no strategic or tactical error committed by trial counsel with regard to the motion
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16 16. Even if trial counsel made a strategic or tactical error while conducting her
17 defense, the evidence presented was compelling that John Dunham was present where he was
18 not legally allowed; thus, there was no prejudice to petitioner based upon the alleged error(s)
19 of counsel, having been rightfully convicted by a jury of Invasion of the Home, but not
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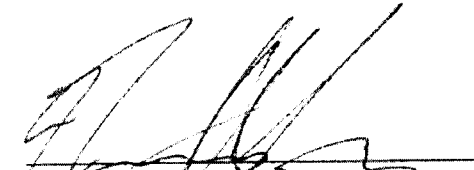
4 18. Petitioner has not shown that the omitted issue would have a reasonable
5 probability of success on appeal. Therefore, the claimed ineffective assistance of appellate
6 counsel is not valid.

7 19. All other issues raised within the *pro se* petition and the supplemental petition are
8 without merit.

9
10 IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the petition and
11 amended petition to issue a writ of habeas corpus is dismissed.²

12 IT IS SO ORDERED.

13 Dated this 29 day of December, 2020.

14
15 
16 NATHAN TOD YOUNG
17 District Judge
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26 ² The Presentence Investigation Report included within Volume 1 of the Appendix to
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28 by the court clerk. The Appendix was filed into the record on April 23, 2020.

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6 Minden, NV 89423

7 John F. Dunham
8 1035 Haight St.
9 San Francisco, CA 94117


Judicial Executive Assistant

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CASE NO. 16-CR-0159

DEPT NO. I

THE STATE OF NEVADA,

v.

JOHN FRANCIS DUNHAM,

DATE: 11-22-16

PLAINTIFFS COUNSEL:
Brian Filter, Esq.

JUDGE: NATHAN TOD YOUNG

CLERK: Delores Goelz

DEFENDANTS COUNSEL:
Kristine Brown, Esq.

COURT REPORTER: Nicole Hansen

LAW CLERK: John Seddon

BAILIFFS: David Nishikida/Bill Addington

PAROLE & PROBATION: Gail Falconer/Chris Austin

The above-entitled matter was before the Court this being the time set for ARRAIGNMENT. The defendant was present in Court (in custody) and his true name was ascertained. The Court affirmed the lower court's appointment of Kristine Brown to represent the defendant in all further proceedings.

The Information was filed with the Court on November 18th, 2016; copies were received and acknowledged and the defendant waived the formal reading thereof. The Information charges the defendant with INVASION OF THE HOME, a category B felony, in violation of NRS 205.067.

Ms. Brown requested a 2 week continuance due to a new complaint filed in Tahoe Justice Court.

Mr. Filter informed the Court that charges are pending in the Tahoe Justice Court and the State will likely consolidate the matters.

The Court canvassed the defendant as to his right to a speedy trial and asked if he consents to a 2 week continuance.

After conferring with Ms. Brown, the defendant agreed to a 2 week continuance. The defendant agreed to remain in custody.

The Court set the matter for Tuesday, December 6, 2016 at 9:00 a.m.

The defendant was remanded to the custody of the Douglas County Sheriff.

To Court ordered the bail to remain the same.

CASE NO. 16-CR-0159

DEPT NO. I

THE STATE OF NEVADA,

v.

JOHN FRANCIS DUNHAM,

DATE: 12-6-16

PLAINTIFFS COUNSEL:
Ric Casper, ESQ.

JUDGE: NATHAN TOD YOUNG

CLERK: Delores Goelz

DEFENDANTS COUNSEL:
Kristine Brown, ESQ.

COURT REPORTER: Nicole Hansen

LAW CLERK: John Seddon

BAILIFFS: Eric Lindsay/David Nishikida/William Addington

PAROLE & PROBATION: Patricia Cerniglia

The above-entitled matter was before the Court this being the time set for ARRAIGNMENT. The defendant was present in Court (in custody) and represented by counsel.

The Information was filed with the Court on November 18th, 2016; copies were received and acknowledged and the defendant waived the formal reading thereof. The Information charges the defendant with INVASION OF THE HOME, a category B felony, in violation of NRS 205.067.

To the Information, the defendant entered a plea of NOT GUILTY.

The Court advised the defendant of his right to a speedy trial within 60 days of the arraignment. The defendant did not waive his right to a speedy trial, but did agree to accept the earliest Court date available for trial. The matter was set for day a 5 day trial by jury commencing on Monday, February 13th, 2017 at 9:00 a.m.

The Court ordered all pre-trial motions be ripe to be heard at the Pre-Trial Conference scheduled for Tuesday, January 31st, 2017 at 9:00 a.m. Jury Instructions are due to the Court no later than 5:00 p.m. on February 8, 2017th.

The defendant was ordered to appear at the time set for trial, and advised that failure to appear would result in the issuance of a

bench warrant, and the filing of additional charges.

Ms. Brown requested the Court release the defendant and reinstate the original bail conditions.

Mr. Casper opposed the defendant's release based on his violent criminal history and his flight risk.

The Court denied the request for release and the defendant was remanded to the custody of the Douglas County Sheriff.

CASE NO. 16-CR-0173

DEPT NO. I

THE STATE OF NEVADA,

v.

JOHN FRANCIS DUNHAM,

DATE: 12-20-16 PLAINTIFFS COUNSEL:

Ric Casper, Esq.

JUDGE: NATHAN TOD YOUNG

CLERK: Delores Goelz DEFENDANTS COUNSEL:

Kristine Brown, Esq.

COURT REPORTER: Kathy Jackson

LAW CLERK: Not Present

BAILIFFS: David Nishikida/Eric Lindsay

PAROLE & PROBATION: Gail Falconer

The above-entitled matter was before the Court this being the time set for ARRAIGNMENT. The defendant was present in Court (in custody) and his true name was ascertained. The Court affirmed the lower court's appointment of Kristine Brown to represent the defendant in all further proceedings.

The Information was filed with the Court on December 16th, 2016; copies were received and acknowledged and the defendant waived the formal reading thereof. The Information charges the defendant with BURGLARY, a category B felony, in violation of NRS 205.060.

To the Information, the defendant entered a plea of NOT GUILTY.

The Court advised the defendant of his right to a speedy trial within 60 days of the arraignment. The defendant did not waive his right to a speedy trial. The matter was set for day a 5 day trial by jury commencing on Monday, February 13th, 2017 at 9:00 a.m.

Mr. Casper informed the Court that the State will motion the Court to combine cases 16-CR-0159 and 16-CR-0173.

The Court ordered the State to file an Amended Information in

case 16-CR-0159 to include the charges from case 16-CR-0173. All further pleadings are to be filed into case 16-CR-0159.

The Court ordered all pre-trial motions be ripe to be heard at the Pre-Trial Conference scheduled for Tuesday, January 31st, 2017 at 9:00 a.m. Jury Instructions are due to the Court no later than 5:00 p.m. on February 8, 2017th.

The defendant was ordered to appear at the time set for trial, and advised that failure to appear would result in the issuance of a bench warrant, and the filing of additional charges.

The defendant was remanded to the custody of the Douglas County Sheriff.

CASE NO. 16-CR-0159/16-CR-0173 ✓

DEPT NO. I

THE STATE OF NEVADA,

v.

JOHN FRANCIS DUNHAM,

DATE: 01-24-17

PLAINTIFFS COUNSEL:
Ric Casper, Esq.

JUDGE: NATHAN TOD YOUNG

CLERK: Delores Goelz

DEFENDANTS COUNSEL:
Kristine Brown, Esq.

COURT REPORTER: Christy Joyce

LAW CLERK: Not Present

BAILIFFS: Bill Addington/Eric Lindsay

PAROLE & PROBATION: Heather Hardy

The above-entitled matter was before the Court this being the time set for a PRE-TRIAL CONFERENCE. The defendant was present in Court (in custody) and was represented by counsel.

Mr. Casper informed the Court that the State will be filing an Amended Information into case 16-CR-0159 as previously ordered by the Court.

Ms. Brown filed a Motion to Dismiss and a Request for Discovery.

The Court reminded counsel that all pleading are to be filed into case 16-CR-0159.

Mr. Casper informed the Court that the State intends to comply with the request for discovery but said the State is not in receipt of some the items being request.

The Court signed the Order for Discovery.

The Court instructed counsel to meet with the Judicial Assistant to set a hearing on all pending motions.

CASE NO. 16-CR-0159

DEPT NO. I

THE STATE OF NEVADA,

v.

JOHN FRANCIS DUNHAM,

DATE:	01-24-17	PLAINTIFFS COUNSEL:
		Ric Casper, Esq.
JUDGE:	NATHAN TOD YOUNG	
CLERK:	Delores Goelz	DEFENDANTS COUNSEL:
		Kristine Brown, Esq.
COURT REPORTER:	Christy Joyce	
LAW CLERK:	Not Present	
BAILIFFS:	Bill Addington/Eric Lindsay	

PAROLE & PROBATION: Heather Hardy

The above-entitled matter was before the Court this being the time set for a PRE-TRIAL CONFERENCE. The defendant was present in Court (in custody) and was represented by counsel.

Mr. Casper informed the Court that the State will be filing an Amended Information into case 16-CR-0159 as previously ordered by the Court.

Ms. Brown filed a Motion to Dismiss and a Request for Discovery.

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The Court signed the Order for Discovery.

The Court instructed counsel to meet with the Judicial Assistant to set a hearing on all pending motions.

CASE NO. 16-CR-0159

DEPT NO. I

THE STATE OF NEVADA,

v.

JOHN FRANCIS DUNHAM,

DATE: 03-07-17 PLAINTIFFS COUNSEL:

JUDGE: NATHAN TOD YOUNG

CLERK: Delores Goelz DEFENDANTS COUNSEL:

COURT REPORTER: Not Reported

LAW CLERK: John Seddon

BAILIFFS: Eric Lindsay/Chris Wiggins

The above-entitled matter was before the Court this being the time set for a hearing on ORDER TO SHOW CAUSE RE: FAILURE TO APPEAR FOR JURY DUTY.

SWORN & TESTIFIED:
DELINDA JO HAMILTON

The Court made the following findings:

- Janet Meleander is in contempt for failing to appear for jury duty and ordered her to pay \$100.00 to the District Court Clerk, within the next 14 days, in order to absolve the contempt;
- Luis Nunez is in contempt for failing to appear for jury duty and ordered him to pay \$100.00 to the District Court Clerk, within the next 14 days, in order to absolve the contempt;
- Brandianne Ledbetter is not a resident of Douglas County and she is not in contempt;
- Monhsian Keyzer is not a resident of Douglas County and he is not in contempt;
- Delinda Jo Hamilton is not in contempt;

- Gregory Cohen was not present and has failed to appear;
- Lauretta Saldivar is deceased and is not in contempt;
- Justin Adie did appear for jury duty and is not in contempt;
- Brendan Smith is in contempt for failing to appear for jury duty and ordered him to pay \$100.00 to the District Court Clerk, within the next 14 days, in order to absolve the contempt;
- Lanette Marie Regales is in contempt for failing to appear for jury duty and ordered her to pay \$100.00 to the District Court Clerk, within the next 14 days, in order to absolve the contempt;
- Marian Polichnowski is not in contempt;
- David Peterson is in contempt for failing to appear for jury duty and ordered him to pay \$100.00 to the District Court Clerk, within the next 14 days, in order to absolve the contempt.

CASE NO. 16-CR-0159

DEPT NO. I

THE STATE OF NEVADA,

v.

JOHN FRANCIS DUNHAM,

DATE: 03-21-17 PLAINTIFFS COUNSEL:

JUDGE: NATHAN TOD YOUNG

CLERK: Delores Goelz DEFENDANTS COUNSEL:

COURT REPORTER: Not Reported

LAW CLERK: John Seddon

BAILIFFS: Eric Lindsay

The above-entitled matter was before the Court this being the time set for a hearing on PERSONAL SERVICE - ORDER TO SHOW CAUSE RE: FAILURE TO APPEAR FOR JURY DUTY.

The Court finds that Gregory Cohen is in contempt for failing to appear for jury duty and ordered him to pay \$100.00 to the District Court Clerk, within the next 24 hours, in order to absolve the contempt;

The Court ordered the \$100.000 to be deposited into the Indigent Mediation Fund.

CASE NO. 16-CR-0159

DEPT NO. I

THE STATE OF NEVADA,

v.

JOHN FRANCIS DUNHAM,

DATE: 02-06-17

PLAINTIFFS COUNSEL:
Ric Casper, Esq.

JUDGE: NATHAN TOD YOUNG

CLERK: Delores Goelz

DEFENDANTS COUNSEL:
Kristine Brown, Esq.

COURT REPORTER: Shelly Loomis

LAW CLERK: John Seddon

BAILIFFS: Eric Lindsay

The above-entitled matter was before the Court this being the time set for a hearing on PENDING MOTIONS. The defendant was present in Court (in custody) and was represented by counsel.

EXHIBITS MARKED:

1, 2, 3, 4, 5, 6, 7, 8, 9, 10

EXHIBITS ADMITTED:

1, 2, 3, 4, 5, 6, 7, 8, 10

Mr. Casper addressed discovery issues. the State is in receipt of a video of Ms. Scripko that is of a private nature. The State does not believe the video would provide any benefit to the defense and requested that the State not be required to turn it over to the defense. Ms. Brown is not comfortable agreeing to that request at this time.

The Court instructed Mr. Casper to make the video available for Ms. Brown to view in the District Attorney's office. If after viewing the video, Ms. Brown feels the video is necessary to the defenses' case, then she may readdress the issue with the Court.

Mr. Casper presented argument.

Kristine Brown presented argument.

**MOTION IN LIMINE REGARDING OTHER UNCHARGED CONDUCT: OPPOSITION TO
DEFENDANT'S JANUARY 13, 2017, MOTION IN LIMINE REGARDING
UNCHARGED CONDUCT AND COLLATERAL OFFENSES**

The court finds the following:

- ♦ any testimony regarding incidents leading up to the issuing of the Temporary Restraining Order are more prejudicial than probative and will not be allowed;
- ♦ a redacted version of the restraining Order will be allowed but not the Court minutes from the hearing;
- ♦ text messages from the defendant to Ms. Scripko will be allowed but not testimony regarding the phone call to the hotel in Ohio;
- ♦ testimony regarding Mr. Dunham being found, by the Douglas County Sheriff, under the bed with a shotgun and shotgun shells will be allowed but nothing about the arrest;
- ♦ Gary LaChasse may testify regarding the conversation he had with Mr. Dunham prior to Ms. Scripko arriving in the area, but not about his knowledge that Mr. Dunham had been staying at the condo.

**MOTION IN LIMINE #2 REGARDING OTHER UNCHARGED CONDUCT: HOME
INVASION**

The Court finds the following:

- ♦ the testimony of Officer Garcia of the Monterey Police Department on August 20, 2016 will not be allowed;
- ♦ the testimony of Peter Harrington will not be allowed;
- ♦ Deputy Sandoval may testify regarding his contact with Mr. Dunham on August 31, 2016 and that he gave Mr. Dunham notice that he was not allowed on the premises of the condo located at 311 Olympic Court, Unit D, Stateline, NV - He may not testify regarding the arrest for violating the restraining order;
- ♦ redacted versions of the bail conditions and supervised release conditions from the Department of Alternative Sentencing will be allowed.

MOTION TO FILE SECOND AMENDED INFORMATION: GRANTED

MOTION TO DISMISS: DENIED

The Court inquired if the parties are going to require a Petrocelli hearing. The Court instructed counsel to file a stipulation if the parties agree that a hearing is not necessary.

CASE NO. 16-CR-0159

DEPT NO. I

STATE OF NEVADA,

Plaintiff,

PLAINTIFF'S COUNSEL:

Ric Casper, Esq.

v.

JOHN FRANCIS DUNHAM,

Defendant,

DEFENDANT'S COUNSEL:

Kristine Brown, Esq.

DATE: 2/13 - 2/15/2017

JUDGE: NATHAN TOD YOUNG

CLERK: Delores Goelz

COURT REPORTER: Capitol Reporters

LAW CLERK: John Seddon

BAILIFFS: Bill Addington/Eric Lindsay

The above-entitled matter was before the Court this being the time set for a CRIMINAL JURY TRIAL. The State was present and represented by Ric Casper. The defendant was present in Court and represented by counsel.

Roll call of the Panel #1 jurors was taken at 9:00 a.m., and counsel stipulated to proceeding in the absence of the jurors who did not respond to their jury summons. The Court ordered the Clerk to issue Orders to Show Cause to those jurors who did not appear.

The potential jurors were sworn.

The Court generally canvassed the jurors in the gallery.

The following jurors were excused: Jennifer Wilson, Jeffrey Benum, John Turpin, Thomas Ohka, Elijah Reinholz, and Tracey Kumagai.

The first 23 jurors were randomly called in to the jury box and examined generally by the Court.

Juror, Greg Taylor, arrived late and he was sworn.

Ms. Brown examined the jurors generally and specifically. Mr. Casper examined the jurors

generally and specifically.

The Court excused the following jurors after general examination:

- Juror #8, Trevor Hemsath, was excused and replaced with Mickie Hempler;
- Ms. Brown requested Juror #13, Marie Nicholson, be excused for cause. Mr. Casper opposed the request. The Court denied the challenge for cause;
- Ms. Brown renewed her request for Juror #13, Marie Nicholson, be excused for cause. Mr. Casper did not oppose. Juror #13, Marie Nicholson, was excused for cause and replaced with Tim Miller;
- Leah Monge was excused and replaced with Jean Dieter.

Ms. Brown passed the 23 jurors for cause.

Mr. Casper passed the 23 jurors for cause.

Counsel stipulated to the remainder of the jurors being released from further service on this jury.

The Court convened outside the presence of the jury at 11:46 a.m. to exercise Peremptory challenges, in open court. The State exercised its first, second, third, and fourth Peremptory challenges. The defense exercised its first, second, third, and fourth, Peremptory challenges. The State exercised its challenge as to the alternate juror. The defense exercised its challenge as to the alternate juror.

The Court reconvened in the presence of the jury at 1:31 p.m.

The jury and alternate are constituted as follows: James Trent, Ann Brinkmeyer, Katy Frager, Mickie Hempler, Loretta Brawley, Ramona Byrne, Lorraine Craik, Sabrina Martin, Agnes Horn, Wyatt Ziebell, Cheryl Slack, Mary Wylie, and Elizabeth McMasters.

The jury and alternate were sworn.

The Court presented special pre-trial instruction to the jury.

The Second Amended Information was read to the jury by the Court Clerk.

The Court invoked the rule of exclusion.

Mr. Casper presented opening statements.

Ms. Brown presented opening statements.

EXHIBITS MARKED PRIOR TO TRIAL:

1-128, 130-145

EXHIBITS MARKED:

129, 146

EXHIBITS ADMITTED:

69, 71, 75, 129, 94, 95, 96, 97, 78, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24

WITNESSES SWORN & TESTIFIED:

DEPUTY KEVIN KAROSICH
DEPUTY DEAN KUMAGAI
DEPUTY MARSHALL FLAGG

The Court convened outside the presence of the jury at 3:14 p.m.

The Court instructed Mr. Casper to limit his questioning to only motive, intent, planning and preparation.

The Court reconvened in front of the jury at 3:14 p.m. and admonished the jury before releasing them for the afternoon break.

The Court reconvened in the presence of the jury at 3:30 p.m.

The Court instructed the jury that they may only consider the evidence and testimony of the witnesses, for the purposes of showing motive, intent, planning or preparation, and not for consideration of the defendant's character or a propensity to commit bad acts.

The Court recessed for the day at 4:40 p.m.

***** Day 2 - Tuesday, February 14, 2017**

EXHIBITS MARKED:

147, 148, 149, 150, 151, 152, 153

EXHIBITS ADMITTED:

25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 147, 148, 128, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 124, 125, 126, 150, 130, 131, 134, 153

WITNESSES SWORN & TESTIFIED:

DEPUTY CARLOS SANDOVAL
EVIDENCE TECHNICIAN DEBRA SCHAMBRA
PATRICIA SCRIPKO
GARY LACHASSE
DOUG ALBERTSON
DEPUTY ERIK EISSINGER

The Court convened outside the presence of the jury at 9:01 a.m.

The Court will not allow testimony regarding Mr. LaChasse's posting of bail for Mr. Dunham.

The Court reconvened in the presence of the jury at 9:24 a.m.

The Court instructed the jury that they may only consider the evidence and testimony of the witnesses, for the purposes of showing motive, intent, planning or preparation, and not for consideration of the defendant's character or a propensity to commit bad acts.

The Court admonished the jury and released them for the morning break at 10:23 a.m.

The Court convened outside the presence of the jury to address a question presented by the jurors.

The Court reconvened in the presence of the jury at 11:04 a.m. and instructed the jury that Exhibits 99-122, 124-126, and 150 may only be considered for the purposes of showing motive, intent, planning or preparation, and not for consideration of the defendant's character or a propensity to commit bad acts.

The Court admonished the jury and released them for lunch at 11:50 a.m.

The Court convened outside the presence of the jury at 1:30 p.m.

Ms. Brown requested the Court take judicial notice of the oxazepam drug summary published by PDR and that oxazepam is classified as a benzodiazepine.

The Court took judicial notice that the drug summary does classify oxazepam as a benzodiazepine.

The Court reconvened in the presence of the jury at 1:46 p.m.

The Court convened outside the presence of the jury at 2:31 p.m.

The Court will not allow testimony regarding Ms. Scripko's fearfulness of the defendant as it is highly prejudicial.

The Court reconvened in the presence of the jury at 2:43 p.m.

The Court admonished the jury and released them for the afternoon break at 3:14 p.m.

The Court reconvened in the presence of the jury at 3:34 p.m.

Exhibit #134 was admitted for the purpose of showing that Mr. Albertson reviewed the bail conditions with the defendant.

The State rests at 4:37 p.m.

The Court admonished the jury and released them for the day at 4:38 p.m. The Court instructed them to return tomorrow at 1:30 p.m.

***** Day 3 - Wednesday, February 15, 2017**

The Court convened outside the presence of jury at 1:31 p.m. to settle jury instructions 1-35 that the Court intends to give. The Court ordered that jury instruction 35 will not be given.

Mr. Casper offered no objection to jury instructions 1-34 or the verdict forms.

Ms. Brown offered no objection to jury instructions 1-34 or the verdict forms.

Counsel stipulated to instructions having been settled in open court and requested that the jury be instructed prior to closing arguments.

The Court reconvened in the presence of the jury at 1:38 p.m.

The defense rests at 1:38 p.m.

The Court instructed the jury.

Mr. Casper presented closing arguments at 2:05 p.m.

Ms. Brown presented closing argument at 3:12 p.m.

Mr. Casper was heard on final argument at 3:36 p.m.

The bailiffs were sworn to take charge of the jury.

Ramona Byrne was chosen as the alternate juror.

The jury began deliberating at 3:55 p.m.

The Court admonished the alternate juror and released her to go home during deliberations.

The jury reached a verdict at 5:36 p.m.

The Court convened in the presence of the jury at 5:43 p.m.

Foreperson, Sabrina Martin, informed the Court that the jury has come to a unanimous decision.

The jury found the defendant GUILTY of the crime of invasion of the home, a category B felony, in violation of NRS 205.067 and NOT GUILTY of the crime of burglary.

Counsel did not wish to have the jury polled.

The Court accepted the verdict's of the jury and ordered them entered on the record.

The jury was discharged from further service.

The Court set sentencing for Tuesday, April 11th, 2017 at 9:00 a.m., and the matter was referred to the Division of Parole and Probation for a pre-sentence report. The Court ordered the defendant to appear at the time set for sentencing, and advised the defendant that failure to appear would result in the issuance of a bench warrant and the filing of additional charges.

The defendant was remanded to the custody of the Douglas County Sheriff.

THE JUROR QUESTION WAS MARKED AS COURT EXHIBIT #1.

CASE NO. 16-CR-0159

DEPT NO. I

THE STATE OF NEVADA,

v.

JOHN FRANCIS DUNHAM,

DATE: 04-14-2017

PLAINTIFFS COUNSEL:
Ric Casper, Esq.

JUDGE: NATHAN TOD YOUNG

CLERK: Delores Goelz

DEFENDANTS COUNSEL:
Kristine Brown, Esq.

COURT REPORTER: Kathy Jackson

LAW CLERK: John Seddon

BAILIFFS: Eric Lindsay

PAROLE & PROBATION: Pat Cerniglia

The above-entitled matter was before the Court this being the time set for SENTENCING. The defendant was present in Court (in custody) and represented by counsel.

WITNESSES SWORN & TESTIFIED:

PATRICIA SCRIPKO

EXHIBITS MARKED AND ADMITTED:

1, 2

The Pre-sentence Report is on file with the Court; copies were received and acknowledged. Ms. Brown noted errors in the report and the Court corrected by interlineation.

The Court inquired of anything in mitigation or aggravation.

Ms. Brown requested the Court follow the recommendation of the Division of Parole and Probation and grant the defendant probation, with a chance to get inpatient treatment.

Mr. Casper requested the Court deny the defendant probation and sentence him to prison for a maximum of 72 months with a minimum of 14 months. The defendant has shown an inability to follow court orders or laws and is not a good candidate for probation.

Further, his history of alcohol abuse and use of firearms, makes him a dangerous individual.

No sufficient legal cause was shown by the defendant as to why judgment should not be pronounced against him. The Court adjudged the defendant guilty of the crime of INVASION OF THE HOME, a category B felony, in violation of NRS 205.067.

The Court then sentenced the defendant to imprisonment with the Nevada Department of Corrections for a maximum term of ninety-six (96) months with a minimum parole eligibility of thirty (38) months and ordered the defendant to pay the following to the District Court Clerk: three dollars (\$3.00) as an Administrative Assessment Fee pursuant to NRS 176.0623(1) for obtaining and testing the genetic markers, one hundred and fifty dollars (\$150.00) as a fee for obtaining and testing samples of blood and saliva to determine genetic markers pursuant to NRS 176.0915(1) and twenty-five dollars (\$25.00) as an Administrative Assessment Fee.

The Court ordered the defendant to pay the fees immediately or, if not paid, the defendant shall appear before this Court within two weeks of his release from incarceration to arrange a payment schedule.

This judgment constitutes a lien, pursuant to NRS 176.275. If the defendant does not pay the fees as ordered by the Court, collection efforts may be undertaken against the defendant pursuant to the laws of this State.

The defendant is given credit for one hundred seventy-nine (179) day pre-sentence confinement time.

The defendant was remanded to the custody of the Douglas County Sheriff.

Final

STATES' S EXHIBIT LIST

CASE NAME: STATE OF NEVADA V. JOHN FRANCIS DUNHAM

CASE NUMBER: 16-CR-0159

DATE OF HEARING: FEBRUARY 13-17, 2017

JUDGE: NATHAN TOD YOUNG

DEPT NO: I

ATTORNEY: RIC CASPER, ESQ / KRISTINE BROWN, ESQ.

PURPOSE OF HEARING: CRIMINAL JURY TRIAL

EXHIBIT #	DESCRIPTION	MARKED FOR ID	ADMITTED	NOT ADMITTED
1	1 Address - 311	X	X	
2	2 Long view of walkway to front of 311 unit D	X	X	
3	3 Top of stairs going down to 311 unit D	X	X	
4	4 Outside of unit D – broken window	X	X	
5	5 Exterior broken window – straight-on view	X	X	
6	6 Exterior broken window – angled view from right	X	X	
7	7 Exterior broken window – angled view from left	X	X	
8	8 Screens	X	X	
9	9 Piece of glass on walkway	X	X	
10	10 Open door to unit D; lockbox	X	X	
11	11 Interior – facing front door and broken window from dining area	X	X	
12	12 Interior broken window – frames included	X	X	
13	13 Interior broken window closer up	X	X	
14	14 Interior broken window ledge – pieces of glass	X	X	
15	15 Interior – broom and broken glass	X	X	
16	16 Interior view of stairs to loft and basement 1 from entry level – facing away from front door	X	X	
17	17 Interior view of stairs to loft – facing toward front door	X	X	
18	18 Interior view of backside of couch and loft area – facing front door	X	X	
19	19 Interior angled view of loft – toward pinball – knife on coffee table	X	X	
20	20 Interior view of coffee table, couch, pinball machine – knife on table	X	X	

EXHIBIT #	DESCRIPTION	MARKED FOR ID	ADMITTED	NOT ADMITTED
21	21 Interior view of coffee table – facing downward – knife, business card, chewing tobacco, water, remote control	X	X	
22	22 Interior view of couch, pills, and pill bottle	X	X	
23	23 Close up view of knife, business card, and chewing tobacco	X	X	
24	24 Close up view of pill bottle and pills on couch	X	X	
25	25 Entry Stairs, 311	X	X	
26	26 311	X	X	
27	27 Stairs Leading Down	X	X	
28	28 Exterior Broken Window	X	X	
29	29 Exterior Broken Window, close up	X	X	
30	30 Exterior Window, finger smudge	X	X	
31	31 Screens	X	X	
32	32 Interior Window and Broom	X	X	
33	33 Broom and glass	X	X	
34	34 Interior window, dark	X	X	
35	35 Entry level, facing window	X	X	
36	36 Entry level, looking up toward loft	X	X	
37	37 exterior north side of building (311), walkway up	X	X	
38	38 exterior north side, close up of address, 311	X	X	
39	39 exterior west side	X	X	
40	40 exterior west side with road to south	X	X	
41	41 exterior west side, angled north	X	X	
42	42 exterior north east corner	X	X	
43	43 exterior east side, facing southwest	X	X	
44	44 exterior south east corner, Storke	X	X	
45	45 exterior south east corner, Storke closer	X	X	
46	46 Storke measuring outside of window	X	X	
47	47 Storke measuring outside of window, zoomed	X	X	
48	48 Storke measuring inside of window	X	X	
49	49 Close up of latch	X	X	
50	50 Latch with measurement	X	X	
51	51 Latch at top with measurement	X	X	
52	52 Latch at bottom with measurement	X	X	
53	53 Windows screens, shovel	X	X	
54	54 Close up of shovel	X	X	
55	55 Int entry level facing east, tables and stairs	X	X	
56	56 Int entry level facing east, angled north, table and stairs	X	X	
57	57 Entry level facing southwest, table in foreground	X	X	
58	58 Entry level facing west toward kitchen and window	X	X	

EXHIBIT #	DESCRIPTION	MARKED FOR ID	ADMITTED	NOT ADMITTED
59	59 Entry level facing west, further back, couch in foreground and loft above	X	X	
60	60 Entry level, view of loft	X	X	
61	61 Midlevel east bedroom, facing east	X	X	
62	62 Midlevel east bedroom, facing northeast	X	X	
63	63 Midlevel east bedroom, facing southwest, toward stairs	X	X	
64	64 Midlevel east bedroom, facing south	X	X	
65	65 Midlevel east bedroom, looking out windows toward southeast	X	X	
66	66 Midlevel west bedroom, facing stairway	X	X	
67	67 Midlevel west bedroom, window on left (west)	X	X	
68	68 Bottom level bedroom, facing into bedroom toward east, slider in background	X	X	
69	69 Bottom level bedroom, facing north with bed	X	X	
70	70 Bottom level bedroom, facing northwest, bed to left, slider on right	X	X	
71	71 Bottom level bedroom, facing north with bed center and slider on right	X	X	
72	72 Bottom level bedroom, facing northwest, bathroom on left	X	X	
73	73 Bottom level bedroom, facing southwest, stairs in center	X	X	
74	74 Bottom level bedroom, facing south, slider on left, stairs on right	X	X	
75	75 Closed trapdoor, facing west	X	X	
76	76 Closed trapdoor, facing west #2	X	X	
77	77 Closed trapdoor, facing northeast, top of bed to left	X	X	
78	78 Open trapdoor, no flash	X	X	
79	79 Looking into trap door, drop light on, ladder to right	X	X	
80	80 Looking into trap door, drop light on top, ladder centered	X	X	
81	81 Looking into trap door, dirt floor illuminated	X	X	
82	82 Looking into trap door, dirt floor illuminated #2	X	X	
83	83 Open trap door, with measurement to dirt floor	X	X	
84	84 Open trap door, with measurement to dirt floor, close up	X	X	
85	85 Open trap door, measuring length	X	X	
86	86 Open trap door, measuring length, close up	X	X	
87	87 Open trap door, measuring width	X	X	
88	88 Open trap door, measuring width, close up	X	X	
89	89 Measuring height of bed, open trap door on bottom left	X	X	
90	90 Measuring from floor to bottom of bed	X	X	
91	91 Measuring from floor to bottom of bed, close up	X	X	
92	92 Loft area, papers on coffee table to the left	X	X	

EXHIBIT #	DESCRIPTION	MARKED FOR ID	ADMITTED	NOT ADMITTED
93	93 Picture of Alternative Sentencing Release Conditions	X	X	
94	94 photo of shotgun	X	X	
95	95 photo of trigger/stock/break	X	X	
96	96 photo of box of shotgun shells	X	X	
97	97 open box of shotgun shells	X	X	
98	98 First thoughts – Dec 21, 2016 at 6:06 am	X		
99	99 Herro – “Can you please call. I see them going through.” Sep 11, 2016 at 6:31 pm.	X	X	
100	100 Credit Cards – “This will turn bad and fast. Don’t do this to yourself.” Sep 14, 2016 at 11:13 am	X	X	
101	101 Call (2 emails). Ordering credit cards in her name – Sep 16, 2016 at 4:04 pm.	X	X	
102	102 Now is good. “Videos are going out tonight.” Sep. 16, 2016 at 8:42 pm.	X	X	
103	103 Your cute. “Left you a page of things to do in Tahoe...Have fun in Cleveland” – Sep 18, 2016 at 1:45 pm	X	X	
104	104 I’m not mad/angry/nor irritated with you. “Love and sorry...Have a great trip.” – Sep 18, 2016 at 2:40 pm	X	X	
105	105 Get here now – Sep. 18, 2016 at 6:36 pm	X	X	
106	106 (no subject) “I am leaving unless you come here – Sep. 18, 2016 at 6:37 pm	X	X	
107	107 See you tonight – Sep. 20, 2016 at 7:19 pm	X	X	
108	108 Love (2 emails) – “have to do cns wish you would come down.” “Want me to pick you up. I am in SF.” - Sep. 20, 2016	X	X	
109	109 Well you landed – Sep. 20, 2016	X	X	
110	110 I now you’re here come see me – Sep. 21, 2016 a 11:11 am	X	X	
111	111 Don’t call cops on me tonight and please leave door open. Love you. – Sep. 21, 2016 at 8:56 pm	X	X	
112	112 Can you come out alone? – Sep. 21, 2016 at 11:18 pm	X	X	
113	113 Come on your home and want out of here – Sep. 21, 2016 at 11:24 pm	X	X	
114	114 Come on dude cops again – Sep. 22, 2016 at 12:27 am	X	X	
115	115 Don’t worry I will make this easy mommy can have her smart girl back on Monday – Sep 23, 2016 at 6:33 pm	X	X	
116	116 Don’t worry you went to Harvard. (2 emails) “I did this all for you.” – Sep 23, 2016 at 6:37.	X	X	
117	117 I tried to end this. Wait until they hear testimony. I will give you one last shot and it’s not a threat. (multiple messages) Sep 25, 2016.	X	X	

EXHIBIT #	DESCRIPTION	MARKED FOR ID	ADMITTED	NOT ADMITTED
118	118 Answer me I know your getting these – Sep 25, 2016 at 3:21 pm.	X	X	
119	119 I can see your email – Sep. 25, 2016 at 4:16 pm.	X	X	
120	120 Attention required. (Attached video) – Oct 2, 2016 at 4:20 am	X	X	
121	121 Please don't show those emails to anyone – Oct 2, 2016 at 4:28 am	X	X	
122	122 (no subject). "I am not in Tahoe." Oct 17, 2016 at 5:19 pm.	X	X	
123	123 (no subject). Good father. Never punched you. Your not in harms way. Oct 17, 2016 at 7:10 pm	X		
124	124 (no subject) I will never be in court with you. Oct 17, 2016 at 7:20 pm	X	X	
125	125 You can't be this crazy. Have that retard recant statement and just leave. Oct 17, 2016 at 8:18 pm.	X	X	
126	126 Brady. Oct 21, 2016 at 11:23 am.	X	X	
127	Protective Order	X		
128	Redacted Protective Order	X	X	
129	Physical Shotgun	X	X	
130	To-Do List	X	X	
131	"Love" Note	X	X	
132	TTJC Bail Conditions	X		
133	Original Alternative Sentencing Conditions	X		
134	Redacted Alternative Sentencing Conditions	X	X	
135	Audio Recording – Jon Storke Interview of John Dunham on October 24,2016	X		
136	Transcript – Jon Storke Interview of John Dunham on October 24,2016	X		
137	Audio Recording – Jon Storke Interview of John Dunham on October 28,2016	X		
138	Transcript – Jon Storke Interview of John Dunham on October 28,2016	X		
139	Clerk Certification – JAVS TTJC 9/6/2016	X		
140	JAVS TTJC 9/6/2016 (Disc)	X		
141	Clerk Certification – JAVS TTJC 10/25/2016	X		
142	Video – JAVS TTJC 10/25/2016 (Disc)	X		
143	Transcript – Preliminary Hearing 11/22/2016	X		
144	Transcript – Preliminary Hearing 12/08/2016	X		
145	Prescription Pill Bottle	X		
146	DCSO Report for Incident 16SO36015 10/26/16 with additional supplemental narrative attached	X		

STATE'S EXHIBIT LIST

CASE NAME: STATE VS. JOHN FRANCIS DUNHAM
CASE NUMBER: 16-CR-0159
DATE OF HEARING: APRIL 14, 2017
JUDGE: NATHAN TOD YOUNG
DEPT NO: I
ATTORNEY: RIC CASPER, ESQ./KRISTINE BROWN, ESQ.
PURPOSE OF HEARING: SENTENCING

Exhibit #	Description	Marked for ID	Admitted
1	WARRANT FROM GREENE-BERNARD/BOSTON POLICE DEPT.	X	X
2	OFFICER GARCIA INTERVIEW WITH JOHN DUNHAM	X	X
139	Clerk Certification - JAVS TTJC 9/6/2016 ** PREVIOUSLY MARKED AT TRIAL ** LOCATED W/TRIAL EXHIBITS IN VAULT	X	X
140	JAVS TTJC 9/6/2016 (Disc) ** PREVIOUSLY MARKED AT TRIAL ** LOCATED W/TRIAL EXHIBITS IN VAULT	X	X

1 STATE OF NEVADA)

2) ss

3 COUNTY OF DOUGLAS)

4

5 I, BOBBIE R. WILLIAMS, Clerk of the Ninth Judicial
6 District Court, State of Nevada, in and for the said County of
7 Douglas; said Court being a Court of Record, having common law
8 jurisdiction, and a Clerk and a Seal, do hereby certify that
9 the foregoing are the full, true copies of the NOTICE OF
10 APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES;
11 ORDER; DISTRICT COURT MINUTES and EXHIBIT LIST'S in Case Nos.
12 2016-CR-00159, 2016-CR-00173 (STATE V JOHN FRANCIS DUNHAM) and
13 2016-CR-00159BD (JOHN FRANCIS DUNHAM V STATE OF NEVADA).
14

15
16 IN TESTIMONY WHEREOF, I have hereunto set my hand and
17 affixed my Official Seal at Minden, in said County and State
18 this 25th day of January, A.D., 2021.

19

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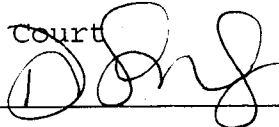
26

27

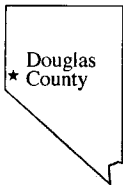
28



Clerk of the Court



Deputy Clerk



BOBBIE R. WILLIAMS
CLERK OF COURT
COURT ADMINISTRATOR
JURY COMMISSIONER

District Court Clerk's Office
(775) 782-9820
Tahoe Justice Court
(775) 586-7200
East Fork Justice Court
(775) 782-9955

Transmittal to the Supreme Court

To: Nevada Supreme Court
210 South Carson Street
Carson City, Nevada 89710

Date: January 25, 2021

Re: District Court Case #: 2016-CR-00159BD

District Court Case Name: JOHN FRANCIS DUNHAM VS. THE STATE OF NEVADA

The following documents are transmitted to the Supreme Court pursuant to the July 22, 1996 revisions to the Nevada Rules of Appellate Procedure. Checked items are **NOT** included in this appeal:

- ☐ Notice of Appeal
- ☐ Case Appeal Statement
- ☒ Certificate That No Transcript Is Being Requested
- ☒ Defendant's Request for Transcript of Proceedings
- ☒ Notice of Posting of Appeal Bond
- ☐ District Court Docket entries
- ☐ Judgment(s) or order(s) appealed from
- ☒ Order (NRAP FORM 4)
- ☐ Notice of entry of the judgment(s) or order(s) appealed from
- ☒ Certification order directing entry of judgment pursuant to NRCP 54(b)
- ☐ District Court Minutes
- ☐ Exhibit Lists
- ☒ Supreme Court filing fee (\$250.00), if applicable

Respectfully,
BOBBIE WILLIAMS
CLERK OF THE COURT

By: 
Deputy Court Clerk