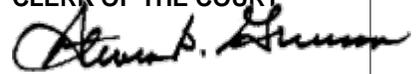


Justice Law Center
1100 S. Tenth Street
Las Vegas, Nevada 89104
(702) 731-0000 f: (702)

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BRET O. WHIPPLE, ESQ.
Nevada Bar No.: 6168
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1100 South 10th Street
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Telephone: (702) 731-0000
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admin@justice-law-center.com
Attorney for Narcus Wesley

Electronically Filed
3/24/2021 6:04 PM
Steven D. Grierson
CLERK OF THE COURT



Electronically Filed
Mar 30 2021 02:16 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

DISTRICT COURT
CLARK COUNTY NEVDA

NARCUS WESLEY,) Case No.: A-20-824615-W
)
Petitioner,) Department No.: XXI
)
v.)
)
STATE OF NEVADA,)
)
Respondent.)

NOTICE OF APPEAL

TO: THE STATE OF NEVADA,
TO: THE CLARK COUNTY DISTRICT ATTORNEY, and to the EIGHTH
JUDICIAL DSITRICT COURT, COUNTY OF CLARK, STATE OF NEVADA.

NOTICE IS HEREBY GIVEN that NARCUS WESLEY, above named Petitioner, hereby
appeals to the SUPREME COURT OF NEVADA from this Court's Findings of Fact and
Conclusions of Law and Order, filed February 23, 2021 and served February 24, 2021, which
denied WESLEY relief on his Post-Conviction Petition for Writ of Habeas Corpus and
associated briefs in support of that Petition.

DATED on this 24th day of March, 2021.

JUSTICE LAW CENTER

/s/ Bret O. Whipple
BRET O. WHIPPLE, ESQ.
Nevada Bar #6168

Justice Law Center
1100 S. Tenth Street
Las Vegas, Nevada 89104
(702) 731-0000 f: (702)

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DECLARAITON OF MAILING

I, an employee of JUSTICE LAW CENTER hereby declares that the above document was mailed, via deposit in the United States mail at Las Vegas Nevada, a copy of the above Notice of Appeal, with postage prepaid to:

CLARK COUNTY DISTRICT ATTRORNEY
200 Lewis Avenue
Las Vegas Nevada 89155

AARON D. FORD
Nevada Attorney General
100 N Carson Street
Carson City, Nevada 89701

DATED on this 24th day of March, 2021.

JUSTICE LAW CENTER

/s/ Bret O. Whipple
BRET O. WHIPPLE, ESQ.
Nevada Bar #6168

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY
CASE NO. A-20-824615-W

Narcus Wesley, Plaintiff(s)
vs.
State of Nevada, Defendant(s)

§
§
§
§
§
§

Location: **Department 21**
 Judicial Officer: **Clark Newberry, Tara**
 Filed on: **11/12/2020**
 Case Number History:
 Cross-Reference Case Number: **A824615**
 Defendant's Scope ID #: **1757866**

CASE INFORMATION

Related Cases
 07C232494-2 (Writ Related Case)

Statistical Closures
 02/23/2021 Other Manner of Disposition

Case Type: **Writ of Habeas Corpus**
 Case Status: **02/23/2021 Closed**

DATE CASE ASSIGNMENT

Current Case Assignment

Case Number A-20-824615-W
 Court Department 21
 Date Assigned 01/04/2021
 Judicial Officer Clark Newberry, Tara

PARTY INFORMATION

Plaintiff Wesley, Narcus S

Lead Attorneys

Pro Se

Defendant State of Nevada

Wolfson, Steven B
Retained
 702-671-2700(W)

DATE EVENTS & ORDERS OF THE COURT INDEX

EVENTS

- 11/12/2020  Inmate Filed - Petition for Writ of Habeas Corpus
 Party: Plaintiff Wesley, Narcus S
Petition for Writ of Habeas Corpus Challenging the Erroneous Jury Instruction Pursuant to NRS 193.165 and NRS 34.360
- 11/12/2020  Order for Petition for Writ of Habeas Corpus
Order for Petition for Writ of Habeas Corpus
- 12/18/2020  Response
State's Response to Defendant's Petition for Writ of Habeas Corpus Challenging the Erroneous Jury Instruction Pursuant to NRS 193.165 and NRS 34.360
- 01/04/2021 Case Reassigned to Department 21
Judicial Reassignment to Judge Tara Clark Newberry
- 01/26/2021  Reply
 Filed by: Plaintiff Wesley, Narcus S
Petitioner's Reply to States Response to Defendant's Petition for Writ of Habeas Corpus Challenging the Erroneous Jury Instruction Pursuant to NRS 193.165 and NRS 34.360

CASE SUMMARY
CASE NO. A-20-824615-W

02/23/2021



Findings of Fact, Conclusions of Law and Order

Filed By: Defendant State of Nevada

Findings of Fact, Conclusions of Law, and Order

02/24/2021



Notice of Entry of Findings of Fact, Conclusions of Law

Filed By: Defendant State of Nevada

Notice of Entry of Findings of Fact, Conclusions of Law and Order

03/24/2021



Notice of Appeal (criminal)

Notice of Appeal

HEARINGS

01/14/2021



Petition for Writ of Habeas Corpus (1:30 PM) (Judicial Officer: Clark Newberry, Tara)

Denied;

Journal Entry Details:

Def. not present, incarcerated in the Nevada Dept. of Corrections. COURT ADVISED, no argument would be allowed and FINDS, the State's response was compelling, it agreed the Petitioner should have submitted all the arguments at the time the original writ was filed; therefore, ORDERED, petition for writ DENIED; DIRECTED, the State to prepare the order. CLERK'S NOTE: The foregoing minutes were distributed via general mail to the following party: Narcus Wesley #1022289 PO Box 650 Indian Springs, NV 89070 (1/21/21 amn).;

A-20-824615-W

DISTRICT COURT CIVIL COVER SHEET

County, Nevada

Dept. 18

Case No. _____
(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): <p style="text-align: center;">Narcus Wesley</p>	Defendant(s) (name/address/phone): <p style="text-align: center;">State of Nevada</p>
Attorney (name/address/phone):	Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)

Civil Case Filing Types

<p style="text-align: center;">Real Property</p> <p>Landlord/Tenant</p> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <p>Title to Property</p> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <p>Other Real Property</p> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<p style="text-align: center;">Negligence</p> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <p style="text-align: center;">Malpractice</p> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<p style="text-align: center;">Torts</p> <p>Other Torts</p> <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
<p style="text-align: center;">Probate</p> <p>Probate (select case type and estate value)</p> <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 <p>Estate Value</p> <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	<p style="text-align: center;">Construction Defect & Contract</p> <p>Construction Defect</p> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <p style="text-align: center;">Contract Case</p> <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	<p style="text-align: center;">Judicial Review/Appeal</p> <p>Judicial Review</p> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <p style="text-align: center;">Nevada State Agency Appeal</p> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <p style="text-align: center;">Appeal Other</p> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<p style="text-align: center;">Civil Writ</p> <p>Civil Writ</p> <input checked="" type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant		<p style="text-align: center;">Other Civil Filing</p> <p>Other Civil Filing</p> <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ <p>Other Civil Filing</p> <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.

11/12/20

Date

Prepared by Clerk

Signature of initiating party or representative

See other side for family-related case filings.

1 **STATEMENT OF THE CASE**

2 On April 20, 2007, the State filed an Information charging Narcus Wesley (hereinafter
3 “Petitioner”) and Delarian Kameron Wilson (hereinafter “Wilson”) with: Count 1 –
4 Conspiracy to Commit Burglary; Count 2 – Conspiracy to Commit Robbery; Counts 3 and 11
5 – Burglary While in Possession of a Deadly Weapon; Counts 4, 6, 7, and 9 – Robbery with
6 Use of A Deadly Weapon; Counts 5 and 8 – Assault with Use of a Deadly Weapon; Count 10
7 – First Degree Kidnapping with Use of a Deadly Weapon; Counts 12-15, and 17 – Sexual
8 Assault with Use of a Deadly Weapon; Count 16 – Coercion with Use of a Deadly Weapon;
9 and Count 18 – Open or Gross Lewdness with Use of a Deadly Weapon. Petitioner’s Co-
10 Defendant, Wilson, later entered into negotiations with the State and plead guilty to two (2)
11 counts of Robbery with Use of a Deadly Weapon and one (1) count of Sexual Assault.

12 Petitioner’s jury trial began on April 9, 2008 and concluded on April 18, 2008. On April
13 10, the State filed the Second Amended Information. The jury convicted Petitioner of all
14 eighteen (18) counts contained in the Second Amended Information.

15 On July 3, 2008, Petitioner was adjudged guilty of all eighteen (18) counts and the
16 district court sentenced Petitioner as follows¹: as to Counts 1 and 18 – twelve (12) months; as
17 to Counts 2, 3, and 11 – twenty-eight (28) to seventy-two (72) months; as to Counts 4, 6, 7,
18 and 9 – sixty (60) to one hundred eighty (180) months, plus an equal and consecutive term of
19 sixty (60) to one hundred eighty (180) months for the use of a deadly weapon; as to Counts 5
20 and 8 – twenty-four (24) to seventy-two (72) months; as to Count 10 – seventy-two (72) to one
21 hundred eighty (180) months, plus an equal and consecutive term of seventy-two (72) to one
22 hundred eighty (180) months for the use of a deadly weapon; as to Counts 12-15, and 17 – ten
23 (10) years to life, plus an equal and consecutive term of ten (10) years to life for the use of a
24 deadly weapon; and as to Count 16 – twenty-four (24) to seventy-two (72) months, plus an
25 equal and consecutive term of twenty-four (24) to seventy-two (72) months for the use of a
26 deadly weapon; all counts to run concurrently. The Judgment of Conviction was filed on July

27 _____
28 ¹ The State filed a Motion to Correct Illegal Sentence as to Counts 12-15, and 17, as the court previously sentenced Petitioner to a prison term of eight (8) to twenty (20) years instead of ten (10) to twenty (20) years as called for by Statute. The court corrected the sentence at a hearing on September 23, 2008, at which Petitioner was present with his counsel. The corrected sentence is listed above.

1 18, 2008, and an Amended Judgment of Conviction reflecting a correction in the sentence to
2 Counts 12-15, and 17 was filed on October 8, 2008. Petitioner filed a Notice of Appeal from
3 the jury verdict, the sentencing, and all pre-trial and post-trial rulings on July 25, 2008.² On
4 March 11, 2010, the Nevada Supreme Court filed an Order affirming Petitioner’s conviction
5 (Case No. 52127). Remittitur was issued on April 8, 2010.

6 On September 9, 2010, Petitioner filed a pro per Petition for Writ of Habeas Corpus, a
7 Motion for Appointment of Counsel, and a Request for an Evidentiary Hearing. On December
8 6, 2010, the State filed its Response. On December 7, 2010, the district court denied the
9 Petition. On December 28, 2010, Petitioner filed a Notice of Appeal from the Order denying
10 the Petition for post-conviction relief. On January 4, 2011, a Findings of Fact, Conclusions of
11 Law, and Order was filed. On March 1, 2011, following an Order of Limited Remand for
12 Appointment of Counsel regarding appointment of counsel for Petitioner’s post-conviction
13 appeal, the district court appointed Mr. Oram. On January 16, 2013, the Nevada Supreme
14 Court issued an Order of Affirmance; remittitur was issued on February 12, 2013.

15 On November 12, 2020, Petitioner filed the instant Petition for Writ of Habeas Corpus
16 Challenging the Erroneous Jury Instruction Pursuant to NRS 193.165 and NRS 34.360[.] The
17 State filed its Response on December 18, 2020. The matter came before the court on January
18 14, 2021, and the court rules as follows:

19 ANALYSIS

20 **I. PETITIONER’S SECOND HABEAS PETITION IS PROCEDURALLY** 21 **BARRED**

22 **A. Petitioner’s Claims are Waived.**

23 As an initial matter, claims other than challenges to the validity of a guilty plea and
24 ineffective assistance of trial and appellate counsel must be raised on direct appeal “or they
25 will be considered waived in subsequent proceedings.” Franklin v. State, 110 Nev. 750, 752,
26 877 P.2d 1058, 1059 (1994) (disapproved on other grounds by Thomas v. State, 115 Nev. 148,

27 ² For purposes of clarification, Petitioner’s trial counsel were Deputy Public Defenders Jeffrey Banks (hereinafter “Mr. Banks”) and
28 Casey Landis (hereinafter “Mr. Landis”). Counsel for Petitioner’s direct appeal were Dan Winder (hereinafter “Mr. Winder”) and Arnold
Weinstock (hereinafter “Mr. Weinstock”).

1 979 P.2d 222 (1999)); see also NRS 34.724(2)(a); NRS 34.810(1)(b)(2); Evans v. State, 117
2 Nev. 609, 646–47, 29 P.3d 498, 523 (2001). Here, Petitioner offered substantive claims in the
3 instant Second Petition that are now waived due to his failure to raise them on direct appeal.
4 Accordingly, his Second Petition is denied.

5 **B. The Instant Second Petition is Untimely.**

6 NRS 34.726(1) states that “unless there is good cause shown for delay, a petition that
7 challenges the validity of a judgment or sentence must be filed within 1 year after entry of the
8 judgment of conviction or, if an appeal has been taken from the judgment, within 1 year after
9 the Supreme Court issues its remittitur.” The one-year time bar is strictly construed and
10 enforced. Gonzales, 118 Nev. 590, 53 P.3d 901. The Nevada Supreme Court has held that the
11 “clear and unambiguous” provisions of NRS 34.726(1) demonstrate an “intolerance toward
12 perpetual filing of petitions for relief, which clogs the court system and undermines the finality
13 of convictions.” Pellegrini v. State, 117 Nev. 860, 875, 34 P.3d 519, 529 (2001). For cases that
14 arose before NRS 34.726 took effect on January 1, 1993, the deadline for filing a petition was
15 extended to January 1, 1994. Id. at 869, 34 P.3d at 525.

16 The one-year time bar of NRS 34.726 is strictly construed. Gonzales v. State, 118 Nev.
17 590, 593–96, 53 P.3d 901, 902–04 (rejected post-conviction petition filed two days late
18 pursuant to the “clear and unambiguous” provisions of NRS 34.726(1)). Further, the District
19 Courts have a duty to consider whether post-conviction claims are procedurally barred. State
20 v. Eighth Judicial District Court (Riker), 121 Nev. 225, 234, 112 P.3d 1070, 1076 (2005). The
21 Nevada Supreme Court has found that “[a]pplication of the statutory procedural default rules
22 to post-conviction habeas petitions is mandatory,” noting:

23 Habeas corpus petitions that are filed many years after conviction
24 are an unreasonable burden on the criminal justice system. The
25 necessity for a workable system dictates that there must exist a time
when a criminal conviction is final.

26 Id. at 231, 112 P.3d at 1074. Additionally, the Court held that procedural bars “cannot be
27 ignored when properly raised by the State.” Id. at 233, 112 P.3d at 1075. The Nevada Supreme
28 Court has granted no discretion to the District Courts regarding whether to apply the statutory

1 procedural bars. Moreover, parties in a post-conviction habeas proceeding cannot stipulate to
2 disregard the procedural default rules. State v. Haberstroh, 119 Nev. 173, 180, 69 P.3d 676,
3 681 (2003).

4 Here, the Judgment of Conviction was filed on July 18, 2008, and an Amended
5 Judgment of Conviction was filed on October 8, 2008. On March 11, 2010, the Nevada
6 Supreme Court filed an Order affirming Petitioner’s conviction; remittitur was issued on April
7 8, 2010. Accordingly, Petitioner had until April 8, 2011 to file a Petition. The instant Petition
8 was not filed until November 12, 2020 – over nine (9) years after the deadline. Therefore,
9 absent a showing of good cause and prejudice, the instant Second Petition must be denied as
10 untimely.

11 **C. The Instant Second Petition is Successive and/or an Abuse of the Writ.**

12 Under NRS 34.810(2) “[a] second or successive petition must be dismissed if the judge
13 or justice determines that it fails to allege new or different grounds for relief and that the prior
14 determination was on the merits or, if new and different grounds are alleged, the judge or
15 justice finds that the failure of the petitioner to assert those grounds in a prior petition
16 constituted an abuse of the writ.” Second or successive petitions will only be decided on the
17 merits if the petitioner can show good cause and prejudice. NRS 34.810(3); Lozada v. State,
18 110 Nev. 349, 358, 871 P.2d 944, 950 (1994). The Nevada Supreme Court has stated: “Without
19 such limitations on the availability of post-conviction remedies, prisoners could petition for
20 relief in perpetuity and thus abuse post-conviction remedies. In addition, meritless, successive
21 and untimely petitions clog the court system and undermine the finality of convictions.”
22 Lozada, 110 Nev. at 358, 871 P.2d at 950. The Nevada Supreme Court recognizes that
23 “[u]nlike initial petitions which certainly require a careful review of the record, successive
24 petitions may be dismissed based solely on the face of the petition.” Ford v. Warden, 111 Nev.
25 872, 882, 901 P.2d 123, 129 (1995). In other words, if the claim or allegation was previously
26 available with reasonable diligence, it is an abuse of the writ to wait to assert it in a later
27 petition. McClesky v. Zant, 499 U.S. 467, 497–98 (1991). Application of NRS 34.810(2) is
28 mandatory. See Riker, 121 Nev. at 231, 112 P.3d at 1074.

1 Here, Petitioner previously filed a Petition on September 9, 2010. To the extent that any
2 claims raised were raised previously and denied on the merits, said claims are successive and
3 would be governed by *res judicata* and/or law of the case.³ To the extent that Petitioner is
4 raising new claims, this is an abuse of the writ, as the claims *could* have been raised in the
5 previous Petition. Moreover, this court finds that Petitioner *should* have submitted all the
6 arguments at the time the original writ was filed. Therefore, absent a showing of good cause
7 and prejudice, Petitioner’s claims are procedurally barred and must be denied.

8 **II. PETITIONER HAS FAILED TO DEMONSTRATE GOOD CAUSE AND**
9 **PREJUDICE**

10 A showing of good cause and prejudice may overcome procedural bars. To show good
11 cause for delay under NRS 34.726(1), a petitioner must demonstrate the following: (1) “[t]hat
12 the delay is not the fault of the petitioner” and (2) that the petitioner will be “unduly
13 prejudice[d]” if the petition is dismissed as untimely. See NRS 34.726(1).

14 “To establish good cause, appellants must show that an impediment external to the
15 defense prevented their compliance with the applicable procedural rule. A qualifying
16 impediment might be shown where the factual or legal basis for a claim was not reasonably
17 available at the time of default.” Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003)
18 Moreover, “appellants cannot attempt to manufacture good cause[.]” Id. at 621, 81 P.3d at 526;
19 see also Hathaway v. State, 119 Nev. 248, 252–53, 71 P.3d 503, 506–07 (2003) (stating that a
20 claim reasonably available to the petitioner during the statutory time period did not constitute
21 good cause to excuse a delay in filing).

22 In addition to establishing good cause, a petitioner must also show actual prejudice
23 resulting from the errors of which he complains. In other words, in order to establish prejudice,
24 the defendant must show “not merely that the errors of [the proceedings] created possibility
25 of prejudice, but that they worked to his actual and substantial disadvantage, in affecting the
26 state proceedings with error of constitutional dimensions.” Hogan v. Warden, 109 Nev. 952,

27
28 ³ See Exec. Mgmt. v. Tigor Titles Ins. Co., 114 Nev. 823, 834, 963 P.2d 465, 473 (1998); Sealfon v. United States, 332 U.S. 575, 578,
68 S. Ct. 237, 239 (1948); Hall v. State, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975).

1 960, 860 P.2d 710, 716 (1993) (quoting United States v. Frady, 456 U.S. 152, 170, 102 S. Ct.
2 1584, 1596 (1982)). To find good cause there must be a “substantial reason; one that affords a
3 legal excuse.” Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (quoting Colley
4 v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)).

5 Moreover, claims asserted in a petition for post-conviction relief must be supported
6 with specific factual allegations, which if true, would entitle the petitioner to relief. Hargrove,
7 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and “naked” allegations are not
8 sufficient, nor are those belied and repelled by the record. Id.

9 Here, Petitioner failed to make any claim that there is good cause to overcome the
10 procedural time bars, nor can he manufacture good cause. The factual and legal basis of his
11 claims were always reasonably available to him since the filing of the Amended Judgment of
12 Conviction. Additionally, Petitioner cannot demonstrate actual prejudice as there were no
13 errors based upon the following reasons:

14 First, Petitioner claims there was insufficient evidence to support a finding that a
15 firearm was used in the commission of the crimes charged. Petition at 1–2. Specifically,
16 Petitioner claims that “the State failed to establish that the object portrayed as a gun that was
17 not produced at trial could fire a projectile by force of an explosion or combustion...” Petition
18 at 2. Second, Petitioner claimed that the district court erred by instructing the jury that “a
19 firearm is a deadly weapon and proof of its deadly capabilities is not required.” Petition at 3–
20 4. Petitioner’s claims are meritless.

21 According to NRS 193.165, a deadly weapon is:

22 (a) Any instrument which, if used in the ordinary manner
23 contemplated by its design and construction, will or is likely to cause
substantial bodily harm or death;

24 (b) Any weapon, device, instrument, material or substance which,
25 under the circumstances in which it is used, attempted to be used or
26 threatened to be used, is readily capable of causing substantial bodily
harm or death; or

27 (c) A dangerous or deadly weapon specifically described in NRS
202.255, 202.265, 202.290, 202.320 or 202.350.

28 //

1 Here, the statute is clear that the State needed to only show one (1) of the three (3)
2 lineated definitions of a deadly weapon. Regardless, Nevada case law is clear that a firearm is
3 a deadly weapon. According to Stalley v. State,

4 By the words ‘firearm or other deadly weapon,’ the legislature has
5 declared that a firearm is a deadly weapon within the contemplation
6 of the statute. *Proof of its deadly capabilities is not required.* To
7 require such proof would frustrate the legislative purpose to deter
8 crime by providing a greater penalty when a firearm is used in the
9 commission of a public offense.

10 91 Nev. 671, 676, 541 P.2d 658, 661–62 (1975) (emphasis added). Moreover, “whether the
11 gun was actually loaded and capable of firing bullets in a deadly fashion is of no consequence
12 in determining whether it is a deadly weapon.” Barnhart v. State, 122 Nev. 301, 304–05, 130
13 P.3d 650, 652 (2006). To the extent that Petitioner is claiming there was no proof that a firearm
14 was used in this case, his claim also fails. The victims testified repeatedly that Petitioner had
15 a gun and even threatened to shoot them. See Transcript of Proceedings - Jury Trial, April 9,
16 10, and 11, 2008 at 650–51, 657–58, 668, 726. For these reasons, Petitioner cannot establish
17 prejudice as there was no error.

18 **ORDER**

19 THEREFORE, **IT IS HEREBY ORDERED** that the Petition for Post-Conviction
20 Relief shall be and it is denied.

21 DATED this ____ day of February, 2021.

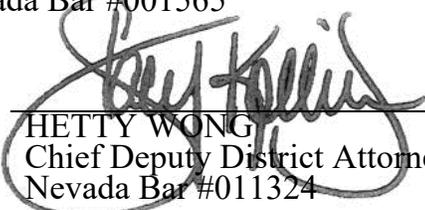
Dated this 23rd day of February, 2021



22 DISTRICT JUDGE

23 DBB ED4 558B A260
24 Tara Clark Newberry
25 District Court Judge

26 STEVEN B. WOLFSON
27 Clark County District Attorney
28 Nevada Bar #001565

29 BY  for
30 HETTY WONG
31 Chief Deputy District Attorney
32 Nevada Bar #011324

33 hjc/SVU

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Narcus Wesley, Plaintiff(s)

CASE NO: A-20-824615-W

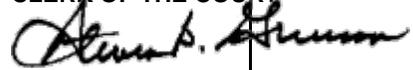
7 vs.

DEPT. NO. Department 21

8 State of Nevada, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 Electronic service was attempted through the Eighth Judicial District Court's
12 electronic filing system, but there were no registered users on the case. The filer has been
13 notified to serve all parties by traditional means.
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1 NEFF

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

4 NARCUS WESLEY,

5
6 Petitioner,

Case No: A-20-824615-W

Dept No: XXI

7 vs.

8 STATE OF NEVADA,

9 Respondent,

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

10
11 **PLEASE TAKE NOTICE** that on February 23, 2021, 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 February 24, 2021.

16 STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

17
18
19 CERTIFICATE OF E-SERVICE / MAILING

20 I hereby certify that on this 24 day of February 2021, I served a copy of this Notice of Entry on the
21 following:

22 By e-mail:
Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

23
24 The United States mail addressed as follows:
Narcus Wesley # 1022289
25 P.O. Box 650
Indian Springs, NV 89070

26
27 /s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

FFCO
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #1565
JOHN NIMAN
Deputy District Attorney
Nevada Bar #14408
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
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Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

NARCUS WESLEY,
#1022289
Defendant.

CASE NO: **A-20-824615-W**
07C232494-2
DEPT NO: **XXI**

FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER

DATE OF HEARING: **JANUARY 14, 2021**
TIME OF HEARING: **1:30 PM**

THIS CAUSE having presented before the HONORABLE CLARK NEWBERRY,
District Judge, on the 14th day of January, 2021; Petitioner not present, proceeding IN
PROPER PERSON; Respondent represented by STEVEN B. WOLFSON, Clark County
District Attorney, by and through HETTY WONG, Chief Deputy District Attorney; and
having considered the matter, including briefs, transcripts, arguments of counsel, and
documents on file herein, the Court makes the following Findings of Fact and Conclusions of
Law:

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1 **STATEMENT OF THE CASE**

2 On April 20, 2007, the State filed an Information charging Narcus Wesley (hereinafter
3 “Petitioner”) and Delarian Kameron Wilson (hereinafter “Wilson”) with: Count 1 –
4 Conspiracy to Commit Burglary; Count 2 – Conspiracy to Commit Robbery; Counts 3 and 11
5 – Burglary While in Possession of a Deadly Weapon; Counts 4, 6, 7, and 9 – Robbery with
6 Use of A Deadly Weapon; Counts 5 and 8 – Assault with Use of a Deadly Weapon; Count 10
7 – First Degree Kidnapping with Use of a Deadly Weapon; Counts 12-15, and 17 – Sexual
8 Assault with Use of a Deadly Weapon; Count 16 – Coercion with Use of a Deadly Weapon;
9 and Count 18 – Open or Gross Lewdness with Use of a Deadly Weapon. Petitioner’s Co-
10 Defendant, Wilson, later entered into negotiations with the State and plead guilty to two (2)
11 counts of Robbery with Use of a Deadly Weapon and one (1) count of Sexual Assault.

12 Petitioner’s jury trial began on April 9, 2008 and concluded on April 18, 2008. On April
13 10, the State filed the Second Amended Information. The jury convicted Petitioner of all
14 eighteen (18) counts contained in the Second Amended Information.

15 On July 3, 2008, Petitioner was adjudged guilty of all eighteen (18) counts and the
16 district court sentenced Petitioner as follows¹: as to Counts 1 and 18 – twelve (12) months; as
17 to Counts 2, 3, and 11 – twenty-eight (28) to seventy-two (72) months; as to Counts 4, 6, 7,
18 and 9 – sixty (60) to one hundred eighty (180) months, plus an equal and consecutive term of
19 sixty (60) to one hundred eighty (180) months for the use of a deadly weapon; as to Counts 5
20 and 8 – twenty-four (24) to seventy-two (72) months; as to Count 10 – seventy-two (72) to one
21 hundred eighty (180) months, plus an equal and consecutive term of seventy-two (72) to one
22 hundred eighty (180) months for the use of a deadly weapon; as to Counts 12-15, and 17 – ten
23 (10) years to life, plus an equal and consecutive term of ten (10) years to life for the use of a
24 deadly weapon; and as to Count 16 – twenty-four (24) to seventy-two (72) months, plus an
25 equal and consecutive term of twenty-four (24) to seventy-two (72) months for the use of a
26 deadly weapon; all counts to run concurrently. The Judgment of Conviction was filed on July

27 _____
28 ¹ The State filed a Motion to Correct Illegal Sentence as to Counts 12-15, and 17, as the court previously sentenced Petitioner to a prison term of eight (8) to twenty (20) years instead of ten (10) to twenty (20) years as called for by Statute. The court corrected the sentence at a hearing on September 23, 2008, at which Petitioner was present with his counsel. The corrected sentence is listed above.

1 18, 2008, and an Amended Judgment of Conviction reflecting a correction in the sentence to
2 Counts 12-15, and 17 was filed on October 8, 2008. Petitioner filed a Notice of Appeal from
3 the jury verdict, the sentencing, and all pre-trial and post-trial rulings on July 25, 2008.² On
4 March 11, 2010, the Nevada Supreme Court filed an Order affirming Petitioner’s conviction
5 (Case No. 52127). Remittitur was issued on April 8, 2010.

6 On September 9, 2010, Petitioner filed a pro per Petition for Writ of Habeas Corpus, a
7 Motion for Appointment of Counsel, and a Request for an Evidentiary Hearing. On December
8 6, 2010, the State filed its Response. On December 7, 2010, the district court denied the
9 Petition. On December 28, 2010, Petitioner filed a Notice of Appeal from the Order denying
10 the Petition for post-conviction relief. On January 4, 2011, a Findings of Fact, Conclusions of
11 Law, and Order was filed. On March 1, 2011, following an Order of Limited Remand for
12 Appointment of Counsel regarding appointment of counsel for Petitioner’s post-conviction
13 appeal, the district court appointed Mr. Oram. On January 16, 2013, the Nevada Supreme
14 Court issued an Order of Affirmance; remittitur was issued on February 12, 2013.

15 On November 12, 2020, Petitioner filed the instant Petition for Writ of Habeas Corpus
16 Challenging the Erroneous Jury Instruction Pursuant to NRS 193.165 and NRS 34.360[.] The
17 State filed its Response on December 18, 2020. The matter came before the court on January
18 14, 2021, and the court rules as follows:

19 ANALYSIS

20 **I. PETITIONER’S SECOND HABEAS PETITION IS PROCEDURALLY** 21 **BARRED**

22 **A. Petitioner’s Claims are Waived.**

23 As an initial matter, claims other than challenges to the validity of a guilty plea and
24 ineffective assistance of trial and appellate counsel must be raised on direct appeal “or they
25 will be considered waived in subsequent proceedings.” Franklin v. State, 110 Nev. 750, 752,
26 877 P.2d 1058, 1059 (1994) (disapproved on other grounds by Thomas v. State, 115 Nev. 148,

27 _____
28 ² For purposes of clarification, Petitioner’s trial counsel were Deputy Public Defenders Jeffrey Banks (hereinafter “Mr. Banks”) and Casey Landis (hereinafter “Mr. Landis”). Counsel for Petitioner’s direct appeal were Dan Winder (hereinafter “Mr. Winder”) and Arnold Weinstock (hereinafter “Mr. Weinstock”).

1 979 P.2d 222 (1999)); see also NRS 34.724(2)(a); NRS 34.810(1)(b)(2); Evans v. State, 117
2 Nev. 609, 646–47, 29 P.3d 498, 523 (2001). Here, Petitioner offered substantive claims in the
3 instant Second Petition that are now waived due to his failure to raise them on direct appeal.
4 Accordingly, his Second Petition is denied.

5 **B. The Instant Second Petition is Untimely.**

6 NRS 34.726(1) states that “unless there is good cause shown for delay, a petition that
7 challenges the validity of a judgment or sentence must be filed within 1 year after entry of the
8 judgment of conviction or, if an appeal has been taken from the judgment, within 1 year after
9 the Supreme Court issues its remittitur.” The one-year time bar is strictly construed and
10 enforced. Gonzales, 118 Nev. 590, 53 P.3d 901. The Nevada Supreme Court has held that the
11 “clear and unambiguous” provisions of NRS 34.726(1) demonstrate an “intolerance toward
12 perpetual filing of petitions for relief, which clogs the court system and undermines the finality
13 of convictions.” Pellegrini v. State, 117 Nev. 860, 875, 34 P.3d 519, 529 (2001). For cases that
14 arose before NRS 34.726 took effect on January 1, 1993, the deadline for filing a petition was
15 extended to January 1, 1994. Id. at 869, 34 P.3d at 525.

16 The one-year time bar of NRS 34.726 is strictly construed. Gonzales v. State, 118 Nev.
17 590, 593–96, 53 P.3d 901, 902–04 (rejected post-conviction petition filed two days late
18 pursuant to the “clear and unambiguous” provisions of NRS 34.726(1)). Further, the District
19 Courts have a duty to consider whether post-conviction claims are procedurally barred. State
20 v. Eighth Judicial District Court (Riker), 121 Nev. 225, 234, 112 P.3d 1070, 1076 (2005). The
21 Nevada Supreme Court has found that “[a]pplication of the statutory procedural default rules
22 to post-conviction habeas petitions is mandatory,” noting:

23 Habeas corpus petitions that are filed many years after conviction
24 are an unreasonable burden on the criminal justice system. The
25 necessity for a workable system dictates that there must exist a time
when a criminal conviction is final.

26 Id. at 231, 112 P.3d at 1074. Additionally, the Court held that procedural bars “cannot be
27 ignored when properly raised by the State.” Id. at 233, 112 P.3d at 1075. The Nevada Supreme
28 Court has granted no discretion to the District Courts regarding whether to apply the statutory

1 procedural bars. Moreover, parties in a post-conviction habeas proceeding cannot stipulate to
2 disregard the procedural default rules. State v. Haberstroh, 119 Nev. 173, 180, 69 P.3d 676,
3 681 (2003).

4 Here, the Judgment of Conviction was filed on July 18, 2008, and an Amended
5 Judgment of Conviction was filed on October 8, 2008. On March 11, 2010, the Nevada
6 Supreme Court filed an Order affirming Petitioner’s conviction; remittitur was issued on April
7 8, 2010. Accordingly, Petitioner had until April 8, 2011 to file a Petition. The instant Petition
8 was not filed until November 12, 2020 – over nine (9) years after the deadline. Therefore,
9 absent a showing of good cause and prejudice, the instant Second Petition must be denied as
10 untimely.

11 **C. The Instant Second Petition is Successive and/or an Abuse of the Writ.**

12 Under NRS 34.810(2) “[a] second or successive petition must be dismissed if the judge
13 or justice determines that it fails to allege new or different grounds for relief and that the prior
14 determination was on the merits or, if new and different grounds are alleged, the judge or
15 justice finds that the failure of the petitioner to assert those grounds in a prior petition
16 constituted an abuse of the writ.” Second or successive petitions will only be decided on the
17 merits if the petitioner can show good cause and prejudice. NRS 34.810(3); Lozada v. State,
18 110 Nev. 349, 358, 871 P.2d 944, 950 (1994). The Nevada Supreme Court has stated: “Without
19 such limitations on the availability of post-conviction remedies, prisoners could petition for
20 relief in perpetuity and thus abuse post-conviction remedies. In addition, meritless, successive
21 and untimely petitions clog the court system and undermine the finality of convictions.”
22 Lozada, 110 Nev. at 358, 871 P.2d at 950. The Nevada Supreme Court recognizes that
23 “[u]nlike initial petitions which certainly require a careful review of the record, successive
24 petitions may be dismissed based solely on the face of the petition.” Ford v. Warden, 111 Nev.
25 872, 882, 901 P.2d 123, 129 (1995). In other words, if the claim or allegation was previously
26 available with reasonable diligence, it is an abuse of the writ to wait to assert it in a later
27 petition. McClesky v. Zant, 499 U.S. 467, 497–98 (1991). Application of NRS 34.810(2) is
28 mandatory. See Riker, 121 Nev. at 231, 112 P.3d at 1074.

1 Here, Petitioner previously filed a Petition on September 9, 2010. To the extent that any
2 claims raised were raised previously and denied on the merits, said claims are successive and
3 would be governed by *res judicata* and/or law of the case.³ To the extent that Petitioner is
4 raising new claims, this is an abuse of the writ, as the claims *could* have been raised in the
5 previous Petition. Moreover, this court finds that Petitioner *should* have submitted all the
6 arguments at the time the original writ was filed. Therefore, absent a showing of good cause
7 and prejudice, Petitioner’s claims are procedurally barred and must be denied.

8 **II. PETITIONER HAS FAILED TO DEMONSTRATE GOOD CAUSE AND**
9 **PREJUDICE**

10 A showing of good cause and prejudice may overcome procedural bars. To show good
11 cause for delay under NRS 34.726(1), a petitioner must demonstrate the following: (1) “[t]hat
12 the delay is not the fault of the petitioner” and (2) that the petitioner will be “unduly
13 prejudice[d]” if the petition is dismissed as untimely. See NRS 34.726(1).

14 “To establish good cause, appellants must show that an impediment external to the
15 defense prevented their compliance with the applicable procedural rule. A qualifying
16 impediment might be shown where the factual or legal basis for a claim was not reasonably
17 available at the time of default.” Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003)
18 Moreover, “appellants cannot attempt to manufacture good cause[.]” Id. at 621, 81 P.3d at 526;
19 see also Hathaway v. State, 119 Nev. 248, 252–53, 71 P.3d 503, 506–07 (2003) (stating that a
20 claim reasonably available to the petitioner during the statutory time period did not constitute
21 good cause to excuse a delay in filing).

22 In addition to establishing good cause, a petitioner must also show actual prejudice
23 resulting from the errors of which he complains. In other words, in order to establish prejudice,
24 the defendant must show “not merely that the errors of [the proceedings] created possibility
25 of prejudice, but that they worked to his actual and substantial disadvantage, in affecting the
26 state proceedings with error of constitutional dimensions.” Hogan v. Warden, 109 Nev. 952,

27
28 ³ See Exec. Mgmt. v. Tigor Titles Ins. Co., 114 Nev. 823, 834, 963 P.2d 465, 473 (1998); Sealfon v. United States, 332 U.S. 575, 578,
68 S. Ct. 237, 239 (1948); Hall v. State, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975).

1 960, 860 P.2d 710, 716 (1993) (quoting United States v. Frady, 456 U.S. 152, 170, 102 S. Ct.
2 1584, 1596 (1982)). To find good cause there must be a “substantial reason; one that affords a
3 legal excuse.” Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (quoting Colley
4 v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)).

5 Moreover, claims asserted in a petition for post-conviction relief must be supported
6 with specific factual allegations, which if true, would entitle the petitioner to relief. Hargrove,
7 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and “naked” allegations are not
8 sufficient, nor are those belied and repelled by the record. Id.

9 Here, Petitioner failed to make any claim that there is good cause to overcome the
10 procedural time bars, nor can he manufacture good cause. The factual and legal basis of his
11 claims were always reasonably available to him since the filing of the Amended Judgment of
12 Conviction. Additionally, Petitioner cannot demonstrate actual prejudice as there were no
13 errors based upon the following reasons:

14 First, Petitioner claims there was insufficient evidence to support a finding that a
15 firearm was used in the commission of the crimes charged. Petition at 1–2. Specifically,
16 Petitioner claims that “the State failed to establish that the object portrayed as a gun that was
17 not produced at trial could fire a projectile by force of an explosion or combustion...” Petition
18 at 2. Second, Petitioner claimed that the district court erred by instructing the jury that “a
19 firearm is a deadly weapon and proof of its deadly capabilities is not required.” Petition at 3–
20 4. Petitioner’s claims are meritless.

21 According to NRS 193.165, a deadly weapon is:

22 (a) Any instrument which, if used in the ordinary manner
23 contemplated by its design and construction, will or is likely to cause
substantial bodily harm or death;

24 (b) Any weapon, device, instrument, material or substance which,
25 under the circumstances in which it is used, attempted to be used or
26 threatened to be used, is readily capable of causing substantial bodily
harm or death; or

27 (c) A dangerous or deadly weapon specifically described in NRS
202.255, 202.265, 202.290, 202.320 or 202.350.

28 //

1 Here, the statute is clear that the State needed to only show one (1) of the three (3)
2 lineated definitions of a deadly weapon. Regardless, Nevada case law is clear that a firearm is
3 a deadly weapon. According to Stalley v. State,

4 By the words ‘firearm or other deadly weapon,’ the legislature has
5 declared that a firearm is a deadly weapon within the contemplation
6 of the statute. *Proof of its deadly capabilities is not required.* To
7 require such proof would frustrate the legislative purpose to deter
8 crime by providing a greater penalty when a firearm is used in the
9 commission of a public offense.

10 91 Nev. 671, 676, 541 P.2d 658, 661–62 (1975) (emphasis added). Moreover, “whether the
11 gun was actually loaded and capable of firing bullets in a deadly fashion is of no consequence
12 in determining whether it is a deadly weapon.” Barnhart v. State, 122 Nev. 301, 304–05, 130
13 P.3d 650, 652 (2006). To the extent that Petitioner is claiming there was no proof that a firearm
14 was used in this case, his claim also fails. The victims testified repeatedly that Petitioner had
15 a gun and even threatened to shoot them. See Transcript of Proceedings - Jury Trial, April 9,
16 10, and 11, 2008 at 650–51, 657–58, 668, 726. For these reasons, Petitioner cannot establish
17 prejudice as there was no error.

18 **ORDER**

19 THEREFORE, **IT IS HEREBY ORDERED** that the Petition for Post-Conviction
20 Relief shall be and it is denied.

21 DATED this ____ day of February, 2021.

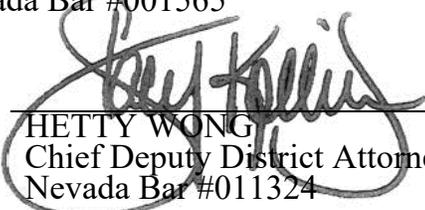
Dated this 23rd day of February, 2021



22 DISTRICT JUDGE

23 DBB ED4 558B A260
24 Tara Clark Newberry
25 District Court Judge

26 STEVEN B. WOLFSON
27 Clark County District Attorney
28 Nevada Bar #001565

29 BY  for
30 HETTY WONG
31 Chief Deputy District Attorney
32 Nevada Bar #011324

33 hjc/SVU

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Narcus Wesley, Plaintiff(s)

CASE NO: A-20-824615-W

7 vs.

DEPT. NO. Department 21

8 State of Nevada, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 Electronic service was attempted through the Eighth Judicial District Court's
12 electronic filing system, but there were no registered users on the case. The filer has been
13 notified to serve all parties by traditional means.
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A-20-824615-W Narcus Wesley, Plaintiff(s)
vs.
State of Nevada, Defendant(s)

January 14, 2021 01:30 PM Petition for Writ of Habeas Corpus

HEARD BY: Clark Newberry, Tara COURTROOM: RJC Courtroom 16C

COURT CLERK: Natali, Andrea

RECORDER: Page, Robin

REPORTER:

PARTIES PRESENT:

Hetty O. Wong Attorney for Defendant

JOURNAL ENTRIES

Deft. not present, incarcerated in the Nevada Dept. of Corrections.

COURT ADVISED, no argument would be allowed and FINDS, the State's response was compelling, it agreed the Petitioner should have submitted all the arguments at the time the original writ was filed; therefore, ORDERED, petition for writ DENIED; DIRECTED, the State to prepare the order.

CLERK'S NOTE: The foregoing minutes were distributed via general mail to the following party:

Narcus Wesley #1022289
PO Box 650
Indian Springs, NV 89070
(1/21/21 amn).



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

BRET O. WHIPPLE, ESQ.
1100 S. 10TH ST.
LAS VEGAS, NV 89104

DATE: March 25, 2021
CASE: A-20-824615-W

RE CASE: NARCUS WESLEY vs. STATE OF NEVADA

NOTICE OF APPEAL FILED: March 24, 2021

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
 - *Previously paid Bonds are not transferable between appeals without an order of the District Court.*
- Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- Order
- Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

*****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

Certification of Copy

State of Nevada }
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; 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; NOTICE OF DEFICIENCY

NARCUS WESLEY,

Plaintiff(s),

vs.

STATE OF NEVADA,

Defendant(s),

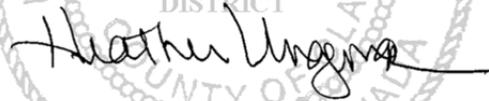
Case No: A-20-824615-W

Dept No: XXI

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 25 day of March 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

