

Electronically Filed  
Apr 21 2021 02:17 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

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

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

8 \* \* \* \* \*

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

CASE NO. C-12-286357-1  
DEPT. NO. 28

15 **NOTICE OF APPEAL**

16 NOTICE is hereby given that Defendant, TROY WHITE, hereby appeals to the Supreme  
17 Court of the State of Nevada from the denial of his Petition for Writ of Habeas Corpus (Post-  
18 Conviction), which was denied by the Honorable Ronald J. Israel on March 04, 2021. The order  
19 was entered April 13, 2021.

20 DATED this 16<sup>th</sup> day of April, 2021.

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

25 Attorney for Defendant  
26 TROY WHITE

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

**CERTIFICATE OF MAILING**

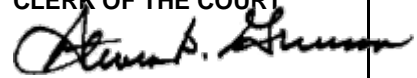
I hereby certify that I am an employee of CHRISTOPHER R ORAM and that on the 16<sup>th</sup> day of April, 2021, I did deposit in the United States Post Office, at Las Vegas, Nevada, in a sealed envelope with postage fully pre-paid thereon, a true and correct copy of the above and foregoing **NOTICE OF APPEAL**, addressed to:

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

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

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

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



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

Attorney for Defendant  
TROY WHITE

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

\* \* \* \* \*

THE STATE OF NEVADA,  
Plaintiff,

vs.

TROY WHITE,  
Defendant.

CASE NO. C-12-286357-1  
DEPT. NO. 28

**CASE APPEAL STATEMENT**

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

- 1 6. Appellant was represented by retained counsel in the district court.
- 2 7. Appellant is currently represented by retained counsel on appeal.
- 3 8. Appellant has not been granted leave to proceed in form pauperis as of this date.
- 4 9. On March 04, 2021 Mr. White's Petition for Writ of Habeas Corpus (post-conviction) was  
5 denied by the Honorable Ronald J. Israel. The order was entered April 13, 2021.

6 DATED this 16<sup>th</sup> day of April, 2021.

7  
8 Respectfully submitted by:

9 /s/ Christopher R. Oram, Esq.  
10 CHRISTOPHER R. ORAM, ESQ.  
11 Nevada Bar No. 004349  
12 520 S. Fourth Street, 2nd Floor  
13 Las Vegas, Nevada 89101  
14 (702) 384-5563

15 Attorney for Defendant  
16 TROY WHITE  
17  
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 16<sup>th</sup> day of April, 2021, I served a true and correct copy of the  
3 foregoing document entitled **CASE APPEAL STATEMENT** to the Clark County District  
4 Attorney's Office by sending a copy via electronic mail to:

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

8 I further certify that on the 16<sup>th</sup> day of April, 2021, I did deposit in the United States Post  
9 Office, at Las Vegas, Nevada, in a sealed envelope with postage fully pre-paid thereon, a true and  
10 correct copy of the above and foregoing **CASE APPEAL STATEMENT** addressed to:

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

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

20 BY:

21 /s/ Nancy Medina .  
22 An employee of Christopher R. Oram, Esq.  
23  
24  
25  
26  
27  
28

EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

**CASE NO. C-12-286357-1**

**State of Nevada  
vs  
Troy White**

§ Location: **Department 28**  
§ Judicial Officer: **Israel, Ronald J.**  
§ Filed on: **12/24/2012**  
§ Case Number History:  
§ Cross-Reference Case **C286357**  
§ Number:  
§ Defendant's Scope ID #: **1383512**  
§ ITAG Booking Number: **1200046243**  
§ ITAG Case ID: **1413032**  
§ Lower Court Case # Root: **12F12500**  
§ Lower Court Case Number: **12F12500X**  
§ Supreme Court No.: **62890**  
§ **68632**

**CASE INFORMATION**

Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. BURGLARY WHILE IN POSSESSION OF FIREARM OR DEADLY WEAPON	205.060.4	F	07/27/2012	Case Status:	<b>07/24/2015 Closed</b>
1. SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON	200.030.2	F	07/27/2012		
2. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON	200.010	F	07/27/2012		
<i>Filed As:</i> MURDER, FIRST DEGREE - WITH THE USE OF A DEADLY WEAPON OR TEAR GAS	F		12/27/2012		
3. CARRYING CONCEALED FIREARM OR OTHER DEADLY WEAPON	202.350.1d1	F	07/27/2012		
<i>Filed As:</i> ATTEMPTED MURDER - WITH THE USE OF A DEADLY WEAPON OR TEAR GAS	F		12/27/2012		
4. CHILD ABUSE, NEGLECT, OR ENDANGERMENT	200.508.1b1	F	07/27/2012		
<i>Filed As:</i> CARRY CONCEALED EXPLOSIVE, FIREARM OR OTHER DANGEROUS WEAPON WITHOUT PERMIT	F		12/27/2012		
5. CHILD ABUSE, NEGLECT, OR ENDANGERMENT	200.508.1b1	F	07/27/2012		
6. CHILD ABUSE, NEGLECT, OR ENDANGERMENT	200.508.1b1	F	07/27/2012		
7. CHILD ABUSE, NEGLECT, OR ENDANGERMENT	200.508.1b1	F	07/27/2012		
8. CHILD ABUSE, NEGLECT, OR ENDANGERMENT	200.508.1b1	F	07/27/2012		
9. CHILD ABUSE OR NEGLECT, FIRST OFFENSE	200.508.1b1	F	07/27/2012		

**Statistical Closures**

07/24/2015 Jury Trial - Conviction - Criminal

**DATE**

**CASE ASSIGNMENT**

**Current Case Assignment**

Case Number C-12-286357-1  
Court Department 28  
Date Assigned 07/02/2018  
Judicial Officer Israel, Ronald J.

**PARTY INFORMATION**

# CASE SUMMARY

## CASE NO. C-12-286357-1

**Defendant**                **White, Troy Richard**

*Lead Attorneys*

**Oram, Christopher R**

*Retained*

7023845563(W)

**Plaintiff**                **State of Nevada**

**Wolfson, Steven B**

702-671-2700(W)

DATE	EVENTS & ORDERS OF THE COURT	INDEX
	<b><u>EVENTS</u></b>	
12/24/2012	 Criminal Bindover	
12/27/2012	 Information	
01/14/2013	 Reporters Transcript <i>Reporter's Transcript of December 12, 2012</i>	
01/24/2013	 Media Request and Order <i>Media Request and Order Allowing Camera Access to Court Proceedings</i>	
02/04/2013	 Petition for Writ of Habeas Corpus	
02/27/2013	 Order Filed By: Defendant White, Troy Richard	
02/28/2013	 Writ of Habeas Corpus	
03/19/2013	 Return to Writ of Habeas Corpus	
03/27/2013	 Notice of Appeal (criminal) <i>Notice of Appeal</i>	
03/27/2013	 Request <i>Request for Rough Draft Transcript</i>	
03/27/2013	 Case Appeal Statement	
04/03/2013	 Reporters Transcript <i>Reporter's Transcript of March 27, 2013</i>	
05/13/2013	 Order Granting <i>Order Granting Defendant's Writ of Habeas Corpus</i>	
06/11/2013	 Order Filed By: Plaintiff State of Nevada <i>Order Scheduling Status Check</i>	
08/08/2014	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed</i>	
02/12/2015	 Notice of Witnesses and/or Expert Witnesses	



**CASE SUMMARY**  
**CASE NO. C-12-286357-1**

*Notice of Witnesses and/or Expert Witnesses [NRS 174.234]*

02/17/2015	 Ex Parte <i>Ex Parte Petition for Certification of Materiality of Witness; and to Secure Attendance of Witness, Pursuant to the Uniform Act to Secure Attendance of witnesses From Without-A-State</i>
02/17/2015	 Certificate <i>Certificate Pursuant to the Uniform Act to Secure Attendance of Witnesses From Without-A-State</i>
02/17/2015	 Order to Release Medical Records <i>Ex Parte Motion and Order Releasing All Medical Records</i>
03/11/2015	 Certificate <i>Certificate Pursuant to the Uniform Act to Secure Attendance of Witness from Without-A-State</i>
03/11/2015	 Ex Parte <i>Ex Parte Petition for Certification of Materiality of Witnesses; and to Secure Attendance of Witness, Pursuant to the Uniform Act to Secure Attendant of Witnesses from Without-A-State</i>
03/23/2015	 Notice of Witnesses and/or Expert Witnesses <i>Defendant's Notice of Witnesses, Pursuant to NRS 174.234</i>
03/24/2015	 Amended Information <i>Amended Information</i>
03/26/2015	 Media Request and Order <i>Media Request And Order Allowing Camera Access To Court Proceedings</i>
04/03/2015	 Notice of Witnesses and/or Expert Witnesses <i>Supplemental Notice of Witnesses and/or Expert Witnesses</i>
04/06/2015	 Amended Information Filed By: Plaintiff State of Nevada <i>Second Amended Information</i>
04/07/2015	 Jury List <i>Jury List</i>
04/08/2015	 Brief <i>State's Bench Brief Regarding the Admissibility of Evidence of Traits of Character of the Victims</i>
04/09/2015	 Supplemental Witness List <i>Second Supplemental Notice of Witnesses and/or Expert Witnesses</i>
04/16/2015	 Amended Jury List <i>Amended Jury List</i>
04/17/2015	 Verdict
04/17/2015	 Jury Instructions
05/27/2015	 PSI



**CASE SUMMARY**  
**CASE NO. C-12-286357-1**

05/27/2015	 PSI - Victim Impact Statements
06/19/2015	 Memorandum <i>State's Sentencing Memorandum</i>
07/16/2015	 Memorandum <i>Sentencing Memorandum</i>
07/17/2015	 Addendum <i>Addendum to Exhibit 5 of the State's Sentencing Memorandum</i>
07/17/2015	 Memorandum <i>Exhibit 5 to State's Sentencing Memorandum</i>
07/22/2015	 Order <i>Order</i>
07/24/2015	 Criminal Order to Statistically Close Case <i>Criminal Order to Statistically Close Case</i>
07/24/2015	 Judgment of Conviction <i>JUDGMENT OF CONVICTION (JURY TRIAL)</i>
08/03/2015	 PSI - Supplemental PSI
08/12/2015	 Notice of Appeal (criminal) <i>Notice of Appeal</i>
08/12/2015	 Case Appeal Statement <i>Case Appeal Statement</i>
09/18/2015	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings Status Check: Trial Setting January 28, 2013</i>
09/18/2015	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings Status Check July 31, 2013</i>
09/18/2015	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings Status Check: Supreme Court Opinion, December 2, 2013 December 2, 2013</i>
09/18/2015	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings Status Check: Supreme Court Opinion March 31, 2014</i>
09/18/2015	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings Status check: Trial Readiness February 23, 2015</i>
09/18/2015	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings Calendar Call March 25, 2015</i>
09/18/2015	 Recorders Transcript of Hearing

# CASE SUMMARY

CASE NO. C-12-286357-1

*Recorder's Transcript of Proceedings Telephone Conference: Trial Setting March 27, 2015*

09/18/2015	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings Telephonic Conference June 23, 2015</i>
09/18/2015	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceedings Sentencing July 20, 2015</i>
09/28/2015	 Recorders Transcript of Hearing <i>Recorder's Transcript of Hearing Re: Arraignment Continued January 9, 2013</i>
10/15/2015	 Reporters Transcript <i>Transcript of Proceedings: Jury Trial - Day 1, April 6, 2015</i>
10/15/2015	 Reporters Transcript <i>Transcript of Proceedings: Jury Trial - Day 2, April 7, 2015</i>
10/15/2015	 Reporters Transcript <i>Transcript of Proceedings: Jury Trial - Day 3 Hearing April 8, 2015</i>
10/15/2015	 Reporters Transcript <i>Transcript of Proceedings: Jury Trial - Day 4, April 9, 2015</i>
10/15/2015	 Reporters Transcript <i>Transcript of Proceedings: Jury Trial - Day 5, April 13, 2015</i>
10/15/2015	 Reporters Transcript <i>Transcript of Proceedings: Jury Trial - Day 6, April 14, 2015</i>
10/15/2015	 Reporters Transcript <i>Transcript of Proceedings: Jury Trial - Day 7, April 16, 2015</i>
10/15/2015	 Reporters Transcript <i>Transcript of Proceedings: Jury Trial - Day 8 April 17, 2015</i>
01/12/2016	 Order for Production of Inmate <i>Order for Production of Inmate</i>
02/05/2016	 Amended Judgment of Conviction <b>AMENDED JUDGMENT OF CONVICTION (JURY TRIAL)</b>
01/02/2017	Case Reassigned to Department 1 <i>Case reassigned from Judge Elizabeth Gonzalez Dept 11</i>
05/25/2017	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed</i>
10/03/2017	 Motion Filed By: Defendant White, Troy Richard <i>Motion to Withdraw Counsel</i>
10/03/2017	 Notice of Motion













# CASE SUMMARY

CASE NO. C-12-286357-1

## Notice of Motion

04/24/2018	 Petition for Writ of Habeas Corpus Filed by: Defendant White, Troy Richard <i>Petition for Writ of Habeas Corpus (Post-Conviction)</i>
05/08/2018	 Motion for Briefing Schedule Filed By: Defendant White, Troy Richard <i>Motion to Place on Calendar to Set Briefing Schedule</i>
07/02/2018	Case Reassigned to Department 28 <i>Reassigned From Judge Cory - Dept 1</i>
08/20/2018	 Motion <i>Motion to place on calendar to extend the time for the filing of the supplemental brief in support of defendant's petition for writ of habeas corpus</i>
10/05/2018	 Order for Production of Inmate <i>Order for Production of Inmate Troy Richard White, BAC #1143868</i>
11/19/2018	 Motion <i>Motion to Place on Calendar to Extend the Time for the Filing of the Supplemental Brief in Support of Defendant's Petition for Writ of Habeas Corpus</i>
12/20/2018	 Supplemental Brief <i>Supplemental Brief In Support Of Defendant's Petition For Writ Of Habeas Corpus (Post-Conviction)</i>
12/20/2018	 Motion <i>Motion For Authorization To Obtain Expert And For Payment Of Fees Incurred Herein</i>
03/26/2019	 Opposition Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Petition for Writ of Habeas Corpus and Motion to Obtain Expert and Payment for Fees</i>
04/24/2019	 Affidavit <i>Financial Affidavit</i>
04/24/2019	 Reply <i>Reply To The State's Response To Defendant's Supplemental Brief In Support Of Petition For Writ Of Habeas Corpus (Post-Conviction)</i>
04/24/2019	 Motion <i>Motion For Authorization To Obtain Investigator And For Payment Of Fees Incurred Herein</i>
05/02/2019	 Opposition Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Successive Motion for An Investigator</i>
06/21/2019	 Order <i>Order Waiving Defendant, Troy White (NDOC #1143868) Presence ar November 25, 2019 Hearing</i>
06/21/2019	 Order <i>Order for Appointment of Investigator and for Payment of Fees Incurred Herein</i>

**CASE SUMMARY**  
**CASE NO. C-12-286357-1**

09/11/2019	 Motion for Order Extending Time Filed by: Defendant White, Troy Richard <i>Motion to Place on Calendar to Extend the Time for the Filing of the Second Supplemental Brief in Support of the Defendant's Petition for Writ of Habeas Corpus</i>
09/11/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
11/25/2019	 Motion Filed By: Defendant White, Troy Richard <i>Motion To Place On Calendar To Extend The Time For The Filing Of The Second Supplemental Brief In Support Of Defendant's Petition For Writ Of Habeas</i>
11/26/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
12/23/2019	 Ex Parte Motion <i>Exparte Motion for Release of Verizon Cell Phone Records</i>
12/23/2019	 Ex Parte Order <i>Exparte Order Granting Exparte Motion for Release of Verizon Cell Phone Records</i>
04/01/2020	 Order for Production of Inmate Party: Plaintiff State of Nevada <i>Order for Production of Inmate</i>
09/03/2020	 Transcript of Proceedings <i>REQUEST FOR TRANSCRIPT OF PROCEEDINGS</i>
09/17/2020	 Recorders Transcript of Hearing <i>Petition for Writ of Habeas Corpus</i>
02/16/2021	 Order for Production of Inmate <i>Order For Production Of Inmate Troy White, BAC #1143868 - March 4, 2021, 1:30 p.m.</i>
03/19/2021	 Order <i>14-Day Expedited Order For Transcript</i>
03/26/2021	 Recorders Transcript of Hearing <i>THURSDAY, MARCH 4, 2021 RECORDER'S TRANSCRIPT OF HEARING PETITION FOR WRIT OF HABEAS CORPUS</i>
04/13/2021	 Findings of Fact, Conclusions of Law and Order <i>Findings Of Fact, Conclusions Of Law, And Order</i>
04/15/2021	 Notice of Entry Filed By: Plaintiff State of Nevada <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
04/16/2021	 Notice of Appeal (criminal) <i>Notice of Appeal</i>

# CASE SUMMARY

CASE NO. C-12-286357-1

04/16/2021



Case Appeal Statement

*Case Appeal Statement*

## **DISPOSITIONS**

03/27/2013

**Disposition** (Judicial Officer: Gonzalez, Elizabeth)

*Writ Granted - charge dismissed.*

1. BURGLARY WHILE IN POSSESSION OF FIREARM OR DEADLY WEAPON

Stricken

PCN: Sequence:

03/24/2015

**Disposition** (Judicial Officer: Gonzalez, Elizabeth)

9. CHILD ABUSE OR NEGLECT, FIRST OFFENSE

Amended Information Filed/Charges Not Addressed

PCN: Sequence:

07/20/2015

**Disposition** (Judicial Officer: Gonzalez, Elizabeth)

2. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

Guilty

PCN: Sequence:

3. CARRYING CONCEALED FIREARM OR OTHER DEADLY WEAPON

Guilty

PCN: Sequence:

4. CHILD ABUSE, NEGLECT, OR ENDANGERMENT

Guilty

PCN: Sequence:

5. CHILD ABUSE, NEGLECT, OR ENDANGERMENT

Guilty

PCN: Sequence:

6. CHILD ABUSE, NEGLECT, OR ENDANGERMENT

Guilty

PCN: Sequence:

7. CHILD ABUSE, NEGLECT, OR ENDANGERMENT

Guilty

PCN: Sequence:

8. CHILD ABUSE, NEGLECT, OR ENDANGERMENT

Guilty

PCN: Sequence:

07/20/2015

**Disposition** (Judicial Officer: Gonzalez, Elizabeth)

1. SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON

Guilty

PCN: Sequence:

07/20/2015

**Adult Adjudication** (Judicial Officer: Gonzalez, Elizabeth)

1. SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON

07/27/2012 (F) 200.030.2 (DC50011)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Life with the possibility of parole after:10 Years

Consecutive Enhancement: Minimum:76 Months, Maximum:192 Months

**CASE SUMMARY**  
**CASE NO. C-12-286357-1**

07/20/2015	<b>Adult Adjudication</b> (Judicial Officer: Gonzalez, Elizabeth) 2. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON 07/27/2012 (F) 200.010 (DC50031) PCN: Sequence:  Sentenced to Nevada Dept. of Corrections Term: Minimum:76 Months, Maximum:192 Months Consecutive Enhancement: Minimum:76 Months, Maximum:192 Months Consecutive: Charge 1
07/20/2015	<b>Adult Adjudication</b> (Judicial Officer: Gonzalez, Elizabeth) 3. CARRYING CONCEALED FIREARM OR OTHER DEADLY WEAPON 07/27/2012 (F) 202.350.1d1 (DC51459) PCN: Sequence:  Sentenced to Nevada Dept. of Corrections Term: Minimum:19 Months, Maximum:48 Months Concurrent: Charge 1 & 2
07/20/2015	<b>Adult Adjudication</b> (Judicial Officer: Gonzalez, Elizabeth) 4. CHILD ABUSE, NEGLECT, OR ENDANGERMENT 07/27/2012 (F) 200.508.1b1 (DC55226) PCN: Sequence:  Sentenced to Nevada Dept. of Corrections Term: Minimum:24 Months, Maximum:60 Months Consecutive: Charge 1 & 2
07/20/2015	<b>Adult Adjudication</b> (Judicial Officer: Gonzalez, Elizabeth) 5. CHILD ABUSE, NEGLECT, OR ENDANGERMENT 07/27/2012 (F) 200.508.1b1 (DC55226) PCN: Sequence:  Sentenced to Nevada Dept. of Corrections Term: Minimum:24 Months, Maximum:60 Months Concurrent: Charge All Other Counts
07/20/2015	<b>Adult Adjudication</b> (Judicial Officer: Gonzalez, Elizabeth) 6. CHILD ABUSE, NEGLECT, OR ENDANGERMENT 07/27/2012 (F) 200.508.1b1 (DC55226) PCN: Sequence:  Sentenced to Nevada Dept. of Corrections Term: Minimum:24 Months, Maximum:60 Months Concurrent: Charge All Other Counts
07/20/2015	<b>Adult Adjudication</b> (Judicial Officer: Gonzalez, Elizabeth) 7. CHILD ABUSE, NEGLECT, OR ENDANGERMENT 07/27/2012 (F) 200.508.1b1 (DC55226) PCN: Sequence:  Sentenced to Nevada Dept. of Corrections Term: Minimum:24 Months, Maximum:60 Months Concurrent: Charge All Other Counts
07/20/2015	<b>Adult Adjudication</b> (Judicial Officer: Gonzalez, Elizabeth) 8. CHILD ABUSE, NEGLECT, OR ENDANGERMENT 07/27/2012 (F) 200.508.1b1 (DC55226) PCN: Sequence:  Sentenced to Nevada Dept. of Corrections

# CASE SUMMARY

CASE NO. C-12-286357-1

Term: Minimum:24 Months, Maximum:60 Months

Credit for Time Served: 1088 Days


## Other Fees

1. , \$335.50

## Fee Totals:

Administrative Assessment Fee	25.00
\$25	
DNA Analysis Fee	150.00
\$150	
Genetic Marker Analysis AA Fee	3.00
\$3	
Indigent Defense Civil Assessment	250.00
Fee - ASK	
Fee Totals \$	428.00

## HEARINGS

01/02/2013  **Initial Arraignment** (1:30 PM) (Judicial Officer: Martin, Eugene)


### MINUTES


Matter Continued;

Journal Entry Details:

*Mr. Waters advised this is Mr. Coffee's case and requested a continuance for counsel to be present. No objection from the State. COURT ORDERED matter CONTINUED. CUSTODY CONTINUED TO: 1/9/13 1:30 PM ;*

### SCHEDULED HEARINGS


 **Arraignment Continued** (01/09/2013 at 1:30 PM) (Judicial Officer: De La Garza, Melisa)

01/09/2013  **Arraignment Continued** (1:30 PM) (Judicial Officer: De La Garza, Melisa)

Plea Entered;

Journal Entry Details:

*DEFT. WHITE ARRAIGNED, PLED NOT GUILTY, and WAIVED the 60-DAY RULE. Upon request of counsel, COURT ORDERED, matter set for status check/trial setting. CUSTODY 1/16/13 9:00 A.M. STATUS CHECK: TRIAL SETTING (DEPT 9) ;*

01/16/2013  **Status Check: Trial Setting** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

**01/16/2013, 01/28/2013**

Continued;

Trial Date Set;

Journal Entry Details:

*Parties announced ready to set trial date. COURT ORDERED, matter SET for Jury Trial on November 4, 2013. At Mr. Coffee's request and there being no opposition from the State, COURT ORDERED, pursuant to Statute, counsel has 21 days from today for the filing of any Writs; if the Preliminary Hearing Transcript has not been filed as of today, Counsel has 21 days from the filing of the Transcript. CUSTODY 10-30-13 9:00 AM CALENDAR CALL 11-4-13 1:00 PM JURY TRIAL ;*

Continued;

Trial Date Set;

Journal Entry Details:

*Brett Keeler, Deputy District Attorney, present for the State of Nevada. Defendant White, present in custody, without custody. State advised this is Mr. Coffee's case and requested a continuance. COURT ORDERED, matter CONTINUED. State advised it will notify Mr. Coffee of the continuance date. CUSTODY CONTINUED TO: 01/28/13 9:00 AM ;*

03/27/2013  **Petition for Writ of Habeas Corpus** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Granted;

Journal Entry Details:

*Arguments by counsel. Court stated its findings, and ORDERED, Writ is GRANTED as to CT. 1 ONLY. Colloquy regarding further proceedings. CUSTODY ;*

# CASE SUMMARY

CASE NO. C-12-286357-1


07/31/2013	 <b>Status Check</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth) Matter Heard; Journal Entry Details: <i>Deft not present. Ms. Harris advised the Supreme Court ordered full briefing, and requested the trial date be vacated and a status check set in December; State's brief is due in two weeks and the Defense will file their response thereafter; hopefully the Supreme Court can issue their opinion within a 90-day window. Ms. Mercer concurred with these representations. COURT ORDERED, matter SET for status check on December 2, 2013; trial VACATED; case STAYED given the briefing. CUSTODY 12-2-13 9:00 AM STATUS CHECK: SUPREME COURT OPINION;</i>
10/30/2013	<b>CANCELED Calendar Call</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth) <i>Vacated - per Judge</i>
11/04/2013	<b>CANCELED Jury Trial</b> (1:00 PM) (Judicial Officer: Gonzalez, Elizabeth) <i>Vacated - per Judge</i>
12/02/2013	 <b>Status Check</b> (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth) <b>12/02/2013, 03/03/2014, 03/31/2014, 06/02/2014</b> <i>Status Check: Supreme Court opinion</i> Matter Continued; Continued; Matter Continued; Matter Continued; Journal Entry Details: <i>Deft not present. Mr. Lopez-Negrete advised he is second chair and this is Deputy P.D. Scott Coffee's case; he checked the website this morning and matter is still pending decision. COURT ORDERED, matter CONTINUED for six months and DIRECTED counsel to place the matter back on calendar if he hears anything else. CUSTODY 12-1-14 9:00 AM STATUS CHECK: SUPREME COURT OPINION;</i> Matter Continued; Continued; Matter Continued; Matter Continued; Journal Entry Details: <i>Deft's presence waived. Mr. Coffee advised they have heard nothing. COURT ORDERED, status check in 60 days. CUSTODY 6-2-14 9:00 AM STATUS CHECK: SUPREME COURT OPINION;</i> Matter Continued; Continued; Matter Continued; Matter Continued; Journal Entry Details: <i>Due to technical difficulties with the JAVS audio/video recording system, COURT ORDERED, matter CONTINUED. CUSTODY 3/31/14 9:00 AM - STATUS CHECK: SUPREME COURT OPINION ;</i> Matter Continued; Continued; Matter Continued; Matter Continued; Journal Entry Details: <i>Deft's presence WAIVED. Ms. Mercer advised briefing has completed and requested a 90-day continuance, noting both sides are diligently checking the Supreme Court website for an update. Statement by Mr. Cofee. COURT ORDERED, matter CONTINUED. CUSTODY CONTINUED TO: 03/03/14 9:00 A.M. ;</i>
07/15/2014	 <b>Minute Order</b> (1:00 PM) (Judicial Officer: Gonzalez, Elizabeth) <i>Minute Order Setting Status Check</i> Minute Order - No Hearing Held; Journal Entry Details: <i>COURT ORDERED, matter SET for Status Check on July 28, 2014 at 9:00 AM. CLERK'S NOTE: Parties notified via electronic mail: Deputy District Attorney Liz Mercer Deputy Public Defenders Scott Coffee and David Lopez-Negrete. / 7-15-14 CLERK'S NOTE: Per State's setting slip to place this matter back on calendar, status check RESET on July 23, 2014 at 9:00 AM. All parties in agreement. / dr 7-16-14 ;</i>
07/23/2014	



EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

**CASE NO. C-12-286357-1**

 **Request** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*States' Request Re: Set a Trial Date*

Trial Date Set;

Journal Entry Details:

*Mr. Giordani advised he has both DDA Turner's and DDA Mercer's schedules. Mr. Coffee advised he is tied up until the first of next year. COURT ORDERED, matter SET for trial on March 30, 2015 per counsel's agreement. December 1, 2014 status check on the Supreme Court opinion VACATED. CUSTODY 2-23-15 9:00 AM STATUS CHECK: TRIAL READINESS 3-25-14 9:00 AM CALENDAR CALL 3-30-14 1:00 PM JURY TRIAL;*

07/28/2014 **CANCELED Status Check** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Vacated - per Clerk*

*Status Check (per Court's request)*

02/23/2015  **Status Check** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Status Check: Trial Readiness*

Matter Heard;

Journal Entry Details:


*Counsel announced ready. Mr. Coffee stated he expects the trial to last 2 weeks. Mr. Turner advised the State has issued all its subpoenas. Court advised due to a scheduling conflict, this case may be referred to Judge Herndon to be reassigned to another Department for trial. Mr. Coffee stated for the record that he does not want to be accused of forum shopping and he would prefer to remain in this court room. Mr. Turner submitted to the Court's decision and announced the State will be ready. Colloquy regarding filing a bad acts motion. Court advised any motions must be filed sooner rather than later; even though it is currently in a long civil bench trial it has reserved Mondays for evidentiary hearings. COURT ORDERED, Trial Date STANDS CUSTODY 03/25/15 9:00 A.M. CALENDAR CALL 03/30/15 1:00 P.M. JURY TRIAL ;*

03/25/2015  **Calendar Call** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Matter Heard;

Journal Entry Details:

*CONFERENCE AT BENCH. Court advised scheduling was discussed; there were problems of this case being tried in this Department next week, but that it can be tried here the following week. COURT ORDERED, matter SET for conference call on Friday, March 27, 2015. Def't's presence will be WAIVED for the call. CUSTODY 3-27-15 9:00 AM TELEPHONIC CONFERENCE: TRIAL SCHEDULING 3-30-15 1:00 PM JURY TRIAL;*


03/27/2015  **Telephonic Conference** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

*Telephonic Conference: Trial Scheduling*

Matter Heard;

Journal Entry Details:

*Court inquired about trial commencing on April 6, 2015. Ms. Mercer advised there have been no problems with witnesses so far; however, she will be out of town on Friday, April 10. Mr. Coffee stated he has no objection to taking it off, as he thinks they can finish within 2 weeks even with one Friday off. Court advised parties of the start times for trial each day, lunch breaks, and ending each day at 5 PM. COURT ORDERED, State to SUBMIT to the Department via electronic mail their Proposed Jury Instructions on the morning of trial in Microsoft Word format; Public Defender's Proposed Jury Instructions will be submitted as trial progresses. Upon Court's inquiry, parties concurred they do not think they will need jury questionnaires. COURT ORDERED, trial to COMMENCE on April 6, 2015 at 10:00 AM. CUSTODY 4-6-15 10:00 AM JURY TRIAL ;*

04/06/2015  **Jury Trial** (10:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

**04/06/2015-04/09/2015, 04/13/2015-04/14/2015, 04/16/2015-04/17/2015**

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Verdict;

Journal Entry Details:

*DAY 8 Jury resumed deliberations. OUTSIDE THE PRESENCE OF THE JURY: Court advised the jury has sent out a note requesting playback. Note MARKED as Court's Exhibit 33, and the Court's answer MARKED as Court's Exhibit 34. (See worksheet.) JURY PRESENT: Video of witness Michael Montalto's testimony played for the jury. Further*

# CASE SUMMARY

CASE NO. C-12-286357-1

notes from the jury MARKED as Court's Exhibits next in order. Court directed the jury to provide more definition for playback of Joe Averman's testimony as it is long. LUNCH RECESS. At the hour of 1:33 PM, the jury returned with a verdict, as follows: COUNT 1 - GUILTY OF SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON; COUNT 2 - GUILTY OF ATTEMPT MURDER WITH USE OF A DEADLY WEAPON; COUNT 3 - GUILTY OF CARRYING A CONCEALED FIREARM; COUNT 4 - GUILTY OF CHILD ABUSE, NEGLECT OR ENDANGERMENT (as to Jodey White); COUNT 5 - GUILTY OF CHILD ABUSE, NEGLECT OR ENDANGERMENT (as to Jesse White); COUNT 6 - GUILTY OF CHILD ABUSE, NEGLECT OR ENDANGERMENT (as to Jayce White); COUNT 7 - GUILTY OF CHILD ABUSE, NEGLECT OR ENDANGERMENT (as to Jazzy White); COUNT 8 - GUILTY OF CHILD ABUSE, NEGLECT OR ENDANGERMENT (as to Jett White). Verdict and Jury Instructions FILED IN OPEN COURT. Counsel requested Deft remain in custody without bail pending sentencing. COURT ORDERED, matter referred to the Division of Parole and Probation (P & P) for a Pre-Sentence Investigation (PSI) report and SET for sentencing. Counsel may file a sentencing memorandum. CUSTODY 6-1-15 9:00 AM SENTENCING;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Verdict;

Journal Entry Details:

DAY 7 OUTSIDE THE PRESENCE OF THE JURY and of the DEFT: Email communications regarding proposed jury instructions and comments thereof MARKED as Court's Exhibits 17 through 27. Deft's presence WAIVED for the Court's inquiry of Juror No. 6 and for formal setting of jury instructions. Upon inquiry of the Court regarding cellphone use, Juror No. 6 stated most of the time he is simply turning off alerts and setting his phone to airplane mode, and that he is not doing anything on this case. Juror leaves. Court directed the marshal to send the jurors on break. Verdict form MARKED as Court's Exhibit 28 and jury instructions (not numbered) MARKED as Court's Exhibit 29. Jury instructions and verdict form settled on the record. Court noted it had overruled counsel's objection regarding the verdict form. RECESS. JURY and DEFT PRESENT: Court apologized for the delay, and instructed the jury on the law as it applies to this case. LUNCH RECESS. OUTSIDE THE PRESENCE OF THE JURY: Mr. Coffee advised the Court of a missing instruction from the final packet. COURT ORDERED, it will be added as a supplemental instruction, numbered as "15A" and "15B" and read to the jury upon their return. LUNCH RECESS. Proceedings resumed. State's rebuttal PowerPoint MARKED as Court's Exhibit 31 and Defendant's closing PowerPoint MARKED as Court's Exhibit 32. (See worksheets.) JURY PRESENT: Court instructed the Jury at 15A and 15B. Closing arguments on behalf of the State by Mr. Rogan, and on behalf of Deft by Mr. Coffee. Jury admonished. OUTSIDE THE PRESENCE OF THE JURY: State placed their objection to Mr. Coffee's closing argument with regards to negative inference as to voice mails as completely improper under Glover. RECESS. JURY PRESENT: Argument in rebuttal by Ms. Mercer. Alternates revealed. Officers sworn. At the hour of 3:33 PM, the jury retired to deliberate. Alternates sequestered. OUTSIDE THE PRESENCE OF THE JURY: Court DIRECTED counsel to submit any proposed jury instructions for a penalty phase as well as any additional exhibits. Colloquy regarding scheduling. Court advised parties will be contacted as to whether the jury has reached a verdict or, if they have not, what time they decide to return tomorrow. RECESS. CLERK'S NOTE: Jury did not reach a verdict this date and requested to return tomorrow, April 17, 2015 at 9:30 AM to continue deliberations. Parties notified. ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Verdict;

Journal Entry Details:

DAY 6 OUTSIDE THE PRESENCE OF THE JURY: COURT ORDERED the following exhibits ADMITTED pursuant to parties' stipulation: State's Proposed Exhibits 102, 102 A, 102B, 103, and 104 through 111; Defendant's Proposed Exhibits EE through NN. JURY PRESENT: Testimony and exhibits presented. (See worksheet.) RECESS. OUTSIDE THE PRESENCE OF THE JURY: Court advised Deft of his right not to testify. Mr. Coffee noted, in addition to text messages recovered from the cellphone of Echo Lucas there were 2 voice messages on the day of the shooting left by the Deft and later recovered by forensics; Deft will be offering those 2 messages to provide context during direct rebuttal for the 130 text messages on threats to Ms. Lucas, indications of stalking, etc; the first message lasts a minute and a half and the second message lasts 2 minutes. Ms. Mercer objected to their admission based upon hearsay, noting the State does not have the right to cross-examine the Deft. Mr. Coffee further argued they go to Deft's state of mind leading up to the shooting, and added, prior to the trial there was no objection as to their authenticity. Ms. Mercer stated, in fairness to the Deft the State introduced the entire string of text messages which has plenty of Deft indicating that he loved and wanted to get back with Ms. Lucas. COURT ORDERED, OBJECTION SUSTAINED; statements by

**CASE SUMMARY****CASE NO. C-12-286357-1**

*Deft are hearsay; there is significant additional evidence of Deft's state of mind in the text messages. Voice messages played for the Court and MARKED as Deft's Proposed Exhibits OO and PP. Following further arguments by counsel, Court noted it will reconsider its ruling if Deft testifies. JURY PRESENT: Testimony and exhibits continued. (See worksheet.) LUNCH RECESS. Proceedings resumed. Testimony and exhibits presented. (See worksheet.) OUTSIDE THE PRESENCE OF THE JURY: Further argument by Defense regarding Defendant's Proposed Exhibits OO and PP. No additional record by the State. COURT ORDERED, decision related to hearsay exclusion still operates. RECESS. JURY PRESENT: At the hour of 2:48 PM, the State RESTED. Deft's case-in-chief commenced. Testimony and exhibits presented. (See worksheet.) At the hour of 3:08 PM, Deft RESTED. Mr. Rogan advised State has no rebuttal. CONFERENCE AT BENCH. Court admonished the Jury and DIRECTED them to return on Thursday, April 16, at 9:30 AM, for closing arguments. OUTSIDE THE PRESENCE OF THE JURY: Court DIRECTED parties to return on Thursday, April 16, at 9:00 AM for settling of jury instructions; State to bring a clean laptop for the jury's use during deliberations. Upon being advised by the bailiff, Court further noted some of the jurors have indicated one of the other jurors has been texting during trial; the Court will make inquiry of said juror on Thursday to confirm this. EVENING RECESS. Trial CONTINUED. 4-16-15 9:00 AM JURY TRIAL;*

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Verdict;

Journal Entry Details:

*OUTSIDE THE PRESENCE OF THE JURY: Mr. Coffee advised that this morning while in line for the elevator a person said good morning who was recognized as one of the jurors. Mr. Rogan advised the State has no issue. COURT SO NOTED. Colloquy regarding scheduling and jury instructions. JURY PRESENT: Testimony and exhibits presented. (See worksheets) Court recessed for the evening. ;*

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Jury Deliberating;

Verdict;

Journal Entry Details:

*DAY 4 OUTSIDE THE PRESENCE OF THE JURY: Court NOTED both sides did not wish to mark for any purpose the documents or portion(s) thereof that were used yesterday to refresh witnesses' recollection. Mr. Rogan advised, with regards to State's bench brief filed in open court yesterday, they simply wanted to put everyone on notice that today character traits of either the Deft or the witnesses themselves will be discussed with one or more of the State's witnesses today, and that if they open the door they are willing to rebut those with other evidence under NRS 48.045, but of course approach the bench first and ask for permission. Comments by Mr. Coffee on the relationship of the 3 individuals - the 2 victims and Deft himself - with respect to character evidence. Court recognized the issue and directed counsel to ask for a bench conference if there is an objection. COURT ORDERED, trial will start at 10:30 AM on Monday, April 13, 2015. JURY PRESENT: Clerk called roll. Testimony and exhibits presented. (See worksheet.) OUTSIDE THE PRESENCE OF THE JURY: Upon Court's inquiry, Mr. Rogan stated he needs to review the documents that were used to refresh witnesses' recollection before determining whether he would like them marked. Objections related to relevance and foundation, which the Court overruled, regarding issues related to tattoos and accuracy of witness L. Gavin's report placed on the record. RECESS. JURY PRESENT: Testimony and exhibits continued. (See worksheet.) LUNCH RECESS. Proceedings resumed. Testimony and exhibits presented. (See worksheet.) OUTSIDE THE PRESENCE OF THE JURY: Mr. Coffee laid his proffer for Deft's Proposed Exhibits Y, Z, AA, and BB. Mr. Rogan objected stating these photos are prejudicial and irrelevant as the relationship can be established through testimony. Court notes it is not yet to admission but to asking the officer and testing the relationship issue. RECESS. JURY PRESENT: Testimony and exhibits continued. (See worksheet.) Court admonished the jury and directed them to return on Monday, April 13, 2015 at 10:30 AM. Court further reminded the jury that they will not be in session next Wednesday, April 15, 2015 in case they have any work plans. OUTSIDE THE PRESENCE OF THE JURY: Discussion commenced regarding documents used to refresh witnesses' recollection, a series of photographs that Mr. Coffee chose to admit, and a separate discussion as to Deft's Exhibit CC. Mr. Rogan noted for the record State had objected based upon foundation and hearsay with regards to CC. Court pointed out, it had inquired during the bench conference as to how CC would be different from the post-it that was admitted. Mr. Coffee further noted he wanted to make sure a piece of physical evidence, the holster, would be offered at some point as the detective had been taken out of order; additionally, with regards to the photo with the baby, he will consider it with foundation. Court so noted. Court directed counsel to contact the Department if they should need anything tomorrow, April 10th, while trial is not in session. Trial CONTINUED. WEEKEND RECESS. 4-13-15 10:30 AM JURY TRIAL ;*

Trial Continues;

**CASE SUMMARY****CASE NO. C-12-286357-1**

Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Jury Deliberating;  
 Verdict;

## Journal Entry Details:

*DAY 3 OUTSIDE THE PRESENCE OF THE JURY: State's Bench Brief Regarding the Admissibility of Evidence of Traits of Character of the Victims FILED IN OPEN COURT. RECESS. Proceedings resumed. Colloquy regarding taking video footage of a child witness. Pursuant to stipulation, COURT ORDERED, Deft's Exhibits F through V as well as State's Exhibits 94 and 95 ADMITTED into evidence. Further, State's Exhibits 92 and 93 ADMITTED with a limiting instruction to the jury. JURY PRESENT: Clerk called roll. Court gave a limiting instruction with respect to State's Exhibits 92 and 93, stating, the jury will CONSIDER only the portions that are not blocked out as those portions are not admissible evidence. Testimony and exhibits presented. (See worksheet.) RECESS. Testimony and exhibits continued. LUNCH RECESS. OUTSIDE THE PRESENCE OF THE JURY: Court advised a juror had stopped to ask about Potter's House and was advised counsel will tell them about it during the trial. COURT ORDERED, Deft's Exhibit W ADMITTED by stipulation. JURY PRESENT: Testimony and exhibits presented. (See worksheet.) RECESS. Testimony and exhibits continued. Jury admonished and directed to return tomorrow at 9:45 AM. OUTSIDE THE PRESENCE OF THE JURY: Court inquired of the parties if anyone wished to mark for any purpose the statement of Jodey Gaines / White, the report of Tracey Kruse, and the statement of Fernando Diaz. Ms. Mercer declined on behalf of the State. Mr. Coffee advised he would have to review Jodey's statement. Court DIRECTED counsel to bring a redacted version tomorrow morning if he wished to have it marked so the Court can do an accompanying limiting instruction. Trial CONTINUED. EVENING RECESS. 4-9-15 9:45 AM JURY TRIAL CLERK'S NOTE: State's Exhibit 92 was subsequently STRICKEN pursuant to parties' stipulation following a bench conference. ;*

Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Jury Deliberating;  
 Verdict;

## Journal Entry Details:

*DAY 2 OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: COURT ORDERED, Prospective Juror with Badge No. 172 EXCUSED and TO BE RESCHEDULED due to being ill. State's opening powerpoint presentation MARKED as Court's Exhibit 1. Pursuant to parties' stipulation, COURT FURTHER ORDERED, State's Exhibits 83, and 86 through 91 ADMITTED into evidence. (See worksheet.) PROSPECTIVE JURY PANEL PRESENT. Voir dire continued. LUNCH RECESS. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Proceedings resumed with individual voir dire of Prospective Juror Badge No. 150. PROSPECTIVE JURY PANEL PRESENT: State passed the entire panel for cause. CONFERENCE AT BENCH. Voir dire continued. Deft passed for cause. Peremptory challenges exercised. Jury seated and sworn. Jury List FILED IN OPEN COURT. RECESS. OUTSIDE THE PRESENCE OF THE JURY: Deft's opening powerpoint MARKED as Court's Exhibit 2. JURY PRESENT: Introductory comments by the Court. Clerk read the Second Amended Information to the Jury. Pre-instructions by the Court. Opening statements on behalf of the State by Ms. Mercer and on behalf of Deft by Mr. Lopez-Negrete. Testimony and exhibits presented. (See worksheet.) Court admonished the jury and directed them to return tomorrow at 10:15 AM. OUTSIDE THE PRESENCE OF THE JURY: Upon Court's inquiry, Mr. Rogan advised he would like the opportunity to redact page 11 of the witness' voluntary statement used today to refresh his recollection and to have the answer admitted just as a State's exhibit. Court so noted. Colloquy regarding scheduling. Trial CONTINUED. EVENING RECESS. 4-8-15 10:15 AM JURY TRIAL;*

Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Trial Continues;  
 Jury Deliberating;  
 Verdict;

## Journal Entry Details:

*DAY 1 OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL AND DEFENDANT: Colloquy regarding jury selection. Due to counsel's and the Court's schedules, COURT ORDERED, trial will not be in session on April 10 and April 15, 2015. Court RECESSED while waiting for Deft to be transported. Proceedings resumed. Pursuant to Public Defender's request, Court NOTED it will add to its general voir dire inquiries related to media or news coverage about this case and if anyone is a member, attends, or has attended Potter's House Church. Deft ARRIVES.*

# CASE SUMMARY

CASE NO. C-12-286357-1

Seat numbers of alternate jurors selected, to remain blind prior to jury deliberations. COURT ORDERED, State's Exhibits 1 through 82, 84, and 85 ADMITTED into evidence pursuant to parties' stipulation. (See worksheet.) Colloquy regarding chain of custody of the decedent's body, all DNA swabs, and the bullet removed from the decedent. State further advised an offer to plead guilty to count 1, first degree murder with use of a deadly weapon, and count 2, attempt murder with use of a deadly weapon, with the State stipulating to 28 years to life including enhancement and both parties retaining the right to argue with regards to the penalty, has been rejected by the Deft. Upon Court's inquiry, Deft confirmed he has discussed the offer with his attorney and made the decision to go to trial. Per Mr. Coffee's representation, Court NOTED, Deft STIPULATES to the authenticity of the exhibits related to the cellphone and Facebook (State's Exhibits 84 through 91), and will wait until they get to relevance. Mr. Rogan requested to file a Second Amended Information based upon a recent decision and to include a theory of child abuse; the counts will not change, only content of the child abuse charges. Mr. Coffee advised he has reviewed the change which could have been done beforehand but will submit to the Court as he thinks the request is in good faith. Court ALLOWED the amendment. Second Amended Information FILED IN OPEN COURT. PROSPECTIVE JURY PANEL PRESENT. Court and party introductions. Roll call. Venire sworn. Voir dire commenced. LUNCH RECESS. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Mr. Rogan placed on the record his contact with a juror during the break. PROSPECTIVE JURY PANEL PRESENT: Voir dire continued. Court released the venire for the evening with the exception of six individuals for individual voir dire (Badge Nos. 75, 67, 82, 87, 116, and 122). COURT ORDERED, trial CONTINUED. EVENING RECESS. 4-7-15 9:30 AM JURY TRIAL;

06/23/2015



**Telephonic Conference** (11:45 AM) (Judicial Officer: Gonzalez, Elizabeth)

Matter Heard;

Journal Entry Details:

Court advised Ms. Mercer has requested to trail sentencing to the end of tomorrow's calendar. Mr. Coffee stated this is okay. COURT ORDERED, case will be called at 9:45 AM, although it will remain on the 9:00 AM session so Deft will not be transported separately. Secondly, Court advised it understands from the Law Clerk that Ms. Mercer has submitted documents for in camera review, and NOTED, the Court does NOT EXAMINE documents for in camera review unless it has previously issued an order. Ms. Mercer advised she thought they would be relevant; additionally, Mr. Coffee has already reviewed the complete packet of CPS records. Colloquy between counsel regarding the documents. Upon Court's inquiry, Ms. Mercer advised the submitted documents are unredacted. Court noting its procedure for in camera submissions advised that based upon the presentation it needs to determine whether the documents can be produced to the other side and then issue a limiting order; if a record needs to be made about the records, there needs to be an ability to do so. Mr. Coffee his side also intends to submit to the Court an assessment from a doctor. Upon further inquiry by the Court, Ms. Mercer stated the submitted documents are not Bates numbered; she does not believe there was a prior order to submit those records, but another deputy was able to obtain them from DCFS. Court further explained its procedure regarding documents for in camera review and PAUSED the call for parties to talk. Call RESUMED. Ms. Mercer apologized for not knowing the procedure for CPS records and advised that parties are in agreement to continue sentencing for a month for her to get the records Bates stamped. Mr. Coffee concurred this is fine, as something also came up in the State's sentencing memorandum that he needs to investigate. COURT ORDERED, sentencing RESET to July 20, 2015. Status Check on CPS records SET on July 2, 2015 in Chambers; no appearances are required for this date. CUSTODY 7-2-15 CHAMBERS STATUS CHECK: RECORDS 7-20-15 9:00 AM SENTENCING ;

06/30/2015



**Minute Order** (1:30 PM) (Judicial Officer: Gonzalez, Elizabeth)

Minute Order: In Camera Review

Minute Order - No Hearing Held; Minute Order: In Camera Review

Journal Entry Details:

Court MARKED unredacted unnumbered documents subject to prior conference call as Court's Exhibit 1 and SEALED it. (See worksheet.) Court reviewed in camera unredacted 0001-0329 (MARKED as Court's Exhibit 2 and SEALED). These records are to be released to the District Attorney and Mr. Coffee contingent upon both maintaining the confidentiality of these records and execution of the Court's receipt. If any additional disclosure of the records is to be made, counsel may seek an additional order of the Court. CLERK'S NOTE: A copy of the above minute order was distributed to Deputy District Attorneys Liz Mercer and Jeffrey Rogan, and Deputy Public Defenders Scott Coffee and David Lopez-Negrete. / dr ;

07/02/2015

**CANCELED Status Check** (3:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Vacated - per Judge

Status Check: Records

07/20/2015



**Sentencing** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Stipulation.

Defendant Sentenced;

Journal Entry Details:

Mr. Coffee advised there were errors in the Pre-Sentence Investigation (PSI) report; P&P have been contacted and

# CASE SUMMARY

## CASE NO. C-12-286357-1

are in the process of preparing a Supplemental PSI; and asked that the Court accept the Supplement PSI before a Judgment of Conviction is signed as it could affect Deft's. housing. State had no objection. Based on the representations, COURT ORDERED, PSI be amended to modify the offenses shown on page 4, to correctly reflect the charges and on page 5, to modify the mention of the gang issue. Court directed Mr. Coffee to prepare an order so that Parole and Probation will be directed to modify the PSI prior to the Court's rendition of sentencing. DEFT. WHITE ADJUDGED GUILTY as to COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON (F); COUNT 2 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (F); COUNT 3 - CARRYING A CONCEALED FIREARM OR OTHER DEADLY WEAPON (F); and COUNTS 4, 5, 6, 7 and 8 - CHILD ABUSE, NEGLECT OR ENDANGERMENT (F). Matter argued and submitted. Statement by Defendant. Victim Witnesses sworn and testified. COURT ORDERED, in addition to the \$25.00 Administrative Assessment Fee, \$250.00 Indigent Defense Civil Assessment Fee, \$335.50 Extradition Costs, \$3.00 DNA Collection fee, and \$150.00 DNA Analysis Fee including testing to determine genetic markers, the Defendant is SENTENCED to the Nevada Department of Corrections (NDC) on COUNT 1 to a MINIMUM of TEN (10) YEARS and a MAXIMUM of LIFE, plus a CONSECUTIVE term of a MINIMUM OF SEVENTY-SIX (76) MONTHS and a MAXIMUM ONE HUNDRED NINETY-TWO (192) MONTHS for the Use of a Deadly Weapon; on COUNT 2 to a MINIMUM of SEVENTY-SIX (76) MONTHS and a MAXIMUM of ONE HUNDRED NINETY-TWO (192) MONTHS, plus a CONSECUTIVE term of ONE HUNDRED NINETY-TWO (192) MONTHS for the Use of a Deadly Weapon; CONSECUTIVE to COUNT 1; on COUNT 3 to a MINIMUM of NINETEEN (19) MONTHS and a MAXIMUM of FORTY-EIGHT (48) MONTHS, CONCURRENT WITH COUNTS 1 & 2; on COUNT 4 to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS, CONSECUTIVE TO COUNTS 1 & 2; on COUNT 5 to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS, CONCURRENT with ALL OTHER COUNTS; on COUNT 6 to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS, CONCURRENT with ALL OTHER COUNTS; on COUNT 7 to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS, CONCURRENT with ALL OTHER COUNTS; and on COUNT 8 to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS, CONCURRENT with ALL OTHER COUNTS; with ONE THOUSAND EIGHTY-EIGHT DAYS (1,088) DAYS CREDIT FOR TIME SERVED; for an AGGREGATE TOTAL SENTENCE of a MINIMUM OF THIRTY-FOUR (34) YEARS to a MAXIMUM of LIFE. BOND, if any, EXONERATED. NDC;

07/20/2015 **CANCELED Request** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Vacated - Set in Error

PD's Request Re: Withdrawal of Felony Plea and Entry of Plea to Gross Misdemeanor with Credit Time Served

01/07/2016  **Minute Order** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Minute Order Setting Status Check

Hearing Set; Minute Order Setting Status Check

Journal Entry Details:

The Court ORDERS this matter SET for status check to address the letter from the Nevada Department of Corrections seeking clarification regarding Deft's sentence. Deft to be transported. State to PREPARE the transport order. NDC 1-27-16 9:00 AM STATUS CHECK: LETTER FROM NDOC REGARDING DEFT'S SENTENCE;


01/27/2016  **Status Check** (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Status Check: Letter from NDOC regarding Deft's Sentence

Matter Heard; Status Check: Letter from NDOC regarding Deft's Sentence

Journal Entry Details:

Mr. Lopez-Negrete advised Deputy D.A. Liz Mercer indicated she would be present today; with regards to the issue about the aggregation language, Ms. Mercer indicated she would agree to strike it. Court noted the Presiding Judge of the Criminal Division has directed sentences be aggregated; this Court does not know the basis that the Nevada Department of Corrections is arguing about aggregation; the Court understands the statutory basis, but not the impact of what the Prison is saying. Mr. Lopez-Negrete advised that from his math it should be 31 years to life. COURT ORDERED, matter trailed for Ms. Mercer. Matter RECALLED. Counsel advised the State has no objection to striking the aggregation pronouncement in the Judgment of Conviction. COURT ORDERED, while it disagrees with the Nevada Department of Corrections' legal analysis, given the stipulation of the parties the aggregation language on Page 2, lines 16 and 17 on the Judgment of Conviction will be STRICKEN. Upon Court's inquiry, Deft stated this is okay. Clerk's Office to prepare an Amended Judgment of Conviction. NDC;

10/23/2017  **Motion** (9:00 AM) (Judicial Officer: Cory, Kenneth)

Defendant's Pro Per Motion to Withdraw Counsel

Granted;




Journal Entry Details:

Defendant White NOT PRESENT, IN CUSTODY. COURT ORDERED, Defendant's Pro Per Motion to Withdraw Counsel GRANTED. Mr. Logan advised the Public Defender's Office would provide the file to the defendant. NDC;








# CASE SUMMARY

CASE NO. C-12-286357-1

05/21/2018	 <b>Motion</b> (9:00 AM) (Judicial Officer: Bonaventure, Joseph T.) <i>Defendant's Motion to Place on Calendar to Set Briefing Schedule</i> Briefing Schedule Set; Journal Entry Details: <i>Defendant White NOT PRESENT, IN CUSTODY. COURT ORDERED, Briefing schedule SET. Supplemental brief due 8/20/18, Opposition due 9/17/18, Reply due 10/15/18 and matter SET for argument. NDC 10/29/18 PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION);</i>
09/05/2018	 <b>Motion</b> (9:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Deft's Motion to place on calendar to extend the time for the filing of the supplemental brief in support of defendant's petition for writ of habeas corpus</i> Hearing Set; Deft's Motion to place on calendar to extend the time for the filing of the supplemental brief in support of defendant's petition for writ of habeas corpus Journal Entry Details: <i>Deft. WHITE not present, in the Nevada Department of Corrections. Ms. Folkestad requested to submit her brief by 11/19/18. State requested 60 days for their opposition. COURT ORDERED, Deft's Motion to Extend the Time to File Supplemental Briefs, GRANTED. COURT ORDERED, Briefing Schedule; Deft's Brief by 11/19/18, State's Opposition by 01/16/19, Deft's Reply by 02/13/19 and Petition CONTINUED. NDC 02/27/19 9:00 AM PETITION FOR WRIT OF HABEAS CORPUS/POSE CONVICTION;</i>
12/03/2018	 <b>Motion</b> (9:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Defendant's Motion to Place on Calendar to Extend the Time for the Filing of the Supplemental Brief in Support of Defendant's Petition for Writ of Habeas Corpus</i> Granted; Defendant's Motion to Place on Calendar to Extend the Time for the Filing of the Supplemental Brief in Support of Defendant's Petition for Writ of Habeas Corpus Journal Entry Details: <i>Deft. WHITE not present, in the Nevada Department of Corrections. Ms. Folkestad requested to extend time for briefs and noted she could submit her brief by 12/20/18. COURT ORDERED, Deft's Motion to Extend Time For Supplemental Brief In support of Defendant's Petition for Writ of Habeas Corpus, GRANTED. COURT FURTHER ORDERED Briefing Schedule, Deft's Supplemental Brief by 12/20/018, State's Opposition by 02/20/19, Deft's Reply by 03/20/19 and Hearing Vacated and RESET. State to prepare a new order for transport of Deft. NDC 03/27/19 9:00 AM PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION);</i>
03/27/2019	<b>Petition for Writ of Habeas Corpus</b> (9:00 AM) (Judicial Officer: Johnson, Eric) <b>03/27/2019, 05/15/2019, 06/12/2019</b> <i>Petition for Writ of Habeas Corpus (POST CONVICTION)</i> Deft's Motion to extend Granted/ 12/03/18 /kk Matter Continued; Petition for Writ of Habeas Corpus (POST CONVICTION) Matter Continued; Petition for Writ of Habeas Corpus (POST CONVICTION) Matter Continued; Deft's Motion to extend Granted/ 12/03/18 /kk Matter Continued; Petition for Writ of Habeas Corpus (POST CONVICTION) Matter Continued; Petition for Writ of Habeas Corpus (POST CONVICTION) Matter Continued; Deft's Motion to extend Granted/ 12/03/18 /kk Matter Continued; Petition for Writ of Habeas Corpus (POST CONVICTION) Matter Continued; Petition for Writ of Habeas Corpus (POST CONVICTION) Matter Continued;
03/27/2019	<b>Motion</b> (9:00 AM) (Judicial Officer: Johnson, Eric) <b>03/27/2019, 05/15/2019, 06/12/2019</b> <i>Defendant's Motion For Authorization To Obtain Expert And For Payment Of Fees Incurred Herein</i> Matter Continued; Defendant's Motion For Authorization To Obtain Expert And For Payment Of Fees Incurred Herein Matter Continued; Defendant's Motion For Authorization To Obtain Expert And For Payment Of Fees Incurred Herein Granted; Matter Continued; Defendant's Motion For Authorization To Obtain Expert And For Payment Of Fees Incurred Herein Matter Continued; Defendant's Motion For Authorization To Obtain Expert And For Payment Of Fees Incurred Herein Granted; Matter Continued; Defendant's Motion For Authorization To Obtain Expert And For Payment Of Fees Incurred Herein Matter Continued; Defendant's Motion For Authorization To Obtain Expert And For Payment Of Fees Incurred Herein Granted;

**CASE SUMMARY**  
**CASE NO. C-12-286357-1**

03/27/2019	 <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Israel, Ronald J.) <i>All Pending Motions (03/27/19)</i> Matter Heard; All Pending Motions (03/27/19) Journal Entry Details: <b>PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)...DEFENDANT'S MOTION FOR AUTHORIZATION TO OBTAIN EXPERT AND FOR PAYMENT OF FEES INCURRED HEREIN</b> Def. WHITE present, in custody, in the Nevada Department of Corrections. Mr. Oram noted they had contacted chambers and requested 30 days to file a reply. COURT ORDERED, Matter CONTINUED and Defendant's Reply due by 04/24/19. NDC 05/15/19 9:00 AM <b>PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)...DEFENDANT'S MOTION FOR AUTHORIZATION TO OBTAIN EXPERT AND FOR PAYMENT OF FEES INCURRED HEREIN;</b>
05/13/2019	<b>CANCELED Motion</b> (9:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Vacated - On in Error</i> <i>Motion for Authorization to Obtain Investigator and for Payment of Fees Incurred Herein</i>
05/15/2019	 <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Israel, Ronald J.) <i>All Pending Motions (05/15/19)</i> Matter Heard; All Pending Motions (05/15/19) Journal Entry Details: <b>PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)...DEFT'S MOTION FOR AUTHORIZATION TO OBTAIN EXPERT AND FOR PAYMENTS OF FEES INCURRED HEREIN</b> Def. WHITE present, in custody in the Nevada Department of Corrections. Assigned Deputy District Attorney not present. Mr. Oram requested matter be continued. Court trailed the matter for the State's appearance. Later recalled: Mr. Zadrowski, Deputy District Attorney standing in. Mr. Zadrowski stated the assigned deputy would not be available today. COURT ORDERED, Matter CONTINUED. Mr. Oram requested the Def's presence be waived at the next hearing. COURT SO ORDERED, No order to transport. NDC 06/12/19 9:00 AM <b>PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)...DEFT'S MOTION FOR AUTHORIZATION TO OBTAIN EXPERT AND FOR PAYMENTS OF FEES INCURRED HEREIN;</b>
06/12/2019	 <b>All Pending Motions</b> (9:00 AM) (Judicial Officer: Johnson, Eric) Matter Heard; Journal Entry Details: <b>PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)...DEFENDANT'S MOTION FOR AUTHORIZATION TO OBTAIN EXPERT AND FOR PAYMENT OF FEES INCURRED HEREIN</b> Upon Court's inquiry, Mr. Oram advised he needs the Investigator to obtain the cell phone records and feels it could be accomplished within 60 days. Following colloquy, Mr. Oram requested 90 days. Mr. Zadrowski had no objection. COURT ORDERED, the following briefing schedule: Mr. Oram to file Supplemental by 9/11; State to respond by 11/12 and matter SET for argument. As to the Motion, COURT ORDERED, GRANTED up to \$1,000. Additionally, Mr. Oram advised Defendant WAIVES his right to be present, however, they keep bringing him. Court directed Mr. Oram file an Order for Defendant not to brought to Court and ORDERED, DEFENDANT IS NOT TO BE TRANSPORTED. Court advised Mr. Oram that he will need to file a new Order when/if he wants Defendant transported. NDC 11/25/19 9:00 AM ARGUMENT;
09/23/2019	 <b>Motion for Order Extending Time</b> (9:00 AM) (Judicial Officer: Israel, Ronald J.) <b>Motion to Place on Calendar to Extend the Time for the Filing of the Second Supplemental Brief in Support of the Defendant's Petition for Writ of Habeas Corpus</b> Granted; Motion to Place on Calendar to Extend the Time for the Filing of the Second Supplemental Brief in Support of the Defendant's Petition for Writ of Habeas Corpus Journal Entry Details: Def. WHITE not present, in the Nevada Department of Corrections (NDC). Ms. Folkestad requested an additional 60 days for continued investigations and noted Mr. Oram is in trial. State had no objection with a new briefing schedule. COURT ORDERED, Briefing schedule set: Def's Supplemental Brief by 11/25/19, State's Opposition by 01/22/20, Def's Reply by 02/19/20 and Hearing RESET. NDC 02/26/20 9:00 AM ARGUMENT: <b>PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION);</b>
01/06/2020	 <b>Motion</b> (10:00 AM) (Judicial Officer: Israel, Ronald J.) <b>Motion To Place On Calendar To Extend The Time For The Filing Of The Second Supplemental Brief In Support Of Defendant's Petition For Writ Of Habeas</b> Granted; Motion To Place On Calendar To Extend The Time For The Filing Of The Second Supplemental Brief In Support Of Defendant's Petition For Writ Of Habeas



# CASE SUMMARY

CASE NO. C-12-286357-1


Journal Entry Details:

Deft. WHITE not present, in custody in the Nevada Department of Correction (NDC). Upon Court's inquiry, Ms. Folkestad noted they did send a subpoena to Verizon and advised it could take 60 days to receive and review the discovery. State had no objection. At the request of Counsel, COURT ORDERED, Motion to Extend Time for the Filing of the Second Supplemental Brief, GRANTED and Petition for Writ, VACATED. COURT FURTHER ORDERED, Matter SET for a status check to reset briefing schedule and Petition. NDC 03/09/2020 9:00 AM STATUS CHECK: RESET BRIEFING SCHEDULE AND PETITION FOR WRIT;

02/26/2020 CANCELED Argument (9:00 AM) (Judicial Officer: Israel, Ronald J.)

Vacated

Argument: Petition for Writ of Habeas Corpus (Post-Conviction)

03/09/2020  Status Check (9:00 AM) (Judicial Officer: Israel, Ronald J.)

Status Check: Reset Briefing Schedule & PTN & Arguments

Hearing Set; Status Check: Reset Briefing Schedule & PTN & Arguments

Journal Entry Details:

Deft. WHITE present, in custody in the Nevada Department of Corrections (NDC). Mr. Oram noted the briefs had been filed and requested a hearing be set. COURT ORDERED, Matter SET for Hearing for the Petition of Writ. State to prepare an order to transport. NDC 04/06/2020 9:00 AM HEARING RE: PETITION FOR WRIT OF HABEAS CORPUS;

07/22/2020  Petition for Writ of Habeas Corpus (1:45 PM) (Judicial Officer: Israel, Ronald J.)

07/22/2020, 09/02/2020, 11/16/2020, 03/04/2021

Admin Order 20-01/COVID-19

COVID-19/Admin Orders 20.01/06

Matter Continued;

Hearing Set;

Reset;

Vacated - Deft. unable to transport for 2 wks

Denied;

Journal Entry Details:

Deft. WHITE present by video, in custody in the Nevada Department of Corrections (NDC). Also present, Mr. Coffee, prior counsel, appearing by video. Court noted most of the issues the Court gave a detailed order at the previous hearing and the only remaining issue is the issue regarding investigation of the phone. Hearing held: Mr. Coffee sworn and testified. Arguments by counsel. Court noted it understood the request to investigate the phone however did not see it s the issue, the issue is whether or not Mr. Coffee was in-effective counsel for not investigating the phone. Court noted Mr. Coffee considered the phone being evaluated and weighed the risks and he was concerned they could find more bad then good. Court stated detailed findings and DENIED the entire Petition for Writ of Habeas Corpus. Court directed the State to review both hearing transcripts and prepare a detailed order.;

Admin Order 20-01/COVID-19

COVID-19/Admin Orders 20.01/06

Matter Continued;

Hearing Set;

Reset;

Vacated - Deft. unable to transport for 2 wks

Denied;

Journal Entry Details:

Deft. WHITE in custody, in the Nevada Department of Corrections (NDC). Court noted Chambers was notified, High Desert State Prison is on lock down for two weeks and the Deft's will not be transported. Upon Court's inquiry, Mr. Oram estimated the hearing to be a 1/2 hour. Court noted this is a special setting and it would be limited to a Thursday or Friday about a month out. Court noted the Judicial Executive Assistant (JEA) will RESET the hearing and notify counsel. NDC;

Admin Order 20-01/COVID-19

COVID-19/Admin Orders 20.01/06

Matter Continued;

Hearing Set;

Reset;

Vacated - Deft. unable to transport for 2 wks

Denied;

Journal Entry Details:

Deft. WHITE present, in custody in the Nevada Department of Corrections (NDC). Court noted the briefs had been read twice. Arguments by Mr. Oram in support of the Motion. Mr. Oram requested an evidentiary hearing. Colloquy

EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

**CASE NO. C-12-286357-1**

regarding the two cell phones, text and prior counsel not moving to suppress. Mr. Oram noted their investigator was unable to prove the phone was the Deft's because the phone company recorders were gone now. Mr. Oram further noted if the text would have been suppressed the second degree murder could have been reduced to a manslaughter. Colloquy. Argument by the State against the motion. State noted based on the phone download, it was clearly the victims phone and counsel did not move to suppress due to having to put the Deft. on the stand. State further noted the text evidence is in the transcript and referred to the pages were it could be found. Court noted the 2nd prong of Strickland had not been met. Mr. Oram requested the hearing. Court noted at the interest of giving the Deft. every chance, COURT ORDERED, a limited Evidentiary Hearing to be set. Court stated findings and ORDERED, Petition DENIED IN PART as to the cell phone, However Court will Allow a hearing on the remaining issues. State to prepare an order to transport Deft. for the hearing. Counsel estimated one hour and requested 60 days for the date certain. Due to COVID a special hearing session will need to be scheduled through the Judicial Executive Assistant (JEA). NDC;

Admin Order 20-01/COVID-19  
 COVID-19/Admin Orders 20.01/06  
 Matter Continued;  
 Hearing Set;  
 Reset;  
 Vacated - Deft. unable to transport for 2 wks  
 Denied;  
 Journal Entry Details:  
 Christopher Oram, Esq. not present. Defendant present by video. Mr. Brooks noted it was the State's fault Mr. Oram was not present. COURT ORDERED, matter CONTINUED. CONTINUED TO: 08/19/20 1:45 PM NDC ;

DATE

FINANCIAL INFORMATION

<b>Attorney</b> Public Defender	
Total Charges	35.00
Total Payments and Credits	35.00
<b>Balance Due as of 4/19/2021</b>	<b>0.00</b>
 <b>Defendant</b> White, Troy Richard	
Total Charges	428.00
Total Payments and Credits	0.00
<b>Balance Due as of 4/19/2021</b>	<b>428.00</b>

**FCL**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
TALEEN PANDUKHT  
Chief Deputy District Attorney  
Nevada Bar #005734  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

TROY WHITE,  
#1383512

Petitioner,

-vs-

THE STATE OF NEVADA,

Respondent.

CASE NO: C-12-286357-1

DEPT NO: XXVIII

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

DATE OF HEARING: MARCH 4, 2021  
TIME OF HEARING: 1:30 P.M.

THIS CAUSE having come on for hearing before the Honorable RONALD J. ISRAEL, District Judge, on the 4th day of March, 2021, the Petitioner being present, represented by CHRISTOPHER R. ORAM, ESQ., the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through ELIZABETH A. MERCER, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, the testimony of Scott Coffee, Esq., and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

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1 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

2 **STATEMENT OF THE CASE**

3 On December 12, 2017, Petitioner Troy White (hereinafter "Petitioner") was charged  
4 by way of Information with the following counts: Count 1, BURGLARY WHILE IN  
5 POSSESSION OF A FIREARM (Category B Felony - NRS 205.060); Count 2, MURDER  
6 WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030,  
7 193.165); Count 3, ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category  
8 B Felony - NRS 200.010, 200.030, 193.330, 193.165); Count 4, CARRYING A  
9 CONCEALED FIREARM OR OTHER DEADLY WEAPON (Category C Felony - NRS  
10 202.350(1)(d)(3)); and Counts 5, 6, 7, 8, and 9, CHILD ABUSE, NEGLECT, OR  
11 ENDANGERMENT (Category B Felony - NRS 200.508(1)).

12 On February 4, 2013, Petitioner filed a pre-trial Petition for Writ of Habeas Corpus, to  
13 which the State filed a Return on March 19, 2013. On March 27, 2013, the district court granted  
14 Petitioner's Petition as to Count 1 only and denied the Petition as to Count 2 through 9. The  
15 State filed a Notice of Appeal that same day.

16 On August 8, 2014, the Supreme Court filed an Order affirming the district court's  
17 dismissal of Count 1, holding that a person cannot burglarize his own home. On March 24,  
18 2015, the State filed an Amended Information with the following charges: Count 1, MURDER  
19 WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030,  
20 193.165); Count 2, ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category  
21 B Felony - NRS 200.010, 200.030, 193.330, 193.165); Count 3, CARRYING A  
22 CONCEALED FIREARM OR OTHER DEADLY WEAPON (Category C Felony - NRS  
23 202.350(1)(d)(3)); and Counts 4, 5, 6, 7, and 8, CHILD ABUSE, NEGLECT, OR  
24 ENDANGERMENT (Category B Felony - NRS 200.508(1)).

25 Jury trial began on April 6, 2015 and concluded on April 17, 2015. The State also filed  
26 a Second Amended Information on April 6, 2015, charging the same counts as listed in the  
27 Amended Information. On April 17, 2015, the jury returned a verdict as follows: as to Count  
28 1, Guilty of Second Degree Murder with Use of a Deadly Weapon; as to Count 2, Guilty of

1 Attempt Murder with Use of a Deadly Weapon; as to Count 3, Guilty of Carrying a Concealed  
2 Firearm or Other Deadly Weapon; and as to Counts 4, 5, 6, 7, and 8, Guilty of Child Abuse,  
3 Neglect, or Endangerment.

4 Petitioner was sentenced on July 20, 2015 as follows: as to COUNT 1, to LIFE with the  
5 eligibility for parole after serving a MINIMUM of TEN (10) YEARS, plus a CONSECUTIVE  
6 term of ONE HUNDRED NINETY-TWO (192) MONTHS with a MINIMUM parole  
7 eligibility of SEVENTY-SIX (76) MONTHS for the Use of a Deadly Weapon; as to COUNT  
8 2, to a MAXIMUM of ONE HUNDRED NINETY-TWO (192) MONTHS with a MINIMUM  
9 parole eligibility of SEVENTY-SIX (76) MONTHS, plus a CONSECUTIVE term of ONE  
10 HUNDRED NINETY-TWO (192) MONTHS with a MINIMUM parole eligibility of  
11 SEVENTY-SIX (76) MONTHS for the Use of a Deadly Weapon; CONSECUTIVE to  
12 COUNT 1; as to COUNT 3, to a MAXIMUM of FORTY-EIGHT (48) MONTHS with a  
13 MINIMUM Parole Eligibility of NINETEEN (19) MONTHS, CONCURRENT WITH  
14 COUNTS 1 & 2; as to COUNT 4, to a MAXIMUM of SIXTY (60) MONTHS with a  
15 MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, CONSECUTIVE TO  
16 COUNTS 1 & 2; as to COUNT 5, to a MAXIMUM of SIXTY (60) MONTHS with a  
17 MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with  
18 ALL OTHER COUNTS; as to COUNT 6, to a MAXIMUM of SIXTY (60) MONTHS with a  
19 MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with  
20 ALL OTHER COUNTS; as to COUNT 7, to a MAXIMUM of SIXTY (60) MONTHS with a  
21 MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with  
22 ALL OTHER COUNTS; as to COUNT 8, to a MAXIMUM of SIXTY (60) MONTHS with a  
23 MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with  
24 ALL OTHER COUNTS; with ONE THOUSAND EIGHTY-EIGHT DAYS (1,088) DAYS  
25 credit for time served. The AGGREGATE TOTAL sentence was LIFE with a MINIMUM OF  
26 THIRTY-FOUR (34) YEARS. The Judgment of Conviction was filed July 24, 2015, but an  
27 Amended Judgment of Conviction was filed February 5, 2016, removing the aggregate  
28 sentence total language.

1 On August 12, 2015, Petitioner filed a Notice of Appeal. On April 26, 2017, the Nevada  
2 Supreme Court issued its Order affirming Petitioner's Judgment of Conviction. Remittitur  
3 issued on May 25, 2017.

4 On April 24, 2018, Petitioner filed a post-conviction Petition for Writ of Habeas  
5 Corpus. On December 20, 2018, Petitioner filed a Supplemental Brief in Support of his Petition  
6 for Writ of Habeas Corpus and Motion for Authorization to Obtain Expert and for Payment of  
7 Fees Incurred Herein. The State filed its Response to Petitioner's Supplemental Petition and  
8 Opposition to the Motion for Authorization to Obtain Expert and for Payment of Fees Incurred  
9 on March 26, 2019. On April 24, 2019, Petitioner filed his Reply and Motion for Authorization  
10 to Obtain Investigator and Payment of Fees Incurred Herein. The State filed its Opposition  
11 on May 2, 2019. The district court granted the Motion for an Investigator on June 12, 2019.  
12 The Order was filed on June 21, 2019.

13 On September 2, 2020, this Court denied the Motion in part as to the cell phone, and  
14 ordered a limited evidentiary on the remaining issues—specifically whether counsel was  
15 ineffective for failing to investigate the cell phone. On March 4, 2020, this Court held an  
16 evidentiary hearing where Petitioner's prior counsel, Scott Coffee Esq., testified regarding his  
17 investigation of Petitioner's cell phone. Following the evidentiary hearing, this Court denied  
18 the instant Petition.

### 19 **STATEMENT OF THE FACTS**

20 At sentencing, the district court relied on the following factual synopsis set forth in  
21 White's Supplemental Pre-Sentencing Report:

22 On July 27, 2012, Las Vegas Metropolitan Police Department officers  
23 were dispatched to local residence regarding a shooting. Upon arrival,  
24 officers observed a female, later identified as victim #1 (VC2226830)  
25 lying on the floor in a bedroom in the residence. Victim #1 was  
26 unconscious and had an apparent gunshot wound to her chest. A male,  
27 later identified as victim #2 (VC2226831), was lying on the floor  
28 outside the doorway to the bedroom and he also had apparent gunshot  
wounds. Five children, later identified as nine year old minor victim  
#3 (VC2226832), five year old minor victim #4 (VC2226833), eight  
year old minor victim #5 (VC2226834), six month old minor victim

1 #6 (VC2226835), and two year old minor victim #7 (VC2226836),  
2 were also present in the house.

3 Medical personnel responded and transported victim #1 and victim #2  
4 to a local trauma hospital. Officers later learned that victim #1 arrived  
5 at the hospital and after attempts to revive her, she was pronounced  
6 dead. Victim #2 underwent surgery to treat his injuries.

7 During their investigation, officers learned that victim #1 was married  
8 to a male, later identified as the defendant, Troy Richard White, for  
9 approximately eight years. They have three children in common,  
10 identified as minor victim #5, minor victim #6, and minor victim #7,  
11 and she has two additional children, identified as minor victim #3 and  
12 minor victim #4, with another male.

13 In June 2012, victim #1 and Mr. White separated and Mr. White  
14 moved out of the family home. However, when Mr. White exercised  
15 his visitation on the weekends, he would stay in the home and victim  
16 #1 would stay elsewhere.

17 Towards the end of June 2012, Mr. White became aware that victim  
18 #1 was dating victim #2. Victim #1 and victim #2 talked about finding  
19 their own place, but Mr. White insisted that victim #1 stay in the home  
20 and advised her that it was okay for victim #2 to stay there as well.

21 On the date of the offense, Mr. White went to the residence and told  
22 victim #1 that he needed to speak with her in a back room. Victim #1  
23 agreed and went into a bedroom with Mr. White. After approximately  
24 five minutes, victim #2 heard victim #1 yell at Mr. White to stop and  
25 thought she was in trouble. Victim #2 opened the bedroom door and  
26 saw Mr. White shove victim #1 and then shoot her once in the chest  
27 or stomach. Mr. White then turned, shot victim #2, and victim #2 fell  
28 to the ground. One bullet struck victim #2 in the arm and another bullet  
struck him in the left abdomen. One of the bullets that struck victim  
#2 traveled through his body, penetrated the back wall to the room,  
and exited the residence. At the time victim #2 was shot, he was  
standing within feet of the crib which contained six month old minor  
victim #6.

After shooting victim #2, Mr. White stood over him and showed him  
the gun. Mr. White told victim #2 that he was going to jail and he was  
going to kill him. Mr. White also asked victim #2, "How does it feel  
now?" As victim #2 lay on the floor, Mr. White kept coming into the

1 residence to threaten him. Mr. White finally left the residence and  
2 victim #2 heard a car leave.

3 Once Mr. White fled the scene, minor victim #3 ran to a neighbor's  
4 house to call for police.

5 Later that date, Mr. White turned himself in at the Yavapai County  
6 Sheriff's Department in Arizona. Upon being questioned, Mr. White  
7 reported that he was wanted in the Las Vegas area for shooting  
8 someone. He stated he fled in the vehicle that was now parked in the  
9 sheriff's department lot. Mr. White further stated the gun he used to  
10 shoot people in the Las Vegas area was inside the vehicle in the spare  
11 tire compartment area.

12 On August 10, 2012, Mr. White was extradition back from Arizona  
13 and booked accordingly at the Clark County Detention Center.

14 Supplemental PSI, filed August 3, 2015, at 4-5.

### 15 **AUTHORITY**

16 Petitioner raised five (5) grounds for relief in his post-conviction Petition for Writ of  
17 Habeas Corpus alleging ineffective assistance on the part of trial and/or appellate counsel. For  
18 the reasons set forth below, all of Petitioner's claims of ineffective assistance of counsel are  
19 without merit. As the individual claims are without merit, there is no error to cumulate.  
20 Therefore, Petitioner has not established cumulative error. For the following reasons,  
21 Petitioner's post-conviction Petition for Writ of Habeas Corpus, his request for an evidentiary  
22 hearing, and his motion to obtain a cell phone expert and fees for a forensic analysis of that  
23 phone are denied.

24 The Sixth Amendment to the United States Constitution provides that, "[i]n all criminal  
25 prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his  
26 defense." The United States Supreme Court has long recognized that "the right to counsel is  
27 the right to the effective assistance of counsel." Strickland v. Washington, 466 U.S. 668, 686,  
28 104 S. Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323  
(1993).

To prevail on a claim of ineffective assistance of trial counsel, a defendant must prove  
he was denied "reasonably effective assistance" of counsel by satisfying the two-prong test of



1 Strickland, 466 U.S. at 686-87, 104 S. Ct. at 2063-64. See also Love, 109 Nev. at 1138, 865  
2 P.2d at 323. Under the Strickland test, a defendant must show first that his counsel's  
3 representation fell below an objective standard of reasonableness, and second, that but for  
4 counsel's errors, there is a reasonable probability that the result of the proceedings would have  
5 been different. 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068; Warden, Nevada State  
6 Prison v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting the Strickland two-  
7 part test). “[T]here is no reason for a court deciding an ineffective assistance claim to approach  
8 the inquiry in the same order or even to address both components of the inquiry if the defendant  
9 makes an insufficient showing on one.” Strickland, 466 U.S. at 697, 104 S. Ct. at 2069.

10 The court begins with the presumption of effectiveness and then must determine  
11 whether the defendant has demonstrated by a preponderance of the evidence that counsel was  
12 ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). “Effective counsel  
13 does not mean errorless counsel, but rather counsel whose assistance is ‘[w]ithin the range of  
14 competence demanded of attorneys in criminal cases.’” Jackson v. Warden, 91 Nev. 430, 432,  
15 537 P.2d 473, 474 (1975).

16 Counsel cannot be ineffective for failing to make futile objections or arguments. See  
17 Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). Trial counsel has the  
18 “immediate and ultimate responsibility of deciding if and when to object, which witnesses, if  
19 any, to call, and what defenses to develop.” Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167  
20 (2002).

21 Based on the above law, the role of a court in considering allegations of ineffective  
22 assistance of counsel is “not to pass upon the merits of the action not taken but to determine  
23 whether, under the particular facts and circumstances of the case, trial counsel failed to render  
24 reasonably effective assistance.” Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711  
25 (1978). This analysis does not mean that the court should “second guess reasoned choices  
26 between trial tactics nor does it mean that defense counsel, to protect himself against  
27 allegations of inadequacy, must make every conceivable motion no matter how remote the  
28 possibilities are of success.” Id. To be effective, the constitution “does not require that counsel

1 do what is impossible or unethical. If there is no bona fide defense to the charge, counsel  
2 cannot create one and may disserve the interests of his client by attempting a useless charade.”  
3 United States v. Cronin, 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19 (1984).

4 “There are countless ways to provide effective assistance in any given case. Even the  
5 best criminal defense attorneys would not defend a particular client in the same way.”  
6 Strickland, 466 U.S. at 689, 104 S. Ct. at 689. “Strategic choices made by counsel after  
7 thoroughly investigating the plausible options are almost unchallengeable.” Dawson v. State,  
8 108 Nev. 112, 117, 825 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784  
9 P.2d 951, 953 (1989). In essence, the court must “judge the reasonableness of counsel’s  
10 challenged conduct on the facts of the particular case, viewed as of the time of counsel’s  
11 conduct.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066.

12 Even if a defendant can demonstrate that his counsel’s representation fell below an  
13 objective standard of reasonableness, he must still demonstrate prejudice and show a  
14 reasonable probability that, but for counsel’s errors, the result of the trial would have been  
15 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing  
16 Strickland, 466 U.S. at 687, 104 S. Ct. at 2064). “A reasonable probability is a probability  
17 sufficient to undermine confidence in the outcome.” Id. (citing Strickland, 466 U.S. at 687-  
18 89, 694, 104 S. Ct. at 2064-65, 2068).

19 The Nevada Supreme Court has held “that a habeas corpus petitioner must prove the  
20 disputed factual allegations underlying his ineffective-assistance claim by a preponderance of  
21 the evidence.” Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). Furthermore,  
22 claims of ineffective assistance of counsel asserted in a petition for post-conviction relief must  
23 be supported with specific factual allegations, which if true, would entitle the petitioner to  
24 relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and “naked”  
25 allegations are not sufficient, nor are those belied and repelled by the record. Id. NRS  
26 34.735(6) states in relevant part, “[Petitioner] *must* allege specific facts supporting the claims  
27 in the petition[.] . . . Failure to allege specific facts rather than just conclusions may cause your  
28 petition to be dismissed.” (Emphasis added). A defendant who contends his attorney was

1 ineffective because he did not adequately investigate must show how a better investigation  
2 would have rendered a more favorable outcome probable. Molina v. State, 120 Nev. 185, 192,  
3 87 P.3d 533, 538 (2004).

4 **I. COUNSEL WAS NOT INEFFECTIVE FOR FAILING TO**  
5 **FORENSICALLY ANALYZE PETITIONER’S CELL PHONE**

6 Petitioner’s first claim of ineffective assistance of trial counsel alleges that “counsel  
7 made no effort to ensure that the phone was forensically analyzed to disprove allegations made  
8 by the State and Mr. Averman.” Petition at 13. As set forth by Petitioner, “[t]he State’s  
9 witnesses were making claims that Mr. White had delivered threatening voice mails and text  
10 messages to Mr. Averman . . . [i]t was incumbent upon defense counsel to obtain a forensic  
11 analysis of the phone to properly determine whether the State’s witnesses were accurate or  
12 whether they could have been easily impeached.” Id. Petitioner also alleges Mr. Averman’s  
13 testimony “may” have been easily defeated had trial counsel obtained a forensic analysis of  
14 Petitioner’s cell phone. Id.

15 Petitioner’s claim here fails for multiple reasons. Pursuant to NRS 34.735(6) and  
16 Hargrove, 100 Nev. at 502, 686 P.2d at 225, a petitioner must support his allegations with  
17 specific facts that entitle him to relief; further, pursuant to Molina, 120 Nev. at 192, 87 P.3d at  
18 538, allegations that counsel was ineffective for failure to investigate must show how a better  
19 investigation would have rendered a more favorable outcome probable. Petitioner offers no  
20 facts indicating that such a forensic analysis *would* have provided witness impeachment  
21 evidence, only the bare and naked assertion that such an analysis *could* have provided  
22 impeachment evidence. Petition at 15. The cell phone in question was Petitioner’s personal  
23 cell phone; he better than anyone would have been able to assert that such messages were not  
24 sent by him to Mr. Averman. Yet, despite personal knowledge of whether the messages sent  
25 from Petitioner’s phone came from Petitioner himself, Petitioner has set forth no affidavit or  
26 declaration in support of his allegations that an analysis of the phone would have shown that  
27 another party sent the messages in question, nor any indication of what such an analysis would  
28 have uncovered. Petitioner’s bare allegations also do not establish that a forensic analysis

1 would have rendered a more favorable trial outcome probable, as he cannot establish that a  
2 forensic analysis would have uncovered evidence that would have impeached Mr. Averman's  
3 testimony. Even if a forensic analysis would have uncovered evidence favorable to Petitioner,  
4 there would not be a reasonable probability that the results of the trial would have been  
5 different, as there were multiple eyewitnesses to the murder of Echo Lucas. Thus, pursuant to  
6 Hargrove and Molina, Petitioner's bare, naked assertions cannot satisfy his burden of showing  
7 a reasonable probability that the outcome of the trial would have been more favorable had  
8 counsel obtained a forensic examination of Petitioner's phone.

9 Furthermore, at the limited evidentiary hearing on this issue, Petitioner's former  
10 counsel, Scott Coffee, Esq., testified as follows:

11 Q [MS. MERCER]: Mr. Coffee, has it been your experience that on  
12 prior occasions when you've requested that the State permit you to  
13 examine a cell phone that's not yet been examined that the State will  
14 request its own examination before turning it over to you?

15 A [MR. COFFEE]: Yes.

16 Q: And is that what you suspected would have happened in this  
17 scenario had you requested Mr. White's phone be looked at?

18 A: Yeah, in my experience, the State zealously guards the  
19 evidence that they've guarded -- that they've gathered. And with that  
20 in mind, they're not going to turn things over to me unless they do  
21 testing themselves.

22 Q: And during the course of the trial, your strategy was to focus  
23 on establishing that this was a voluntary manslaughter as opposed to  
24 a first-degree murder. Correct?

25 A: Correct.

26 Q: Throughout the trial, you were able to admit several items of  
27 evidence that you obtained as a result of forensic analysis on Echo's  
28 phone. Correct?

A: Yes, and then we either tendered it or we got to it on  
cross-examination, but yeah, there was a lot of things in Echo's phone  
that we tried to use to our advantage.

Q: And those included text messages between Mr. White and  
Echo Lucas, correct?

A: Correct.

Q: As well as voicemail messages left?

A: I believe so.

...

1 Q: And knowing what you saw in Echo's phone and what you  
2 saw through Facebook records, et cetera, did you have concerns that  
3 there would be more incriminating evidence on the phone than there  
4 would be evidence that would be helpful to your case?

5 A There was a risk involved with having the phone analyzed. And,  
6 you know, the incrimination [indiscernible], we didn't test -- we did  
7 not contest identity. So, you know, the incrimination part I suppose  
8 you could argue that both ways. But there was certainly concern  
9 there'd be a lot more that we would have to explain if we started  
10 debating whether or not he had threatened Joe Averman because that  
11 wasn't the focus of the case.

12 ...

13 Q: Mr. Oram had asked you on direct examination whether or not  
14 there's any harm in having that phone examined now because the State  
15 can't add charges. Do you recall that question?

16 A: Yes.

17 Q: If the phone were to be examined and for some reason this  
18 conviction were vacated, it could still potentially produce evidence  
19 that would be helpful to the State in a retrial. Correct?

20 A: It could.

21 Evidentiary Hearing Transcript, March 4, 2021, at 7-10.

22 Mr. Coffee's testimony demonstrated that he made a strategic decision to not have the  
23 phone evaluated because it was more of a risk to Petitioner than a reward. At trial, Mr. Coffee  
24 impeached the victim regarding his credibility on two (2) different issues. But overall, Mr.  
25 Coffee was more concerned that having the phone evaluated would cause more harm than  
26 good. Under Strickland, Mr. Coffee was no ineffective because he made a reasonable strategic  
27 decision that the investigation of the cell phone would be more harmful than beneficial. Mr.  
28 Coffee used careful thought and deliberation to not take a great risk and have the cell phone  
evaluated because of the potential harm it could cause Petitioner. Therefore, Petitioner cannot  
demonstrate that counsel was ineffective for failing to have the cell phone evaluated.

For the reasons set forth above, Petitioner has failed to show pursuant to Strickland,  
466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068 that his counsel's representation fell below  
an objective standard of reasonableness, nor that but for counsel's errors, there is a reasonable  
probability that the result of the proceedings would have been different. Petitioner's claim of  
ineffective assistance of counsel on this matter is denied.

1                   **II.     COUNSEL WAS NOT INEFFECTIVE FOR FAILING TO OBJECT TO**  
2                   **ALLEGED ALLEGATIONS OF PRIOR BAD ACTS**

3           Petitioner's second claim of ineffective assistance of trial counsel alleges that the State  
4 made an "insinuation" of "extraordinarily prejudicial innuendo" at trial, that trial counsel was  
5 ineffective for failing to object to such innuendo, and that appellate counsel was ineffective  
6 for failing to raise this issue on appeal. Petition at 16, 19. For the reasons set forth below, this  
7 claim is denied.

8           Petitioner's claim of ineffective assistance on counsel on this count is replete with legal  
9 and factual non-sequiturs. First, Petitioner has, whether intentionally or unintentionally,  
10 misstated the record in his Petition.<sup>1</sup> In Section III of his Petition, Petitioner sets forth the  
11 following: "Echo Lucas' mother testified at trial. During her testimony, the State asked the  
12 following question, and she gave the following answer ... Requesting that the mother speculate  
13 as to what 'things' Mr. White may have done to her, signaled to the jury that there was (sic)  
14 issues of domestic violence." Petition at 16. While Echo Lucas's mother, Amber Gaines, did  
15 indeed testify at trial, the State did not ask her the questions that Petitioner quotes in his  
16 Petition. Those questions were asked of State's witness Timothy Henderson, a minister with  
17 The Potter's House Church, where the victim and Petitioner worshipped together. Trial  
18 Transcript, Day 6, at 39. Petitioner refers multiple times to "her" testimony, incorrectly  
19 attributing the relevant exchange to Ms. Gaines and not to Mr. Henderson (presumably  
20 Reverend Henderson). Petition at 16-19. This is relevant to understand the context of these  
21 questions, as the victim's minister's intimate knowledge of a marital relationship would be  
22 different than that of the victim's mother.

23           Second, Petitioner appears to argue that the following vague question was bad act  
24 evidence or an insinuation thereof:

25                   Q:     You don't know what things the defendant might have done to  
26                   her, or what she might have done to him?

27                   

---

  
28                   <sup>1</sup> The misstatement of the record may be due to Petitioner's curious decision to cite not to the record in the  
District Court, but to the Appellate's Appendix ("A.A.") filed alongside Petitioner's direct appeal in Nevada  
Supreme Court case 68632. Petitioner has cited to the A.A. throughout his Petition.

1 A: No, I'm not aware.

2 Petition at 16. Petitioner then admits that the question, or "insinuation," is not bad act  
3 evidence: "the insinuation is more powerful than an *actual* presentation of a bad act." Id. This  
4 begs the question, how could insinuating that a defendant committed a bad act possibly be  
5 worse than actually presenting a specific bad act? Petitioner provides no legal authority for  
6 this assertion, and as such this argument should be summarily rejected. Jones v. State, 113  
7 Nev. 454, 468, 937 P.2d 55, 64 (1997) (holding that Jones' unsupported contention should be  
8 summarily rejected on appeal). Another question posed by the State is also alleged to be an  
9 "insinuation" of a bad act:

10 Q: At the beginning of 2012 did you learn that he may not be such  
11 a wonderful husband to Echo?

12 A: Absolutely, yes.

13 Id. at 16, n. 8. A plain reading of the transcript shows that these questions were elicited to  
14 show that Mr. Henderson, the minister of The Potter's House Church, lacked intimate  
15 knowledge of Petitioner and the victim's relationship, and not to establish a prior bad act. The  
16 question asked immediately prior to the first question Petitioner quoted in his Petition is as  
17 follows:

18 Q: Just so we're clear, you have no idea the things that might have  
19 upset either Echo or the defendant in the course of their relationship  
20 that caused it to ultimately end in early 2012; correct?

21 A: No, I'm not aware of that. No.

22 Trial Transcript, Day 6, at 39. The question asked immediately prior to the second question  
23 was meant to demonstrate that while Petitioner may have been a good father to his children,  
24 he was not a good husband to his wife:

25 Q: You were asked where the defendant was a wonderful dad. Do  
26 you remember that question?

27 A: Yes.

28 Q: And your answer was yes?

A: Yes.

1 Trial Transcript, Day 6, at 74. Even without examining these questions in context, the  
2 questions are so facially vague that a reasonable juror would not have understood them as a  
3 reference to a prior act of domestic violence. In the first question, Rev. Henderson was unaware  
4 of what “things” Petitioner may have done to Ms. Lucas or vice versa, thus there can be no  
5 inference of any specific bad act committed by Petitioner. In the second question, Rev.  
6 Henderson merely agreed that even with his limited knowledge of their marital affairs,  
7 Petitioner was “not [] such a wonderful husband” to Ms. Lucas. This could have referred to  
8 any number of things that would make Petitioner a bad husband and not to specific acts of  
9 domestic violence.

10       There is no evidence of any prior bad act in the preceding questions. Instead, Petitioner  
11 alleges that the jury could only have inferred that the State was referring to prior bad acts  
12 because it mentioned Petitioner’s history at sentencing, well after the trial had concluded and  
13 outside the presence of the jury. Such an argument is a factual non-sequitur; the jury could not  
14 have inferred that the State was referring to acts of domestic violence if the only evidence of  
15 such was introduced months after the jury had already entered its guilty verdicts.

16       Despite his assertion that the questions solicited of Rev. Henderson insinuated bad acts,  
17 as indicated by his extensive legal citations regarding bad acts, he also argues—absent any  
18 legal authority—that vague insinuations of bad acts are “more powerful than bad acts.”  
19 Petition at 16. The questions posed of Rev. Henderson referenced no specific bad acts  
20 whatsoever committed by Petitioner. It is thus impossible to analyze such questions under a  
21 bad act framework, which requires the court determine whether evidence is relevant to the  
22 crime charged, proven by clear and convincing evidence, and that the probative value of that  
23 evidence is not substantially outweighed by the danger of unfair prejudice. Tinch v. Nevada,  
24 113 Nev. 1170, 946 P.2d 1061 (1997). Objecting to these questions on a “bad act” basis would  
25 thus have been futile, as there was no legal basis for such an objection; pursuant to Ennis, 122  
26 Nev. at 706, 137 P.3d at 1103, counsel cannot be ineffective for failing to make futile  
27 objections or arguments.

28 ///



1 Further, Petitioner has not shown a reasonable probability that the result of the trial  
2 would have been different had the State not posed such questions or if trial counsel had  
3 objected to them, as there were multiple eyewitnesses to the murder of Echo Lucas and  
4 substantial evidence showing that Petitioner was guilty of that murder. Thus, Petitioner cannot  
5 satisfy his burden of showing a reasonable probability that the outcome of the trial would have  
6 been more favorable had trial counsel objected to these alleged bad acts.

7 Petitioner's sole argument that appellate counsel was ineffective on this issue was that  
8 appellate counsel did not raise such on direct appeal. Petition at 19. As set forth above, there  
9 was no legal or factual basis for such an argument on appeal; appellate counsel cannot be  
10 ineffective for failing to raise futile arguments. Ennis, 122 Nev. at 706, 137 P.3d at 1103.

11 For the reasons set forth above, Petitioner has failed to show pursuant to Strickland,  
12 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068 that his trial counsel or appellate counsel's  
13 representation fell below an objective standard of reasonableness, nor that but for counsel's  
14 errors, there is a reasonable probability that the result of the proceedings would have been  
15 different. Petitioner's claim of ineffective assistance of counsel on this matter is therefore  
16 denied.

### 17 **III. COUNSEL WAS NOT INEFFECTIVE FOR FAILING TO SUPPRESS** 18 **THE EVIDENCE OBTAINED FROM THE VICTIM'S CELL PHONE**

19 Petitioner asserts trial counsel was ineffective for failing to "ensure the police obtained  
20 a warrant to forensically analyze the phone attributed to Echo Lucas in violation of the Sixth,  
21 Fourth, and Fourteenth Amendments to the United States Constitution." Petition at 19. The  
22 meaning of this assertion is unclear; Petitioner identifies no legal support for the proposition  
23 that defense counsel has a duty to prospectively instruct police to obtain a warrant prior to  
24 conducting a search under the Fourth Amendment, nor a duty to prospectively prevent police  
25 from performing a search until a warrant is obtained. Further, while Petitioner asserts that the  
26 search in question was conducted in violation of the Fourth, Sixth, and Fourteenth  
27 Amendment, he does not specify whose constitutional rights were violated from this allegedly  
28 improper search; his own, or those of Ms. Lucas. Ordinarily, if trial counsel wishes to prevent

1 the introduction of evidence that was obtained in violation of a defendant's constitutional  
2 rights, counsel will move to suppress such evidence after its collection and prior to trial. See  
3 State v. Lloyd, 129 Nev. 739, 741, 312 P.3d 467, 468 (2013). The Court will proceed under  
4 the assumption that Petitioner is arguing trial counsel was ineffective for failing to suppress  
5 the information from Ms. Lucas's cell phone that was allegedly obtained in violation of  
6 Petitioner's Fourth, Sixth, and Fourteenth Amendment rights.

7 First, Petitioner has no standing to bring this claim. By sending messages from his  
8 phone to Ms. Lucas's phone, Petitioner had no legitimate expectation in the privacy of his  
9 messages once they were displayed and stored on Ms. Lucas's phone. See Smith v. Maryland,  
10 442 U.S. 735, 743-44, 99 S. Ct 2577, 2581 (1979) ("[A] person has no legitimate expectation  
11 of privacy in information he voluntarily turns over to third parties."). Thus, whether Ms. Lucas  
12 had singular standing over the cell phone is ultimately irrelevant; as Petitioner has no  
13 legitimate expectation of privacy in the text messages voluntarily sent to and stored on Ms.  
14 Lucas's cell phone, he has no standing to contest its search.

15 Even if Petitioner has standing to raise this claim, Petitioner's argument here rests on  
16 two (2) unsupported arguments: one, that someone other than Ms. Lucas had standing to assert  
17 a violation of her right to be protected from unreasonable search and seizure via the  
18 investigation of her cell phone; and two, that it is the State's burden to establish that only Ms.  
19 Lucas had the standing to challenge a search of her phone. Petition at 20. The former has no  
20 factual support, while the latter has no legal support.

21 While Petitioner argues that Riley v. California, 134 S. Ct. 2473, 189 L. Ed. 2d 430  
22 (2014) and Carpenter v. United States, 138 S. Ct. 2206, 201 L. Ed. 2d 507 (2018) support his  
23 aforementioned assertions, such cases are easily distinguishable. In Riley, the defendant's  
24 personal cell phone was searched after he was taken into custody; here, the cell phone belonged  
25 to the victim. 134 S. Ct. at 2481. Thus, unlike in Riley where the defendant had standing to  
26 assert a Fourth Amendment violation, Petitioner has submitted no evidence that he has  
27 standing to assert a Fourth Amendment violation as it pertains to a search of Ms. Lucas's cell  
28 phone. Carpenter on the other hand is wholly inapplicable to the instant case, as it was decided

1 three (3) years after Petitioner’s trial and is not retroactive. Even if Carpenter was retroactive,  
2 the case is easily distinguishable. Carpenter held that an individual maintains a legitimate  
3 expectation of privacy in the record of his physical movements as captured through cell-site  
4 location information (CSLI), and that the Government must generally obtain a search warrant  
5 supported by probable cause before acquiring CSLI from a wireless carrier. 138 S. Ct. at 2217.  
6 In this case, the State did not introduce evidence of Petitioner’s location as captured by CSLI;  
7 instead, the State introduced the substance of the texts sent by Petitioner to Ms. Lucas’s phone.  
8 Neither Riley nor Carpenter stand for the proposition that the State must produce evidence to  
9 establish that a deceased victim was the only individual with standing to contest a search of  
10 her cell phone, and Petitioner has provided no other law in support of such argument. As this  
11 contention is unsupported by legal citation, it may be summarily dismissed pursuant to Jones,  
12 113 Nev. at 468, 937 P.2d at 64.

13 As trial counsel did not object to this issue, all but plain error is waived. Dermody v.  
14 City of Reno, 113 Nev. 207, 210-11, 931 P.2d 1354, 1357 (1997). “To amount to plain error,  
15 the ‘error must be so unmistakable that it is apparent from a casual inspection of the record.’”  
16 Vega v. State, 126 Nev. 332, 338, 236 P.3d 632, 637 (2010) (quoting Nelson, 123 Nev. at 543,  
17 170 P.3d at 524). In addition, “the defendant [must] demonstrate[ ] that the error affected his  
18 or her substantial rights, by causing ‘actual prejudice or a miscarriage of justice.’” Valdez, 124  
19 Nev. at 1190, 196 P.3d at 477 (quoting Green v. State, 119 Nev. 542, 545, 80 P.3d 93, 95  
20 (2003)). Thus, reversal for plain error is only warranted if the error is readily apparent and the  
21 appellant demonstrates that the error was prejudicial to his substantial rights. Martinorellan v.  
22 State, 131 Nev. Adv. Op. 6, 343 P.3d 590, 593 (2015). Petitioner cannot demonstrate plain  
23 error here for the reasons listed above; he has no standing to contest the search of Ms. Lucas’s  
24 cell phone because he voluntarily sent messages to it, thus eliminating his legitimate  
25 expectation of privacy in those messages. And even if this court finds he had a legitimate  
26 expectation of privacy in those messages, he has not shown that he has standing to challenge  
27 a search of Ms. Lucas’s phone. Further, Petitioner has produced no legal support for the  
28 assertion that the State must demonstrate that no person other than a decedent victim may have

1 standing to contest a search of a decedent's cell phone. Petitioner's substantial rights have  
2 thus not been violated and the failure of trial counsel to contest the search of Ms. Lucas's cell  
3 phone is not plain error.

4 Thus, Petitioner has not shown a reasonable probability that the result of the trial would  
5 have been different had counsel moved for suppression of the information gained from Ms.  
6 Lucas's cell phone, as there were multiple eyewitnesses to the murder of Ms. Lucas and  
7 substantial evidence showing that Petitioner was guilty of that murder. Thus, Petitioner cannot  
8 satisfy his burden of showing a reasonable probability that the outcome of the trial would have  
9 been more favorable had trial counsel objected to the introduction of Petitioner's text  
10 messages.

11 For the reasons set forth above, Petitioner has failed to show pursuant to Strickland,  
12 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068 that his trial counsel's representation fell  
13 below an objective standard of reasonableness, nor that but for counsel's errors, there is a  
14 reasonable probability that the result of the proceedings would have been different.  
15 Petitioner's claim of ineffective assistance of counsel on this matter is therefore denied.

16 **IV. COUNSEL WAS NOT INEFFECTIVE FOR FAILING TO OBJECT TO**  
17 **ARGUMENT BY PROSECUTOR AS TO HEAT OF PASSION AND**  
18 **MANSLAUGHTER**

19 Petitioner argues that the prosecutor "patently mischaracterized the standard of proof  
20 necessary to find the defendant guilty of manslaughter." Petition at 21. Petitioner then  
21 immediately contradicts this assertion by stating "[a]dmittedly, the jury was properly  
22 instructed" as to the standard of proof on manslaughter. Id. Despite Petitioner's concession  
23 that the jury was properly instructed as to the relevant standard of proof, Petitioner argues that  
24 the State's closing argument somehow nullified the jury instructions, that trial counsel was  
25 ineffective for failing to object to that closing argument, and that appellate counsel was  
26 ineffective as well for failing to raise this issue on appeal. Petition at 21. Petitioner's claims  
27 are without merit and are denied.  
28

1           Petitioner makes multiple arguments against his own claim. “Undoubtedly, the State  
2 will argue that Mr. White has not correctly cited to the record. The State will argue that these  
3 statements were taken out of context.” Petition at 22. Again, Petitioner has not correctly cited  
4 to the record, as all of his citations refer to the Appellate’s Appendix attached to his direct  
5 appeal in Nevada Supreme Court case 68632. Petitioner’s blatant refusal to cite to the  
6 appropriate record in this case renders the instant claim appropriate for summary dismissal, as  
7 his contentions are not properly supported. Jones, 113 Nev. at 468, 937 P.2d 64. Further, by  
8 admitting to this Court that his unsupported claim takes the State out of context, Petitioner  
9 concedes that his claim is obviously frivolous, unnecessary, unwarranted, and a waste of  
10 judicial resources. In further support of this conclusion, Petitioner has already admitted that  
11 the jury *was* properly instructed on the proper standard of proof. However, Petitioner cites to  
12 “A.A. Vol. 10 p.1939” to show the “heat of passion” instruction that was given to the jury, the  
13 instruction at page 1939 of the A.A. is *not* what Petitioner cited in his Petition. Petitioner  
14 asserts that the jury was properly instructed on the heat of passion defense as follows:

15           A killing committed in the heat of passion, caused by a provocation  
16 sufficient to make the passion irresistible, is [V]oluntary  
17 [M]anslaughter even if there is an intent to kill, so long as the  
18 circumstances in which the killer was place (sic) and the facts that  
19 confronted him were [such] as also would [have] aroused the  
irresistible passion of the ordinarily reasonable man if likewise  
situated.

20       Petition at 21. Page 1939 of the Appellate’s Appendix, however, reads as follows:

21           The heat of passion which will reduce a Murder to Voluntary  
22 Manslaughter must be such a passion as naturally would be aroused  
23 in the mind of an ordinarily reasonable person in the same  
24 circumstances. A defendant is not permitted to set up his own standard  
25 of conduct and to justify or excuse himself because his passions were  
26 aroused unless the circumstances in which he was placed and that facts  
27 that confronted him were such as also would have aroused the  
28 irresistible passion of the ordinarily reasonable man, if likewise  
situated. The basic inquiry is whether or not, at the time of the killing,  
the reason of the accused was obscured or disturbed by passion to such  
an extent as would cause the ordinarily reasonable person of average

1 disposition to act rashly and without deliberation and reflection and  
2 from such passion rather than from judgment.

3 Appellate's Appendix, NV. S. Ct. Case 68632; Jury Instructions, filed April 17, 2015, at 17.

4 The Court believes Petitioner wished to cite to Jury Instructions, filed April 17, 2015,  
5 at 16, which shows the actual heat of passion instruction given to the jury, minus Petitioner's  
6 numerous clerical errors. Regardless of the improper citation, the Court is confused by  
7 Petitioner's decision to bring a claim of ineffective assistance of counsel for failing to object  
8 to argument based on a paraphrasing of a jury instruction that Petitioner agrees was proper.

9 Nevertheless, even if Petitioner's Petition could be construed to allege that the State  
10 committed any specific wrongdoing in its argument—which it did not—the State's closing  
11 argument did not direct the jury to disregard the written jury instructions regarding the  
12 standard of proof necessary to find the Petitioner guilty of manslaughter. Indeed, Petitioner  
13 has cited to no such language in the State's closing because it does not exist. Instead, Petitioner  
14 merely asserts—without support—that “the prosecutor repeatedly informed the jury that the  
15 State's burden of proof was much less than the law required.” Petition at 23.

16 Rather than instructing the jury to disregard the jury instructions, the State's closing  
17 argument illustrated how Petitioner did not possess a provocation sufficient to manifest a  
18 passion so “irresistible” that he could not control himself in the killing of Ms. Lucas. As noted  
19 above, this is merely a paraphrase of the “heat of passion” defense as cited by Petitioner.  
20 Indeed, unlike the prototypical example of a man finding another man in bed with his wife  
21 and being so overcome with passion that he kills without thought or judgment, here Petitioner  
22 had been separated from Ms. Lucas for months, and he knew that the victim and her boyfriend  
23 had been seeing each other for some time prior to the killing. See Supplemental PSI filed  
24 August 3, 2015, at 4-5. Further, Petitioner did not suddenly walk into a bedroom and find the  
25 decedent victim and another man in the embrace of passion; instead, Mr. Averman walked  
26 into a room where Petitioner and the victim were arguing, then Petitioner opened fire, killing  
27 Ms. Lucas and wounding Mr. Averman. Id. The State's argument that Petitioner did not  
28 possess “irresistible” passion that overcame his judgment in the killing of Ms. Lucas is

1 nothing more than a paraphrasing of a proper jury instruction and in no way suggested a  
2 different burden of proof.

3 As the State's argument was proper and the jury was correctly instructed on the burdens  
4 of proof associated with manslaughter and the heat of passion defense, any objection to such  
5 at trial would have been futile. Counsel cannot be ineffective for failing to make futile  
6 objections or arguments. Ennis, 122 Nev. at 706, 137 P.3d at 1103. Further, as such argument  
7 would have been futile, appellate counsel was not ineffective for failing to raise such argument  
8 on appeal. While Petitioner argues that raising this issue on appeal "would have mandated  
9 reversal," Petitioner sets forth no argument that removing the allegedly improper language  
10 from the State's closing would create a reasonable probability that the result of either the  
11 instant trial or any trial subsequent to remand would have been or would be different. Petition  
12 at 23.

13 For the reasons set forth above, Petitioner has failed to show pursuant to Strickland,  
14 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068 that his counsel's representation fell below  
15 an objective standard of reasonableness, nor that but for counsel's errors, there is a reasonable  
16 probability that the result of the proceedings would have been different. Petitioner's claim of  
17 ineffective assistance of counsel on this matter is therefore denied.

18 **V. COUNSEL WAS NOT INEFFECTIVE FOR FAILING TO OBJECT TO**  
19 **THE REASONABLE DOUBT AND EQUAL AND EXACT JUSTICE**  
20 **INSTRUCTIONS**

21 Petitioner argues that trial counsel and appellate counsel were ineffective for failing to  
22 challenge the following jury instruction on reasonable doubt:

23 **INSTRUCTION NO. 27**

24 A reasonable doubt is one based on reason. It is not mere possible  
25 doubt but is such a doubt as would govern or control a person in the  
26 more weighty affairs of life. If the minds of the jurors, after the entire  
27 comparison and consideration of all the evidence, are in such a  
28 condition that they can say they feel an abiding conviction of the truth  
of the charge, there is not a reasonable doubt. Doubt, to be reasonable,  
must be actual, not mere possibility or speculation.

1 Jury Instructions, filed April 17, 2015, at 31; Petition at 23-24. Petitioner also argues counsel  
2 was ineffective for failing to challenge Instruction Number 38 on “Equal and Exact Justice,”  
3 which reads as follows:

4 INSTRUCTION NO. 38.

5 Now you will listen to the arguments of counsel who will endeavor to  
6 aid you to reach a proper verdict by refreshing in your minds the  
7 evidence and by showing the application thereof to the law; but,  
8 whatever counsel may say, you will bear in mind that it is your duty  
9 to be governed in your deliberation by the evidence as you understand  
it and remember it to be and by the law as given to you in these  
instructions, with the sole, fixed, and steadfast purpose of doing equal  
and exact justice between the Defendant and the State of Nevada.

10 Jury Instructions, filed April 15, 2015, at 42; Petition at 24-25.

11 The Nevada Supreme Court has already found Instruction Number 27 permissible in  
12 Elvik v. State, 114 Nev. 883, 985 P.2d 784 (1998) and Bolin v. State, 114 Nev. 503, 960 P.2d  
13 784 (1998). As to the second challenged instruction, Petitioner also asserts that Instruction  
14 Number 38 improperly minimized the State’s burden of proof and was thus improper pursuant  
15 to Sullivan v. Louisiana, 508 U.S. 275, 281 (1993), yet provides no legal analysis in support  
16 of this assertion. Further, Petitioner has failed to cite to controlling case law directly adverse  
17 to his arguments regarding the propriety of the “equal and exact” jury instruction:

18 Appellant contends that the district court denied him the presumption  
19 of innocence by instructing the jury to do “equal and exact justice  
20 between the Defendant and the State of Nevada.” *This instruction does*  
21 *not concern the presumption of innocence or burden of proof.* A  
22 separate instruction informed the jury that the defendant is presumed  
23 innocent until the contrary is proven and that the state has the burden  
of proving beyond a reasonable doubt every material element of the  
crime and that the defendant is the person who committed the offense.  
24 Appellant was not denied the presumption of innocence.

25 Leonard v. State, 114 Nev. 1196, 1209, 969 P.2d 288, 296 (1998).

26 As set forth above, there are controlling Nevada cases directly adverse to Petitioner’s  
27 arguments that the challenged jury instructions were improper; thus, any objection to them at  
28 trial would have been futile, as would be any argument that they were improper on direct



1 appeal. Trial counsel cannot be ineffective for failing to make futile objections or arguments.  
2 Ennis, 122 Nev. at 706, 137 P.3d at 1103. Further, as such argument would have been futile,  
3 appellate counsel was not ineffective for failing to raise such argument on appeal. Petitioner  
4 sets forth no argument that an alternate, acceptable jury instruction would create a reasonable  
5 probability that the result of his trial would have been different. Petition at 23-25.

6 For the reasons set forth above, Petitioner has failed to show pursuant to Strickland,  
7 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068 that his counsel's representation fell below  
8 an objective standard of reasonableness, nor that but for counsel's errors, there is a reasonable  
9 probability that the result of the proceedings would have been different. Petitioner's claim of  
10 ineffective assistance of counsel on this matter is therefore denied.

## 11 **VI. PETITIONER HAS NOT ESTABLISHED CUMULATIVE ERROR**

12 Petitioner asserts that all of the alleged errors contained in his Petition warrant a finding  
13 of cumulative error. Petition at 25. However, in the instant Petition, Petitioner has alleged  
14 multiple ineffective assistance of counsel claims, and multiple claims of ineffective assistance  
15 of counsel do not establish cumulative error.

16 The Nevada Supreme Court has held that under the doctrine of cumulative error,  
17 "although individual errors may be harmless, the cumulative effect of multiple errors may  
18 deprive an appellant of the constitutional right to a fair trial." Pertgen v. State, 110 Nev. 554,  
19 566, 875 P.2d 361, 368 (1994) (citing Sipsas v. State, 102 Nev. 119, 716 P.2d 231 (1986); *see*  
20 *also* Big Pond v. State, 101 Nev. 1, 3, 692 P.2d 1288, 1289 (1985)).

21 However, the doctrine of cumulative error should not be applied to ineffective  
22 assistance of counsel claims, and the Nevada Supreme Court has stated its hesitance to do so.  
23 In McConnell v. State, when the defendant argued that his claims of ineffective assistance of  
24 counsel amounted to cumulative error, the Nevada Supreme Court plainly said about the  
25 application of the cumulative error standard to ineffective assistance claims, even after  
26 acknowledging that some courts have applied that doctrine saying, "[w]e are not convinced  
27 that this is the correct standard." McConnell v. State, 125 Nev. 243, at 259, 212 P.3d 307, at  
28 318.

1 Ineffective assistance of counsel claims are a rare breed of claims in that harm is an  
2 element of the alleged error. That is to say, there can be no harmless ineffective assistance of  
3 counsel error because prejudice (or harm) is a required element of proving the ineffective  
4 assistance in the first place. Deficient performance, in and of itself, is not an error without  
5 accompanying prejudice. And if prejudice exists, a reversal of the verdict is automatic.

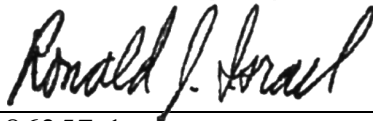
6 Since there can be no harmless ineffective assistance of counsel, it stands to reason that  
7 there cannot be cumulative error as to defendant's claims of the ineffective assistance variety.  
8 Nor should cumulative error apply on post-conviction review. Middleton v. Roper, 455 F.3d  
9 838, 851 (8th Cir. 2006), cert. denial, 549 U.S. 1134, 1275 S. Ct. 980 (2007) ("a habeas  
10 Petitioner cannot build a showing of prejudice on series of errors, none of which would by  
11 itself meet the prejudice test.").

12 Here, Petitioner explicitly claims cumulative error based on ineffective assistance of  
13 counsel, and requests that the Court overturn his conviction. Petition at 25. However, Petitioner  
14 was unable to demonstrate prejudice on any of his ineffective assistance of counsel claims.  
15 Thus, since none of his ineffective assistance of counsel claims are prejudicial or demonstrate  
16 error, there cannot be a finding for cumulative error. Lee v. Lockhart, 754 F.2d 277, at 279  
17 (cited by McConnell, at FN 17).

### 18 ORDER

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

21 Dated this 13th day of April, 2021

22 

23 C-12-286357-1

24 STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565

25 458 601 410F 483F  
Ronald J. Israel  
District Court Judge

SC

26 BY /s/ Taleen Pandukht  
27 TALEEN PANDUKHT  
Chief Deputy District Attorney  
Nevada Bar #005734

28 BS/jg/DVU

1 **CSERV**

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

5  
6 State of Nevada

CASE NO: C-12-286357-1

7 vs

DEPT. NO. Department 28

8 Troy White  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the  
13 court's electronic eFile system to all recipients registered for e-Service on the above entitled  
case as listed below:

14 Service Date: 4/13/2021

15 Carrie Connolly .

connolcm@ClarkCountyNV.gov

16 Eileen Davis .

Eileen.Davis@clarkcountyda.com

17 Jennifer Garcia .

Jennifer.Garcia@clarkcountyda.com

18 PD Motions .

PDMotions@clarkcountyda.com

19 Scott .

CoffeeSL@ClarkCountyNV.gov

20 CHRISTOPHER ORAM ESQ.

contact@christopheroramlaw.com

21 DEPT 28 LAW CLERK

dept28lc@clarkcountycourts.us

22 Christopher Oram

contact@christopheroramlaw.com

23  
24  
25  
26  
27  
28



NEO

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

TROY WHITE,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent,

Case No: C-12-286357-1

Dept No: XXVIII

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

**PLEASE TAKE NOTICE** that on April 13, 2021, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on April 15, 2021.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

**CERTIFICATE OF E-SERVICE / MAILING**

I hereby certify that on this 15 day of April 2021, I served a copy of this Notice of Entry on the following:

☒ By e-mail:

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

☒ The United States mail addressed as follows:

Troy White # 1143868  
P.O. Box 650  
Indian Springs, NV 89070

Christopher R. Oram, Esq.  
520 S. Fourth St., 2<sup>nd</sup> Floor  
Las Vegas, NV 89101

Jessie L. Folkestad, Esq.  
520 S. Fourth St., 2nd Floor  
Las Vegas, NV 89101

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

**FCL**  
STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
TALEEN PANDUKHT  
Chief Deputy District Attorney  
Nevada Bar #005734  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

TROY WHITE,  
#1383512

Petitioner,

-vs-

THE STATE OF NEVADA,

Respondent.

CASE NO: C-12-286357-1

DEPT NO: XXVIII

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

DATE OF HEARING: MARCH 4, 2021  
TIME OF HEARING: 1:30 P.M.

THIS CAUSE having come on for hearing before the Honorable RONALD J. ISRAEL, District Judge, on the 4th day of March, 2021, the Petitioner being present, represented by CHRISTOPHER R. ORAM, ESQ., the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through ELIZABETH A. MERCER, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, the testimony of Scott Coffee, Esq., and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

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1 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

2 **STATEMENT OF THE CASE**

3 On December 12, 2017, Petitioner Troy White (hereinafter "Petitioner") was charged  
4 by way of Information with the following counts: Count 1, BURGLARY WHILE IN  
5 POSSESSION OF A FIREARM (Category B Felony - NRS 205.060); Count 2, MURDER  
6 WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030,  
7 193.165); Count 3, ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category  
8 B Felony - NRS 200.010, 200.030, 193.330, 193.165); Count 4, CARRYING A  
9 CONCEALED FIREARM OR OTHER DEADLY WEAPON (Category C Felony - NRS  
10 202.350(1)(d)(3)); and Counts 5, 6, 7, 8, and 9, CHILD ABUSE, NEGLECT, OR  
11 ENDANGERMENT (Category B Felony - NRS 200.508(1)).

12 On February 4, 2013, Petitioner filed a pre-trial Petition for Writ of Habeas Corpus, to  
13 which the State filed a Return on March 19, 2013. On March 27, 2013, the district court granted  
14 Petitioner's Petition as to Count 1 only and denied the Petition as to Count 2 through 9. The  
15 State filed a Notice of Appeal that same day.

16 On August 8, 2014, the Supreme Court filed an Order affirming the district court's  
17 dismissal of Count 1, holding that a person cannot burglarize his own home. On March 24,  
18 2015, the State filed an Amended Information with the following charges: Count 1, MURDER  
19 WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030,  
20 193.165); Count 2, ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category  
21 B Felony - NRS 200.010, 200.030, 193.330, 193.165); Count 3, CARRYING A  
22 CONCEALED FIREARM OR OTHER DEADLY WEAPON (Category C Felony - NRS  
23 202.350(1)(d)(3)); and Counts 4, 5, 6, 7, and 8, CHILD ABUSE, NEGLECT, OR  
24 ENDANGERMENT (Category B Felony - NRS 200.508(1)).

25 Jury trial began on April 6, 2015 and concluded on April 17, 2015. The State also filed  
26 a Second Amended Information on April 6, 2015, charging the same counts as listed in the  
27 Amended Information. On April 17, 2015, the jury returned a verdict as follows: as to Count  
28 1, Guilty of Second Degree Murder with Use of a Deadly Weapon; as to Count 2, Guilty of

1 Attempt Murder with Use of a Deadly Weapon; as to Count 3, Guilty of Carrying a Concealed  
2 Firearm or Other Deadly Weapon; and as to Counts 4, 5, 6, 7, and 8, Guilty of Child Abuse,  
3 Neglect, or Endangerment.

4       Petitioner was sentenced on July 20, 2015 as follows: as to COUNT 1, to LIFE with the  
5 eligibility for parole after serving a MINIMUM of TEN (10) YEARS, plus a CONSECUTIVE  
6 term of ONE HUNDRED NINETY-TWO (192) MONTHS with a MINIMUM parole  
7 eligibility of SEVENTY-SIX (76) MONTHS for the Use of a Deadly Weapon; as to COUNT  
8 2, to a MAXIMUM of ONE HUNDRED NINETY-TWO (192) MONTHS with a MINIMUM  
9 parole eligibility of SEVENTY-SIX (76) MONTHS, plus a CONSECUTIVE term of ONE  
10 HUNDRED NINETY-TWO (192) MONTHS with a MINIMUM parole eligibility of  
11 SEVENTY-SIX (76) MONTHS for the Use of a Deadly Weapon; CONSECUTIVE to  
12 COUNT 1; as to COUNT 3, to a MAXIMUM of FORTY-EIGHT (48) MONTHS with a  
13 MINIMUM Parole Eligibility of NINETEEN (19) MONTHS, CONCURRENT WITH  
14 COUNTS 1 & 2; as to COUNT 4, to a MAXIMUM of SIXTY (60) MONTHS with a  
15 MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, CONSECUTIVE TO  
16 COUNTS 1 & 2; as to COUNT 5, to a MAXIMUM of SIXTY (60) MONTHS with a  
17 MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with  
18 ALL OTHER COUNTS; as to COUNT 6, to a MAXIMUM of SIXTY (60) MONTHS with a  
19 MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with  
20 ALL OTHER COUNTS; as to COUNT 7, to a MAXIMUM of SIXTY (60) MONTHS with a  
21 MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with  
22 ALL OTHER COUNTS; as to COUNT 8, to a MAXIMUM of SIXTY (60) MONTHS with a  
23 MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, CONCURRENT with  
24 ALL OTHER COUNTS; with ONE THOUSAND EIGHTY-EIGHT DAYS (1,088) DAYS  
25 credit for time served. The AGGREGATE TOTAL sentence was LIFE with a MINIMUM OF  
26 THIRTY-FOUR (34) YEARS. The Judgment of Conviction was filed July 24, 2015, but an  
27 Amended Judgment of Conviction was filed February 5, 2016, removing the aggregate  
28 sentence total language.

1 On August 12, 2015, Petitioner filed a Notice of Appeal. On April 26, 2017, the Nevada  
2 Supreme Court issued its Order affirming Petitioner's Judgment of Conviction. Remittitur  
3 issued on May 25, 2017.

4 On April 24, 2018, Petitioner filed a post-conviction Petition for Writ of Habeas  
5 Corpus. On December 20, 2018, Petitioner filed a Supplemental Brief in Support of his Petition  
6 for Writ of Habeas Corpus and Motion for Authorization to Obtain Expert and for Payment of  
7 Fees Incurred Herein. The State filed its Response to Petitioner's Supplemental Petition and  
8 Opposition to the Motion for Authorization to Obtain Expert and for Payment of Fees Incurred  
9 on March 26, 2019. On April 24, 2019, Petitioner filed his Reply and Motion for Authorization  
10 to Obtain Investigator and Payment of Fees Incurred Herein. The State filed its Opposition  
11 on May 2, 2019. The district court granted the Motion for an Investigator on June 12, 2019.  
12 The Order was filed on June 21, 2019.

13 On September 2, 2020, this Court denied the Motion in part as to the cell phone, and  
14 ordered a limited evidentiary on the remaining issues—specifically whether counsel was  
15 ineffective for failing to investigate the cell phone. On March 4, 2020, this Court held an  
16 evidentiary hearing where Petitioner's prior counsel, Scott Coffee Esq., testified regarding his  
17 investigation of Petitioner's cell phone. Following the evidentiary hearing, this Court denied  
18 the instant Petition.

### 19 **STATEMENT OF THE FACTS**

20 At sentencing, the district court relied on the following factual synopsis set forth in  
21 White's Supplemental Pre-Sentencing Report:

22 On July 27, 2012, Las Vegas Metropolitan Police Department officers  
23 were dispatched to local residence regarding a shooting. Upon arrival,  
24 officers observed a female, later identified as victim #1 (VC2226830)  
25 lying on the floor in a bedroom in the residence. Victim #1 was  
26 unconscious and had an apparent gunshot wound to her chest. A male,  
27 later identified as victim #2 (VC2226831), was lying on the floor  
28 outside the doorway to the bedroom and he also had apparent gunshot  
wounds. Five children, later identified as nine year old minor victim  
#3 (VC2226832), five year old minor victim #4 (VC2226833), eight  
year old minor victim #5 (VC2226834), six month old minor victim



1 #6 (VC2226835), and two year old minor victim #7 (VC2226836),  
2 were also present in the house.

3 Medical personnel responded and transported victim #1 and victim #2  
4 to a local trauma hospital. Officers later learned that victim #1 arrived  
5 at the hospital and after attempts to revive her, she was pronounced  
6 dead. Victim #2 underwent surgery to treat his injuries.

7 During their investigation, officers learned that victim #1 was married  
8 to a male, later identified as the defendant, Troy Richard White, for  
9 approximately eight years. They have three children in common,  
10 identified as minor victim #5, minor victim #6, and minor victim #7,  
11 and she has two additional children, identified as minor victim #3 and  
12 minor victim #4, with another male.

13 In June 2012, victim #1 and Mr. White separated and Mr. White  
14 moved out of the family home. However, when Mr. White exercised  
15 his visitation on the weekends, he would stay in the home and victim  
16 #1 would stay elsewhere.

17 Towards the end of June 2012, Mr. White became aware that victim  
18 #1 was dating victim #2. Victim #1 and victim #2 talked about finding  
19 their own place, but Mr. White insisted that victim #1 stay in the home  
20 and advised her that it was okay for victim #2 to stay there as well.

21 On the date of the offense, Mr. White went to the residence and told  
22 victim #1 that he needed to speak with her in a back room. Victim #1  
23 agreed and went into a bedroom with Mr. White. After approximately  
24 five minutes, victim #2 heard victim #1 yell at Mr. White to stop and  
25 thought she was in trouble. Victim #2 opened the bedroom door and  
26 saw Mr. White shove victim #1 and then shoot her once in the chest  
27 or stomach. Mr. White then turned, shot victim #2, and victim #2 fell  
28 to the ground. One bullet struck victim #2 in the arm and another bullet  
struck him in the left abdomen. One of the bullets that struck victim  
#2 traveled through his body, penetrated the back wall to the room,  
and exited the residence. At the time victim #2 was shot, he was  
standing within feet of the crib which contained six month old minor  
victim #6.

After shooting victim #2, Mr. White stood over him and showed him  
the gun. Mr. White told victim #2 that he was going to jail and he was  
going to kill him. Mr. White also asked victim #2, "How does it feel  
now?" As victim #2 lay on the floor, Mr. White kept coming into the

1 residence to threaten him. Mr. White finally left the residence and  
2 victim #2 heard a car leave.

3 Once Mr. White fled the scene, minor victim #3 ran to a neighbor's  
4 house to call for police.

5 Later that date, Mr. White turned himself in at the Yavapai County  
6 Sheriff's Department in Arizona. Upon being questioned, Mr. White  
7 reported that he was wanted in the Las Vegas area for shooting  
8 someone. He stated he fled in the vehicle that was now parked in the  
9 sheriff's department lot. Mr. White further stated the gun he used to  
10 shoot people in the Las Vegas area was inside the vehicle in the spare  
11 tire compartment area.

12 On August 10, 2012, Mr. White was extradition back from Arizona  
13 and booked accordingly at the Clark County Detention Center.

14 Supplemental PSI, filed August 3, 2015, at 4-5.

### 15 **AUTHORITY**

16 Petitioner raised five (5) grounds for relief in his post-conviction Petition for Writ of  
17 Habeas Corpus alleging ineffective assistance on the part of trial and/or appellate counsel. For  
18 the reasons set forth below, all of Petitioner's claims of ineffective assistance of counsel are  
19 without merit. As the individual claims are without merit, there is no error to cumulate.  
20 Therefore, Petitioner has not established cumulative error. For the following reasons,  
21 Petitioner's post-conviction Petition for Writ of Habeas Corpus, his request for an evidentiary  
22 hearing, and his motion to obtain a cell phone expert and fees for a forensic analysis of that  
23 phone are denied.

24 The Sixth Amendment to the United States Constitution provides that, "[i]n all criminal  
25 prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his  
26 defense." The United States Supreme Court has long recognized that "the right to counsel is  
27 the right to the effective assistance of counsel." Strickland v. Washington, 466 U.S. 668, 686,  
28 104 S. Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323  
(1993).

To prevail on a claim of ineffective assistance of trial counsel, a defendant must prove  
he was denied "reasonably effective assistance" of counsel by satisfying the two-prong test of

1 Strickland, 466 U.S. at 686-87, 104 S. Ct. at 2063-64. See also Love, 109 Nev. at 1138, 865  
2 P.2d at 323. Under the Strickland test, a defendant must show first that his counsel's  
3 representation fell below an objective standard of reasonableness, and second, that but for  
4 counsel's errors, there is a reasonable probability that the result of the proceedings would have  
5 been different. 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068; Warden, Nevada State  
6 Prison v. Lyons, 100 Nev. 430, 432, 683 P.2d 504, 505 (1984) (adopting the Strickland two-  
7 part test). “[T]here is no reason for a court deciding an ineffective assistance claim to approach  
8 the inquiry in the same order or even to address both components of the inquiry if the defendant  
9 makes an insufficient showing on one.” Strickland, 466 U.S. at 697, 104 S. Ct. at 2069.

10 The court begins with the presumption of effectiveness and then must determine  
11 whether the defendant has demonstrated by a preponderance of the evidence that counsel was  
12 ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). “Effective counsel  
13 does not mean errorless counsel, but rather counsel whose assistance is ‘[w]ithin the range of  
14 competence demanded of attorneys in criminal cases.’” Jackson v. Warden, 91 Nev. 430, 432,  
15 537 P.2d 473, 474 (1975).

16 Counsel cannot be ineffective for failing to make futile objections or arguments. See  
17 Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). Trial counsel has the  
18 “immediate and ultimate responsibility of deciding if and when to object, which witnesses, if  
19 any, to call, and what defenses to develop.” Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167  
20 (2002).

21 Based on the above law, the role of a court in considering allegations of ineffective  
22 assistance of counsel is “not to pass upon the merits of the action not taken but to determine  
23 whether, under the particular facts and circumstances of the case, trial counsel failed to render  
24 reasonably effective assistance.” Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711  
25 (1978). This analysis does not mean that the court should “second guess reasoned choices  
26 between trial tactics nor does it mean that defense counsel, to protect himself against  
27 allegations of inadequacy, must make every conceivable motion no matter how remote the  
28 possibilities are of success.” Id. To be effective, the constitution “does not require that counsel

1 do what is impossible or unethical. If there is no bona fide defense to the charge, counsel  
2 cannot create one and may disserve the interests of his client by attempting a useless charade.”  
3 United States v. Cronin, 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19 (1984).

4 “There are countless ways to provide effective assistance in any given case. Even the  
5 best criminal defense attorneys would not defend a particular client in the same way.”  
6 Strickland, 466 U.S. at 689, 104 S. Ct. at 689. “Strategic choices made by counsel after  
7 thoroughly investigating the plausible options are almost unchallengeable.” Dawson v. State,  
8 108 Nev. 112, 117, 825 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784  
9 P.2d 951, 953 (1989). In essence, the court must “judge the reasonableness of counsel’s  
10 challenged conduct on the facts of the particular case, viewed as of the time of counsel’s  
11 conduct.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066.

12 Even if a defendant can demonstrate that his counsel’s representation fell below an  
13 objective standard of reasonableness, he must still demonstrate prejudice and show a  
14 reasonable probability that, but for counsel’s errors, the result of the trial would have been  
15 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing  
16 Strickland, 466 U.S. at 687, 104 S. Ct. at 2064). “A reasonable probability is a probability  
17 sufficient to undermine confidence in the outcome.” Id. (citing Strickland, 466 U.S. at 687-  
18 89, 694, 104 S. Ct. at 2064-65, 2068).

19 The Nevada Supreme Court has held “that a habeas corpus petitioner must prove the  
20 disputed factual allegations underlying his ineffective-assistance claim by a preponderance of  
21 the evidence.” Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). Furthermore,  
22 claims of ineffective assistance of counsel asserted in a petition for post-conviction relief must  
23 be supported with specific factual allegations, which if true, would entitle the petitioner to  
24 relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and “naked”  
25 allegations are not sufficient, nor are those belied and repelled by the record. Id. NRS  
26 34.735(6) states in relevant part, “[Petitioner] *must* allege specific facts supporting the claims  
27 in the petition[.] . . . Failure to allege specific facts rather than just conclusions may cause your  
28 petition to be dismissed.” (Emphasis added). A defendant who contends his attorney was

1 ineffective because he did not adequately investigate must show how a better investigation  
2 would have rendered a more favorable outcome probable. Molina v. State, 120 Nev. 185, 192,  
3 87 P.3d 533, 538 (2004).

4 **I. COUNSEL WAS NOT INEFFECTIVE FOR FAILING TO**  
5 **FORENSICALLY ANALYZE PETITIONER’S CELL PHONE**

6 Petitioner’s first claim of ineffective assistance of trial counsel alleges that “counsel  
7 made no effort to ensure that the phone was forensically analyzed to disprove allegations made  
8 by the State and Mr. Averman.” Petition at 13. As set forth by Petitioner, “[t]he State’s  
9 witnesses were making claims that Mr. White had delivered threatening voice mails and text  
10 messages to Mr. Averman . . . [i]t was incumbent upon defense counsel to obtain a forensic  
11 analysis of the phone to properly determine whether the State’s witnesses were accurate or  
12 whether they could have been easily impeached.” Id. Petitioner also alleges Mr. Averman’s  
13 testimony “may” have been easily defeated had trial counsel obtained a forensic analysis of  
14 Petitioner’s cell phone. Id.

15 Petitioner’s claim here fails for multiple reasons. Pursuant to NRS 34.735(6) and  
16 Hargrove, 100 Nev. at 502, 686 P.2d at 225, a petitioner must support his allegations with  
17 specific facts that entitle him to relief; further, pursuant to Molina, 120 Nev. at 192, 87 P.3d at  
18 538, allegations that counsel was ineffective for failure to investigate must show how a better  
19 investigation would have rendered a more favorable outcome probable. Petitioner offers no  
20 facts indicating that such a forensic analysis *would* have provided witness impeachment  
21 evidence, only the bare and naked assertion that such an analysis *could* have provided  
22 impeachment evidence. Petition at 15. The cell phone in question was Petitioner’s personal  
23 cell phone; he better than anyone would have been able to assert that such messages were not  
24 sent by him to Mr. Averman. Yet, despite personal knowledge of whether the messages sent  
25 from Petitioner’s phone came from Petitioner himself, Petitioner has set forth no affidavit or  
26 declaration in support of his allegations that an analysis of the phone would have shown that  
27 another party sent the messages in question, nor any indication of what such an analysis would  
28 have uncovered. Petitioner’s bare allegations also do not establish that a forensic analysis

1 would have rendered a more favorable trial outcome probable, as he cannot establish that a  
2 forensic analysis would have uncovered evidence that would have impeached Mr. Averman's  
3 testimony. Even if a forensic analysis would have uncovered evidence favorable to Petitioner,  
4 there would not be a reasonable probability that the results of the trial would have been  
5 different, as there were multiple eyewitnesses to the murder of Echo Lucas. Thus, pursuant to  
6 Hargrove and Molina, Petitioner's bare, naked assertions cannot satisfy his burden of showing  
7 a reasonable probability that the outcome of the trial would have been more favorable had  
8 counsel obtained a forensic examination of Petitioner's phone.

9 Furthermore, at the limited evidentiary hearing on this issue, Petitioner's former  
10 counsel, Scott Coffee, Esq., testified as follows:

11 Q [MS. MERCER]: Mr. Coffee, has it been your experience that on  
12 prior occasions when you've requested that the State permit you to  
13 examine a cell phone that's not yet been examined that the State will  
14 request its own examination before turning it over to you?

15 A [MR. COFFEE]: Yes.

16 Q: And is that what you suspected would have happened in this  
17 scenario had you requested Mr. White's phone be looked at?

18 A: Yeah, in my experience, the State zealously guards the  
19 evidence that they've guarded -- that they've gathered. And with that  
20 in mind, they're not going to turn things over to me unless they do  
21 testing themselves.

22 Q: And during the course of the trial, your strategy was to focus  
23 on establishing that this was a voluntary manslaughter as opposed to  
24 a first-degree murder. Correct?

25 A: Correct.

26 Q: Throughout the trial, you were able to admit several items of  
27 evidence that you obtained as a result of forensic analysis on Echo's  
28 phone. Correct?

A: Yes, and then we either tendered it or we got to it on  
cross-examination, but yeah, there was a lot of things in Echo's phone  
that we tried to use to our advantage.

Q: And those included text messages between Mr. White and  
Echo Lucas, correct?

A: Correct.

Q: As well as voicemail messages left?

A: I believe so.

...

1 Q: And knowing what you saw in Echo's phone and what you  
2 saw through Facebook records, et cetera, did you have concerns that  
3 there would be more incriminating evidence on the phone than there  
4 would be evidence that would be helpful to your case?

5 A There was a risk involved with having the phone analyzed. And,  
6 you know, the incrimination [indiscernible], we didn't test -- we did  
7 not contest identity. So, you know, the incrimination part I suppose  
8 you could argue that both ways. But there was certainly concern  
9 there'd be a lot more that we would have to explain if we started  
10 debating whether or not he had threatened Joe Averman because that  
11 wasn't the focus of the case.

12 ...

13 Q: Mr. Oram had asked you on direct examination whether or not  
14 there's any harm in having that phone examined now because the State  
15 can't add charges. Do you recall that question?

16 A: Yes.

17 Q: If the phone were to be examined and for some reason this  
18 conviction were vacated, it could still potentially produce evidence  
19 that would be helpful to the State in a retrial. Correct?

20 A: It could.

21 Evidentiary Hearing Transcript, March 4, 2021, at 7-10.

22 Mr. Coffee's testimony demonstrated that he made a strategic decision to not have the  
23 phone evaluated because it was more of a risk to Petitioner than a reward. At trial, Mr. Coffee  
24 impeached the victim regarding his credibility on two (2) different issues. But overall, Mr.  
25 Coffee was more concerned that having the phone evaluated would cause more harm than  
26 good. Under Strickland, Mr. Coffee was no ineffective because he made a reasonable strategic  
27 decision that the investigation of the cell phone would be more harmful than beneficial. Mr.  
28 Coffee used careful thought and deliberation to not take a great risk and have the cell phone  
evaluated because of the potential harm it could cause Petitioner. Therefore, Petitioner cannot  
demonstrate that counsel was ineffective for failing to have the cell phone evaluated.

For the reasons set forth above, Petitioner has failed to show pursuant to Strickland,  
466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068 that his counsel's representation fell below  
an objective standard of reasonableness, nor that but for counsel's errors, there is a reasonable  
probability that the result of the proceedings would have been different. Petitioner's claim of  
ineffective assistance of counsel on this matter is denied.

1                   **II.     COUNSEL WAS NOT INEFFECTIVE FOR FAILING TO OBJECT TO**  
2                   **ALLEGED ALLEGATIONS OF PRIOR BAD ACTS**

3           Petitioner’s second claim of ineffective assistance of trial counsel alleges that the State  
4 made an “insinuation” of “extraordinarily prejudicial innuendo” at trial, that trial counsel was  
5 ineffective for failing to object to such innuendo, and that appellate counsel was ineffective  
6 for failing to raise this issue on appeal. Petition at 16, 19. For the reasons set forth below, this  
7 claim is denied.

8           Petitioner’s claim of ineffective assistance on counsel on this count is replete with legal  
9 and factual non-sequiturs. First, Petitioner has, whether intentionally or unintentionally,  
10 misstated the record in his Petition.<sup>1</sup> In Section III of his Petition, Petitioner sets forth the  
11 following: “Echo Lucas’ mother testified at trial. During her testimony, the State asked the  
12 following question, and she gave the following answer ... Requesting that the mother speculate  
13 as to what ‘things’ Mr. White may have done to her, signaled to the jury that there was (sic)  
14 issues of domestic violence.” Petition at 16. While Echo Lucas’s mother, Amber Gaines, did  
15 indeed testify at trial, the State did not ask her the questions that Petitioner quotes in his  
16 Petition. Those questions were asked of State’s witness Timothy Henderson, a minister with  
17 The Potter’s House Church, where the victim and Petitioner worshipped together. Trial  
18 Transcript, Day 6, at 39. Petitioner refers multiple times to “her” testimony, incorrectly  
19 attributing the relevant exchange to Ms. Gaines and not to Mr. Henderson (presumably  
20 Reverend Henderson). Petition at 16-19. This is relevant to understand the context of these  
21 questions, as the victim’s minister’s intimate knowledge of a marital relationship would be  
22 different than that of the victim’s mother.

23           Second, Petitioner appears to argue that the following vague question was bad act  
24 evidence or an insinuation thereof:

25                   Q:     You don’t know what things the defendant might have done to  
26                   her, or what she might have done to him?

27                   

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28                   <sup>1</sup> The misstatement of the record may be due to Petitioner’s curious decision to cite not to the record in the  
District Court, but to the Appellate’s Appendix (“A.A.”) filed alongside Petitioner’s direct appeal in Nevada  
Supreme Court case 68632. Petitioner has cited to the A.A. throughout his Petition.



1 A: No, I'm not aware.

2 Petition at 16. Petitioner then admits that the question, or "insinuation," is not bad act  
3 evidence: "the insinuation is more powerful than an *actual* presentation of a bad act." Id. This  
4 begs the question, how could insinuating that a defendant committed a bad act possibly be  
5 worse than actually presenting a specific bad act? Petitioner provides no legal authority for  
6 this assertion, and as such this argument should be summarily rejected. Jones v. State, 113  
7 Nev. 454, 468, 937 P.2d 55, 64 (1997) (holding that Jones' unsupported contention should be  
8 summarily rejected on appeal). Another question posed by the State is also alleged to be an  
9 "insinuation" of a bad act:

10 Q: At the beginning of 2012 did you learn that he may not be such  
11 a wonderful husband to Echo?

12 A: Absolutely, yes.

13 Id. at 16, n. 8. A plain reading of the transcript shows that these questions were elicited to  
14 show that Mr. Henderson, the minister of The Potter's House Church, lacked intimate  
15 knowledge of Petitioner and the victim's relationship, and not to establish a prior bad act. The  
16 question asked immediately prior to the first question Petitioner quoted in his Petition is as  
17 follows:

18 Q: Just so we're clear, you have no idea the things that might have  
19 upset either Echo or the defendant in the course of their relationship  
20 that caused it to ultimately end in early 2012; correct?

21 A: No, I'm not aware of that. No.

22 Trial Transcript, Day 6, at 39. The question asked immediately prior to the second question  
23 was meant to demonstrate that while Petitioner may have been a good father to his children,  
24 he was not a good husband to his wife:

25 Q: You were asked where the defendant was a wonderful dad. Do  
26 you remember that question?

27 A: Yes.

28 Q: And your answer was yes?

A: Yes.

1 Trial Transcript, Day 6, at 74. Even without examining these questions in context, the  
2 questions are so facially vague that a reasonable juror would not have understood them as a  
3 reference to a prior act of domestic violence. In the first question, Rev. Henderson was unaware  
4 of what “things” Petitioner may have done to Ms. Lucas or vice versa, thus there can be no  
5 inference of any specific bad act committed by Petitioner. In the second question, Rev.  
6 Henderson merely agreed that even with his limited knowledge of their marital affairs,  
7 Petitioner was “not [] such a wonderful husband” to Ms. Lucas. This could have referred to  
8 any number of things that would make Petitioner a bad husband and not to specific acts of  
9 domestic violence.

10 There is no evidence of any prior bad act in the preceding questions. Instead, Petitioner  
11 alleges that the jury could only have inferred that the State was referring to prior bad acts  
12 because it mentioned Petitioner’s history at sentencing, well after the trial had concluded and  
13 outside the presence of the jury. Such an argument is a factual non-sequitur; the jury could not  
14 have inferred that the State was referring to acts of domestic violence if the only evidence of  
15 such was introduced months after the jury had already entered its guilty verdicts.

16 Despite his assertion that the questions solicited of Rev. Henderson insinuated bad acts,  
17 as indicated by his extensive legal citations regarding bad acts, he also argues—absent any  
18 legal authority—that vague insinuations of bad acts are “more powerful than bad acts.”  
19 Petition at 16. The questions posed of Rev. Henderson referenced no specific bad acts  
20 whatsoever committed by Petitioner. It is thus impossible to analyze such questions under a  
21 bad act framework, which requires the court determine whether evidence is relevant to the  
22 crime charged, proven by clear and convincing evidence, and that the probative value of that  
23 evidence is not substantially outweighed by the danger of unfair prejudice. Tinch v. Nevada,  
24 113 Nev. 1170, 946 P.2d 1061 (1997). Objecting to these questions on a “bad act” basis would  
25 thus have been futile, as there was no legal basis for such an objection; pursuant to Ennis, 122  
26 Nev. at 706, 137 P.3d at 1103, counsel cannot be ineffective for failing to make futile  
27 objections or arguments.

28 ///

1 Further, Petitioner has not shown a reasonable probability that the result of the trial  
2 would have been different had the State not posed such questions or if trial counsel had  
3 objected to them, as there were multiple eyewitnesses to the murder of Echo Lucas and  
4 substantial evidence showing that Petitioner was guilty of that murder. Thus, Petitioner cannot  
5 satisfy his burden of showing a reasonable probability that the outcome of the trial would have  
6 been more favorable had trial counsel objected to these alleged bad acts.

7 Petitioner's sole argument that appellate counsel was ineffective on this issue was that  
8 appellate counsel did not raise such on direct appeal. Petition at 19. As set forth above, there  
9 was no legal or factual basis for such an argument on appeal; appellate counsel cannot be  
10 ineffective for failing to raise futile arguments. Ennis, 122 Nev. at 706, 137 P.3d at 1103.

11 For the reasons set forth above, Petitioner has failed to show pursuant to Strickland,  
12 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068 that his trial counsel or appellate counsel's  
13 representation fell below an objective standard of reasonableness, nor that but for counsel's  
14 errors, there is a reasonable probability that the result of the proceedings would have been  
15 different. Petitioner's claim of ineffective assistance of counsel on this matter is therefore  
16 denied.

### 17 **III. COUNSEL WAS NOT INEFFECTIVE FOR FAILING TO SUPPRESS** 18 **THE EVIDENCE OBTAINED FROM THE VICTIM'S CELL PHONE**

19 Petitioner asserts trial counsel was ineffective for failing to "ensure the police obtained  
20 a warrant to forensically analyze the phone attributed to Echo Lucas in violation of the Sixth,  
21 Fourth, and Fourteenth Amendments to the United States Constitution." Petition at 19. The  
22 meaning of this assertion is unclear; Petitioner identifies no legal support for the proposition  
23 that defense counsel has a duty to prospectively instruct police to obtain a warrant prior to  
24 conducting a search under the Fourth Amendment, nor a duty to prospectively prevent police  
25 from performing a search until a warrant is obtained. Further, while Petitioner asserts that the  
26 search in question was conducted in violation of the Fourth, Sixth, and Fourteenth  
27 Amendment, he does not specify whose constitutional rights were violated from this allegedly  
28 improper search; his own, or those of Ms. Lucas. Ordinarily, if trial counsel wishes to prevent

1 the introduction of evidence that was obtained in violation of a defendant's constitutional  
2 rights, counsel will move to suppress such evidence after its collection and prior to trial. See  
3 State v. Lloyd, 129 Nev. 739, 741, 312 P.3d 467, 468 (2013). The Court will proceed under  
4 the assumption that Petitioner is arguing trial counsel was ineffective for failing to suppress  
5 the information from Ms. Lucas's cell phone that was allegedly obtained in violation of  
6 Petitioner's Fourth, Sixth, and Fourteenth Amendment rights.

7 First, Petitioner has no standing to bring this claim. By sending messages from his  
8 phone to Ms. Lucas's phone, Petitioner had no legitimate expectation in the privacy of his  
9 messages once they were displayed and stored on Ms. Lucas's phone. See Smith v. Maryland,  
10 442 U.S. 735, 743-44, 99 S. Ct 2577, 2581 (1979) ("[A] person has no legitimate expectation  
11 of privacy in information he voluntarily turns over to third parties."). Thus, whether Ms. Lucas  
12 had singular standing over the cell phone is ultimately irrelevant; as Petitioner has no  
13 legitimate expectation of privacy in the text messages voluntarily sent to and stored on Ms.  
14 Lucas's cell phone, he has no standing to contest its search.

15 Even if Petitioner has standing to raise this claim, Petitioner's argument here rests on  
16 two (2) unsupported arguments: one, that someone other than Ms. Lucas had standing to assert  
17 a violation of her right to be protected from unreasonable search and seizure via the  
18 investigation of her cell phone; and two, that it is the State's burden to establish that only Ms.  
19 Lucas had the standing to challenge a search of her phone. Petition at 20. The former has no  
20 factual support, while the latter has no legal support.

21 While Petitioner argues that Riley v. California, 134 S. Ct. 2473, 189 L. Ed. 2d 430  
22 (2014) and Carpenter v. United States, 138 S. Ct. 2206, 201 L. Ed. 2d 507 (2018) support his  
23 aforementioned assertions, such cases are easily distinguishable. In Riley, the defendant's  
24 personal cell phone was searched after he was taken into custody; here, the cell phone belonged  
25 to the victim. 134 S. Ct. at 2481. Thus, unlike in Riley where the defendant had standing to  
26 assert a Fourth Amendment violation, Petitioner has submitted no evidence that he has  
27 standing to assert a Fourth Amendment violation as it pertains to a search of Ms. Lucas's cell  
28 phone. Carpenter on the other hand is wholly inapplicable to the instant case, as it was decided

1 three (3) years after Petitioner’s trial and is not retroactive. Even if Carpenter was retroactive,  
2 the case is easily distinguishable. Carpenter held that an individual maintains a legitimate  
3 expectation of privacy in the record of his physical movements as captured through cell-site  
4 location information (CSLI), and that the Government must generally obtain a search warrant  
5 supported by probable cause before acquiring CSLI from a wireless carrier. 138 S. Ct. at 2217.  
6 In this case, the State did not introduce evidence of Petitioner’s location as captured by CSLI;  
7 instead, the State introduced the substance of the texts sent by Petitioner to Ms. Lucas’s phone.  
8 Neither Riley nor Carpenter stand for the proposition that the State must produce evidence to  
9 establish that a deceased victim was the only individual with standing to contest a search of  
10 her cell phone, and Petitioner has provided no other law in support of such argument. As this  
11 contention is unsupported by legal citation, it may be summarily dismissed pursuant to Jones,  
12 113 Nev. at 468, 937 P.2d at 64.

13 As trial counsel did not object to this issue, all but plain error is waived. Dermody v.  
14 City of Reno, 113 Nev. 207, 210-11, 931 P.2d 1354, 1357 (1997). “To amount to plain error,  
15 the ‘error must be so unmistakable that it is apparent from a casual inspection of the record.’”  
16 Vega v. State, 126 Nev. 332, 338, 236 P.3d 632, 637 (2010) (quoting Nelson, 123 Nev. at 543,  
17 170 P.3d at 524). In addition, “the defendant [must] demonstrate[ ] that the error affected his  
18 or her substantial rights, by causing ‘actual prejudice or a miscarriage of justice.’” Valdez, 124  
19 Nev. at 1190, 196 P.3d at 477 (quoting Green v. State, 119 Nev. 542, 545, 80 P.3d 93, 95  
20 (2003)). Thus, reversal for plain error is only warranted if the error is readily apparent and the  
21 appellant demonstrates that the error was prejudicial to his substantial rights. Martinorellan v.  
22 State, 131 Nev. Adv. Op. 6, 343 P.3d 590, 593 (2015). Petitioner cannot demonstrate plain  
23 error here for the reasons listed above; he has no standing to contest the search of Ms. Lucas’s  
24 cell phone because he voluntarily sent messages to it, thus eliminating his legitimate  
25 expectation of privacy in those messages. And even if this court finds he had a legitimate  
26 expectation of privacy in those messages, he has not shown that he has standing to challenge  
27 a search of Ms. Lucas’s phone. Further, Petitioner has produced no legal support for the  
28 assertion that the State must demonstrate that no person other than a decedent victim may have

1 standing to contest a search of a decedent's cell phone. Petitioner's substantial rights have  
2 thus not been violated and the failure of trial counsel to contest the search of Ms. Lucas's cell  
3 phone is not plain error.

4 Thus, Petitioner has not shown a reasonable probability that the result of the trial would  
5 have been different had counsel moved for suppression of the information gained from Ms.  
6 Lucas's cell phone, as there were multiple eyewitnesses to the murder of Ms. Lucas and  
7 substantial evidence showing that Petitioner was guilty of that murder. Thus, Petitioner cannot  
8 satisfy his burden of showing a reasonable probability that the outcome of the trial would have  
9 been more favorable had trial counsel objected to the introduction of Petitioner's text  
10 messages.

11 For the reasons set forth above, Petitioner has failed to show pursuant to Strickland,  
12 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068 that his trial counsel's representation fell  
13 below an objective standard of reasonableness, nor that but for counsel's errors, there is a  
14 reasonable probability that the result of the proceedings would have been different.  
15 Petitioner's claim of ineffective assistance of counsel on this matter is therefore denied.

16 **IV. COUNSEL WAS NOT INEFFECTIVE FOR FAILING TO OBJECT TO**  
17 **ARGUMENT BY PROSECUTOR AS TO HEAT OF PASSION AND**  
18 **MANSLAUGHTER**

19 Petitioner argues that the prosecutor "patently mischaracterized the standard of proof  
20 necessary to find the defendant guilty of manslaughter." Petition at 21. Petitioner then  
21 immediately contradicts this assertion by stating "[a]dmittedly, the jury was properly  
22 instructed" as to the standard of proof on manslaughter. Id. Despite Petitioner's concession  
23 that the jury was properly instructed as to the relevant standard of proof, Petitioner argues that  
24 the State's closing argument somehow nullified the jury instructions, that trial counsel was  
25 ineffective for failing to object to that closing argument, and that appellate counsel was  
26 ineffective as well for failing to raise this issue on appeal. Petition at 21. Petitioner's claims  
27 are without merit and are denied.  
28

1           Petitioner makes multiple arguments against his own claim. “Undoubtedly, the State  
2 will argue that Mr. White has not correctly cited to the record. The State will argue that these  
3 statements were taken out of context.” Petition at 22. Again, Petitioner has not correctly cited  
4 to the record, as all of his citations refer to the Appellate’s Appendix attached to his direct  
5 appeal in Nevada Supreme Court case 68632. Petitioner’s blatant refusal to cite to the  
6 appropriate record in this case renders the instant claim appropriate for summary dismissal, as  
7 his contentions are not properly supported. Jones, 113 Nev. at 468, 937 P.2d 64. Further, by  
8 admitting to this Court that his unsupported claim takes the State out of context, Petitioner  
9 concedes that his claim is obviously frivolous, unnecessary, unwarranted, and a waste of  
10 judicial resources. In further support of this conclusion, Petitioner has already admitted that  
11 the jury *was* properly instructed on the proper standard of proof. However, Petitioner cites to  
12 “A.A. Vol. 10 p.1939” to show the “heat of passion” instruction that was given to the jury, the  
13 instruction at page 1939 of the A.A. is *not* what Petitioner cited in his Petition. Petitioner  
14 asserts that the jury was properly instructed on the heat of passion defense as follows:

15           A killing committed in the heat of passion, caused by a provocation  
16 sufficient to make the passion irresistible, is [V]oluntary  
17 [M]anslaughter even if there is an intent to kill, so long as the  
18 circumstances in which the killer was place (sic) and the facts that  
19 confronted him were [such] as also would [have] aroused the  
irresistible passion of the ordinarily reasonable man if likewise  
situated.

20   Petition at 21. Page 1939 of the Appellate’s Appendix, however, reads as follows:

21           The heat of passion which will reduce a Murder to Voluntary  
22 Manslaughter must be such a passion as naturally would be aroused  
23 in the mind of an ordinarily reasonable person in the same  
24 circumstances. A defendant is not permitted to set up his own standard  
25 of conduct and to justify or excuse himself because his passions were  
26 aroused unless the circumstances in which he was placed and that facts  
27 that confronted him were such as also would have aroused the  
28 irresistible passion of the ordinarily reasonable man, if likewise  
situated. The basic inquiry is whether or not, at the time of the killing,  
the reason of the accused was obscured or disturbed by passion to such  
an extent as would cause the ordinarily reasonable person of average

1 disposition to act rashly and without deliberation and reflection and  
2 from such passion rather than from judgment.

3 Appellate's Appendix, NV. S. Ct. Case 68632; Jury Instructions, filed April 17, 2015, at 17.

4 The Court believes Petitioner wished to cite to Jury Instructions, filed April 17, 2015,  
5 at 16, which shows the actual heat of passion instruction given to the jury, minus Petitioner's  
6 numerous clerical errors. Regardless of the improper citation, the Court is confused by  
7 Petitioner's decision to bring a claim of ineffective assistance of counsel for failing to object  
8 to argument based on a paraphrasing of a jury instruction that Petitioner agrees was proper.

9 Nevertheless, even if Petitioner's Petition could be construed to allege that the State  
10 committed any specific wrongdoing in its argument—which it did not—the State's closing  
11 argument did not direct the jury to disregard the written jury instructions regarding the  
12 standard of proof necessary to find the Petitioner guilty of manslaughter. Indeed, Petitioner  
13 has cited to no such language in the State's closing because it does not exist. Instead, Petitioner  
14 merely asserts—without support—that “the prosecutor repeatedly informed the jury that the  
15 State's burden of proof was much less than the law required.” Petition at 23.

16 Rather than instructing the jury to disregard the jury instructions, the State's closing  
17 argument illustrated how Petitioner did not possess a provocation sufficient to manifest a  
18 passion so “irresistible” that he could not control himself in the killing of Ms. Lucas. As noted  
19 above, this is merely a paraphrase of the “heat of passion” defense as cited by Petitioner.  
20 Indeed, unlike the prototypical example of a man finding another man in bed with his wife  
21 and being so overcome with passion that he kills without thought or judgment, here Petitioner  
22 had been separated from Ms. Lucas for months, and he knew that the victim and her boyfriend  
23 had been seeing each other for some time prior to the killing. See Supplemental PSI filed  
24 August 3, 2015, at 4-5. Further, Petitioner did not suddenly walk into a bedroom and find the  
25 decedent victim and another man in the embrace of passion; instead, Mr. Averman walked  
26 into a room where Petitioner and the victim were arguing, then Petitioner opened fire, killing  
27 Ms. Lucas and wounding Mr. Averman. Id. The State's argument that Petitioner did not  
28 possess “irresistible” passion that overcame his judgment in the killing of Ms. Lucas is



1 nothing more than a paraphrasing of a proper jury instruction and in no way suggested a  
2 different burden of proof.

3 As the State's argument was proper and the jury was correctly instructed on the burdens  
4 of proof associated with manslaughter and the heat of passion defense, any objection to such  
5 at trial would have been futile. Counsel cannot be ineffective for failing to make futile  
6 objections or arguments. Ennis, 122 Nev. at 706, 137 P.3d at 1103. Further, as such argument  
7 would have been futile, appellate counsel was not ineffective for failing to raise such argument  
8 on appeal. While Petitioner argues that raising this issue on appeal "would have mandated  
9 reversal," Petitioner sets forth no argument that removing the allegedly improper language  
10 from the State's closing would create a reasonable probability that the result of either the  
11 instant trial or any trial subsequent to remand would have been or would be different. Petition  
12 at 23.

13 For the reasons set forth above, Petitioner has failed to show pursuant to Strickland,  
14 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068 that his counsel's representation fell below  
15 an objective standard of reasonableness, nor that but for counsel's errors, there is a reasonable  
16 probability that the result of the proceedings would have been different. Petitioner's claim of  
17 ineffective assistance of counsel on this matter is therefore denied.

18 **V. COUNSEL WAS NOT INEFFECTIVE FOR FAILING TO OBJECT TO**  
19 **THE REASONABLE DOUBT AND EQUAL AND EXACT JUSTICE**  
20 **INSTRUCTIONS**

21 Petitioner argues that trial counsel and appellate counsel were ineffective for failing to  
22 challenge the following jury instruction on reasonable doubt:

23 **INSTRUCTION NO. 27**

24 A reasonable doubt is one based on reason. It is not mere possible  
25 doubt but is such a doubt as would govern or control a person in the  
26 more weighty affairs of life. If the minds of the jurors, after the entire  
27 comparison and consideration of all the evidence, are in such a  
28 condition that they can say they feel an abiding conviction of the truth  
of the charge, there is not a reasonable doubt. Doubt, to be reasonable,  
must be actual, not mere possibility or speculation.

1 Jury Instructions, filed April 17, 2015, at 31; Petition at 23-24. Petitioner also argues counsel  
2 was ineffective for failing to challenge Instruction Number 38 on “Equal and Exact Justice,”  
3 which reads as follows:

4 INSTRUCTION NO. 38.

5 Now you will listen to the arguments of counsel who will endeavor to  
6 aid you to reach a proper verdict by refreshing in your minds the  
7 evidence and by showing the application thereof to the law; but,  
8 whatever counsel may say, you will bear in mind that it is your duty  
9 to be governed in your deliberation by the evidence as you understand  
it and remember it to be and by the law as given to you in these  
instructions, with the sole, fixed, and steadfast purpose of doing equal  
and exact justice between the Defendant and the State of Nevada.

10 Jury Instructions, filed April 15, 2015, at 42; Petition at 24-25.

11 The Nevada Supreme Court has already found Instruction Number 27 permissible in  
12 Elvik v. State, 114 Nev. 883, 985 P.2d 784 (1998) and Bolin v. State, 114 Nev. 503, 960 P.2d  
13 784 (1998). As to the second challenged instruction, Petitioner also asserts that Instruction  
14 Number 38 improperly minimized the State’s burden of proof and was thus improper pursuant  
15 to Sullivan v. Louisiana, 508 U.S. 275, 281 (1993), yet provides no legal analysis in support  
16 of this assertion. Further, Petitioner has failed to cite to controlling case law directly adverse  
17 to his arguments regarding the propriety of the “equal and exact” jury instruction:

18 Appellant contends that the district court denied him the presumption  
19 of innocence by instructing the jury to do “equal and exact justice  
20 between the Defendant and the State of Nevada.” *This instruction does*  
21 *not concern the presumption of innocence or burden of proof.* A  
22 separate instruction informed the jury that the defendant is presumed  
23 innocent until the contrary is proven and that the state has the burden  
of proving beyond a reasonable doubt every material element of the  
crime and that the defendant is the person who committed the offense.  
24 Appellant was not denied the presumption of innocence.

25 Leonard v. State, 114 Nev. 1196, 1209, 969 P.2d 288, 296 (1998).

26 As set forth above, there are controlling Nevada cases directly adverse to Petitioner’s  
27 arguments that the challenged jury instructions were improper; thus, any objection to them at  
28 trial would have been futile, as would be any argument that they were improper on direct

1 appeal. Trial counsel cannot be ineffective for failing to make futile objections or arguments.  
2 Ennis, 122 Nev. at 706, 137 P.3d at 1103. Further, as such argument would have been futile,  
3 appellate counsel was not ineffective for failing to raise such argument on appeal. Petitioner  
4 sets forth no argument that an alternate, acceptable jury instruction would create a reasonable  
5 probability that the result of his trial would have been different. Petition at 23-25.

6 For the reasons set forth above, Petitioner has failed to show pursuant to Strickland,  
7 466 U.S. at 687-88, 694, 104 S. Ct. at 2065, 2068 that his counsel's representation fell below  
8 an objective standard of reasonableness, nor that but for counsel's errors, there is a reasonable  
9 probability that the result of the proceedings would have been different. Petitioner's claim of  
10 ineffective assistance of counsel on this matter is therefore denied.

## 11 **VI. PETITIONER HAS NOT ESTABLISHED CUMULATIVE ERROR**

12 Petitioner asserts that all of the alleged errors contained in his Petition warrant a finding  
13 of cumulative error. Petition at 25. However, in the instant Petition, Petitioner has alleged  
14 multiple ineffective assistance of counsel claims, and multiple claims of ineffective assistance  
15 of counsel do not establish cumulative error.

16 The Nevada Supreme Court has held that under the doctrine of cumulative error,  
17 "although individual errors may be harmless, the cumulative effect of multiple errors may  
18 deprive an appellant of the constitutional right to a fair trial." Pertgen v. State, 110 Nev. 554,  
19 566, 875 P.2d 361, 368 (1994) (citing Sipsas v. State, 102 Nev. 119, 716 P.2d 231 (1986); *see*  
20 *also* Big Pond v. State, 101 Nev. 1, 3, 692 P.2d 1288, 1289 (1985)).

21 However, the doctrine of cumulative error should not be applied to ineffective  
22 assistance of counsel claims, and the Nevada Supreme Court has stated its hesitance to do so.  
23 In McConnell v. State, when the defendant argued that his claims of ineffective assistance of  
24 counsel amounted to cumulative error, the Nevada Supreme Court plainly said about the  
25 application of the cumulative error standard to ineffective assistance claims, even after  
26 acknowledging that some courts have applied that doctrine saying, "[w]e are not convinced  
27 that this is the correct standard." McConnell v. State, 125 Nev. 243, at 259, 212 P.3d 307, at  
28 318.

1 Ineffective assistance of counsel claims are a rare breed of claims in that harm is an  
2 element of the alleged error. That is to say, there can be no harmless ineffective assistance of  
3 counsel error because prejudice (or harm) is a required element of proving the ineffective  
4 assistance in the first place. Deficient performance, in and of itself, is not an error without  
5 accompanying prejudice. And if prejudice exists, a reversal of the verdict is automatic.

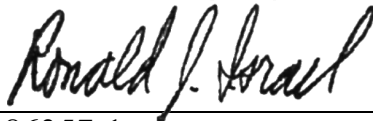
6 Since there can be no harmless ineffective assistance of counsel, it stands to reason that  
7 there cannot be cumulative error as to defendant's claims of the ineffective assistance variety.  
8 Nor should cumulative error apply on post-conviction review. Middleton v. Roper, 455 F.3d  
9 838, 851 (8th Cir. 2006), cert. denial, 549 U.S. 1134, 1275 S. Ct. 980 (2007) ("a habeas  
10 Petitioner cannot build a showing of prejudice on series of errors, none of which would by  
11 itself meet the prejudice test.").

12 Here, Petitioner explicitly claims cumulative error based on ineffective assistance of  
13 counsel, and requests that the Court overturn his conviction. Petition at 25. However, Petitioner  
14 was unable to demonstrate prejudice on any of his ineffective assistance of counsel claims.  
15 Thus, since none of his ineffective assistance of counsel claims are prejudicial or demonstrate  
16 error, there cannot be a finding for cumulative error. Lee v. Lockhart, 754 F.2d 277, at 279  
17 (cited by McConnell, at FN 17).

## 18 ORDER

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

21 Dated this 13th day of April, 2021

22 

23 C-12-286357-1

24 STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565

25 458 601 410F 483F  
Ronald J. Israel  
District Court Judge

SC

26 BY /s/ Taleen Pandukht  
27 TALEEN PANDUKHT  
Chief Deputy District Attorney  
Nevada Bar #005734

28 BS/jg/DVU

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 State of Nevada

CASE NO: C-12-286357-1

7 vs

DEPT. NO. Department 28

8 Troy White  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the  
13 court's electronic eFile system to all recipients registered for e-Service on the above entitled  
case as listed below:

14 Service Date: 4/13/2021

15 Carrie Connolly .

connolcm@ClarkCountyNV.gov

16 Eileen Davis .

Eileen.Davis@clarkcountyda.com

17 Jennifer Garcia .

Jennifer.Garcia@clarkcountyda.com

18 PD Motions .

PDMotions@clarkcountyda.com

19 Scott .

CoffeeSL@ClarkCountyNV.gov

20 CHRISTOPHER ORAM ESQ.

contact@christopheroramlaw.com

21 DEPT 28 LAW CLERK

dept28lc@clarkcountycourts.us

22 Christopher Oram

contact@christopheroramlaw.com  
23  
24  
25  
26  
27  
28

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**January 02, 2013**

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C-12-286357-1      State of Nevada  
                                 vs  
                                 Troy White

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**January 02, 2013      1:30 PM      Initial Arraignment**

**HEARD BY:** Martin, Eugene

**COURTROOM:** RJC Lower Level Arraignment

**COURT CLERK:** Ying Pan  
                                 Andrea Natali

**RECORDER:** Kiara Schmidt

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Mercer, Elizabeth A.	Attorney
	State of Nevada	Plaintiff
	Waters, William	Attorney
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- Mr. Waters advised this is Mr. Coffee's case and requested a continuance for counsel to be present. No objection from the State. COURT ORDERED matter CONTINUED.

CUSTODY

CONTINUED TO: 1/9/13 1:30 PM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**January 09, 2013**

C-12-286357-1      State of Nevada  
vs  
Troy White

**January 09, 2013      1:30 PM      Arraignment Continued**

**HEARD BY:** De La Garza, Melisa      **COURTROOM:** RJC Lower Level Arraignment

**COURT CLERK:** Monique Alberto

**RECORDER:** Kiara Schmidt

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Coffee, Scott L.	Attorney
	Mercer, Elizabeth A.	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- DEFT. WHITE ARRAIGNED, PLED NOT GUILTY, and WAIVED the 60-DAY RULE. Upon request of counsel, COURT ORDERED, matter set for status check/trial setting.

**CUSTODY**

1/16/13 9:00 A.M. STATUS CHECK: TRIAL SETTING (DEPT 9)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**January 16, 2013**

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C-12-286357-1      State of Nevada  
                                 vs  
                                 Troy White

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**January 16, 2013      9:00 AM      Status Check: Trial Setting**

**HEARD BY:** Togliatti, Jennifer      **COURTROOM:** RJC Courtroom 10D

**COURT CLERK:** Athena Trujillo

**RECORDER:** Yvette G. Sison

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Brett Keeler, Deputy District Attorney, present for the State of Nevada.  
Defendant White, present in custody, without custody.

State advised this is Mr. Coffee's case and requested a continuance. COURT ORDERED, matter  
CONTINUED. State advised it will notify Mr. Coffee of the continuance date.

CUSTODY

CONTINUED TO: 01/28/13 9:00 AM



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**January 28, 2013**

C-12-286357-1      State of Nevada  
                                 vs  
                                 Troy White

**January 28, 2013      9:00 AM      Status Check: Trial Setting**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Dulce Romea

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Coffee, Scott L.	Attorney
	Mercer, Elizabeth A.	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- Parties announced ready to set trial date. COURT ORDERED, matter SET for Jury Trial on November 4, 2013. At Mr. Coffee's request and there being no opposition from the State, COURT ORDERED, pursuant to Statute, counsel has 21 days from today for the filing of any Writs; if the Preliminary Hearing Transcript has not been filed as of today, Counsel has 21 days from the filing of the Transcript.

**CUSTODY**

10-30-13    9:00 AM    CALENDAR CALL

11-4-13    1:00 PM    JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 27, 2013**

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C-12-286357-1      State of Nevada  
                                 vs  
                                 Troy White

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**March 27, 2013      9:00 AM      Petition for Writ of Habeas  
Corpus**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Billie Jo Craig

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Coffee, Scott L.	Attorney
	Mercer, Elizabeth A.	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant
	Wolfson, Steven B	Attorney

**JOURNAL ENTRIES**

- Arguments by counsel. Court stated its findings, and ORDERED, Writ is GRANTED as to CT. 1 ONLY. Colloquy regarding further proceedings.

CUSTODY

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****July 31, 2013**

C-12-286357-1      State of Nevada  
                                  vs  
                                  Troy White

**July 31, 2013      9:00 AM      Status Check**

**HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Dulce Romea  
                          Ying Pan

**RECORDER:** Jill Hawkins**REPORTER:****PARTIES**

<b>PRESENT:</b>	Harris, Belinda T.	Attorney
	Mercer, Elizabeth A.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Deft not present. Ms. Harris advised the Supreme Court ordered full briefing, and requested the trial date be vacated and a status check set in December; State's brief is due in two weeks and the Defense will file their response thereafter; hopefully the Supreme Court can issue their opinion within a 90-day window. Ms. Mercer concurred with these representations. COURT ORDERED, matter SET for status check on December 2, 2013; trial VACATED; case STAYED given the briefing.

**CUSTODY**

12-2-13      9:00 AM      STATUS CHECK: SUPREME COURT OPINION

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**December 02, 2013**

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C-12-286357-1      State of Nevada  
                                 vs  
                                 Troy White

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**December 02, 2013      9:00 AM      Status Check**

**HEARD BY:**    Gonzalez, Elizabeth

**COURTROOM:**    RJC Courtroom 14C

**COURT CLERK:**    Dulce Romea  
                                 Melissa Murphy

**RECORDER:**    Jill Hawkins

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Coffee, Scott L.	Attorney
	Mercer, Elizabeth A.	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- Deft's presence WAIVED. Ms. Mercer advised briefing has completed and requested a 90-day continuance, noting both sides are diligently checking the Supreme Court website for an update. Statement by Mr. Cofee. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 03/03/14 9:00 A.M.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 03, 2014**

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C-12-286357-1      State of Nevada  
                                 vs  
                                 Troy White

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**March 03, 2014      9:00 AM      Status Check**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Andrea Natali

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Coffee, Scott L.	Attorney
	Duncan, Wesley K.	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- Due to technical difficulties with the JAVS audio/video recording system, COURT ORDERED, matter CONTINUED.

CUSTODY

3/31/14 9:00 AM - STATUS CHECK: SUPREME COURT OPINION

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 31, 2014**

C-12-286357-1      State of Nevada  
vs  
Troy White

**March 31, 2014      9:00 AM      Status Check**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Dulce Romea

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Coffee, Scott L.	Attorney
	Lopez-Negrete, David E.	Attorney
	Schwartzner, Michael J.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Deft's presence waived. Mr. Coffee advised they have heard nothing. COURT ORDERED, status check in 60 days.

**CUSTODY**

6-2-14      9:00 AM      STATUS CHECK: SUPREME COURT OPINION

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****June 02, 2014**

C-12-286357-1      State of Nevada  
vs  
Troy White

**June 02, 2014      9:00 AM      Status Check**

**HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** RJC Courtroom 14C**COURT CLERK:** Dulce Romea**RECORDER:** Jill Hawkins**REPORTER:****PARTIES**

<b>PRESENT:</b>	Giordani, John	Attorney
	Lopez-Negrete, David E.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Deft not present. Mr. Lopez-Negrete advised he is second chair and this is Deputy P.D. Scott Coffee's case; he checked the website this morning and matter is still pending decision. COURT ORDERED, matter CONTINUED for six months and DIRECTED counsel to place the matter back on calendar if he hears anything else.

**CUSTODY**

12-1-14      9:00 AM      STATUS CHECK: SUPREME COURT OPINION

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**July 15, 2014**

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C-12-286357-1      State of Nevada  
                                 vs  
                                 Troy White

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**July 15, 2014      1:00 PM      Minute Order**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Dulce Romea

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT ORDERED, matter SET for Status Check on July 28, 2014 at 9:00 AM.

CLERK'S NOTE: Parties notified via electronic mail: Deputy District Attorney Liz Mercer Deputy Public Defenders Scott Coffee and David Lopez-Negrete. / 7-15-14

CLERK'S NOTE: Per State's setting slip to place this matter back on calendar, status check RESET on July 23, 2014 at 9:00 AM. All parties in agreement. / dr 7-16-14



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****July 23, 2014**

C-12-286357-1      State of Nevada  
                                  vs  
                                  Troy White

**July 23, 2014                      9:00 AM                      Request**

**HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** RJC Courtroom 14C**COURT CLERK:** Dulce Romea**RECORDER:** Jill Hawkins**REPORTER:****PARTIES**

<b>PRESENT:</b>	Coffee, Scott L.	Attorney
	Giordani, John	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- Mr. Giordani advised he has both DDA Turner's and DDA Mercer's schedules. Mr. Coffee advised he is tied up until the first of next year. COURT ORDERED, matter SET for trial on March 30, 2015 per counsel's agreement. December 1, 2014 status check on the Supreme Court opinion VACATED.

**CUSTODY**

2-23-15	9:00 AM	STATUS CHECK: TRIAL READINESS
3-25-14	9:00 AM	CALENDAR CALL
3-30-14	1:00 PM	JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****February 23, 2015**

C-12-286357-1      State of Nevada  
vs  
Troy White

**February 23, 2015      9:00 AM      Status Check**

**HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Dulce Romea  
Shelley Boyle

**RECORDER:** Jill Hawkins**REPORTER:****PARTIES**

<b>PRESENT:</b>	Coffee, Scott L.	Attorney
	State of Nevada	Plaintiff
	Turner, Robert B.	Attorney
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- Counsel announced ready. Mr. Coffee stated he expects the trial to last 2 weeks. Mr. Turner advised the State has issued all its subpoenas. Court advised due to a scheduling conflict, this case may be referred to Judge Herndon to be reassigned to another Department for trial. Mr. Coffee stated for the record that he does not want to be accused of forum shopping and he would prefer to remain in this court room. Mr. Turner submitted to the Court's decision and announced the State will be ready. Colloquy regarding filing a bad acts motion. Court advised any motions must be filed sooner rather than later; even though it is currently in a long civil bench trial it has reserved Mondays for evidentiary hearings. COURT ORDERED, Trial Date STANDS

**CUSTODY**

03/25/15 9:00 A.M. CALENDAR CALL

03/30/15 1:00 P.M. JURY TRIAL



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****March 25, 2015**

C-12-286357-1      State of Nevada  
                                  vs  
                                  Troy White

**March 25, 2015      9:00 AM      Calendar Call**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Dulce Romea

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Coffee, Scott L.	Attorney
	Lopez-Negrete, David E.	Attorney
	Mercer, Elizabeth A.	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- CONFERENCE AT BENCH. Court advised scheduling was discussed; there were problems of this case being tried in this Department next week, but that it can be tried here the following week. COURT ORDERED, matter SET for conference call on Friday, March 27, 2015. Deft's presence will be WAIVED for the call.

**CUSTODY**

3-27-15	9:00 AM	TELEPHONIC CONFERENCE: TRIAL SCHEDULING
3-30-15	1:00 PM	JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****March 27, 2015**

C-12-286357-1      State of Nevada  
vs  
Troy White

**March 27, 2015      9:00 AM      Telephonic Conference**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Dulce Romea

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Coffee, Scott L.	Attorney
	Mercer, Elizabeth A.	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- Court inquired about trial commencing on April 6, 2015. Ms. Mercer advised there have been no problems with witnesses so far; however, she will be out of town on Friday, April 10. Mr. Coffee stated he has no objection to taking it off, as he thinks they can finish within 2 weeks even with one Friday off. Court advised parties of the start times for trial each day, lunch breaks, and ending each day at 5 PM. COURT ORDERED, State to SUBMIT to the Department via electronic mail their Proposed Jury Instructions on the morning of trial in Microsoft Word format; Public Defender's Proposed Jury Instructions will be submitted as trial progresses. Upon Court's inquiry, parties concurred they do not think they will need jury questionnaires. COURT ORDERED, trial to COMMENCE on April 6, 2015 at 10:00 AM.

**CUSTODY**

4-6-15      10:00 AM      JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****April 06, 2015**

C-12-286357-1      State of Nevada  
vs  
Troy White

**April 06, 2015****10:00 AM****Jury Trial****HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** RJC Courtroom 14C**COURT CLERK:** Dulce Romea**RECORDER:** Jill Hawkins**REPORTER:****PARTIES**

<b>PRESENT:</b>	Coffee, Scott L.	Attorney
	Lopez-Negrete, David E.	Attorney
	Mercer, Elizabeth A.	Attorney
	Rogan, Jeffrey	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- DAY 1

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL AND DEFENDANT: Colloquy regarding jury selection. Due to counsel's and the Court's schedules, COURT ORDERED, trial will not be in session on April 10 and April 15, 2015. Court RECESSED while waiting for Deft to be transported.

Proceedings resumed. Pursuant to Public Defender's request, Court NOTED it will add to its general voir dire inquiries related to media or news coverage about this case and if anyone is a member, attends, or has attended Potter's House Church. Deft ARRIVES. Seat numbers of alternate jurors selected, to remain blind prior to jury deliberations. COURT ORDERED, State's Exhibits 1 through 82, 84, and 85 ADMITTED into evidence pursuant to parties' stipulation. (See worksheet.) Colloquy regarding chain of custody of the decedent's body, all DNA swabs, and the bullet removed from the

decedent. State further advised an offer to plead guilty to count 1, first degree murder with use of a deadly weapon, and count 2, attempt murder with use of a deadly weapon, with the State stipulating to 28 years to life including enhancement and both parties retaining the right to argue with regards to the penalty, has been rejected by the Deft. Upon Court's inquiry, Deft confirmed he has discussed the offer with his attorney and made the decision to go to trial.

Per Mr. Coffee's representation, Court NOTED, Deft STIPULATES to the authenticity of the exhibits related to the cellphone and Facebook (State's Exhibits 84 through 91), and will wait until they get to relevance.

Mr. Rogan requested to file a Second Amended Information based upon a recent decision and to include a theory of child abuse; the counts will not change, only content of the child abuse charges. Mr. Coffee advised he has reviewed the change which could have been done beforehand but will submit to the Court as he thinks the request is in good faith. Court ALLOWED the amendment. Second Amended Information FILED IN OPEN COURT.

PROSPECTIVE JURY PANEL PRESENT. Court and party introductions. Roll call. Venire sworn. Voir dire commenced. LUNCH RECESS.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Mr. Rogan placed on the record his contact with a juror during the break.

PROSPECTIVE JURY PANEL PRESENT: Voir dire continued. Court released the venire for the evening with the exception of six individuals for individual voir dire (Badge Nos. 75, 67, 82, 87, 116, and 122).

COURT ORDERED, trial CONTINUED. EVENING RECESS.

4-7-15      9:30 AM      JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 07, 2015**

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C-12-286357-1      State of Nevada  
                                 vs  
                                 Troy White

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**April 07, 2015**

**9:30 AM**

**Jury Trial**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Dulce Romea

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Coffee, Scott L.	Attorney
	Lopez-Negrete, David E.	Attorney
	Mercer, Elizabeth A.	Attorney
	Rogan, Jeffrey	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- DAY 2

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: COURT ORDERED, Prospective Juror with Badge No. 172 EXCUSED and TO BE RESCHEDULED due to being ill. State's opening powerpoint presentation MARKED as Court's Exhibit 1. Pursuant to parties' stipulation, COURT FURTHER ORDERED, State's Exhibits 83, and 86 through 91 ADMITTED into evidence. (See worksheet.)

PROSPECTIVE JURY PANEL PRESENT. Voir dire continued. LUNCH RECESS.

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Proceedings resumed with individual voir dire of Prospective Juror Badge No. 150.



PROSPECTIVE JURY PANEL PRESENT: State passed the entire panel for cause. CONFERENCE AT BENCH. Voir dire continued. Deft passed for cause. Peremptory challenges exercised. Jury seated and sworn. Jury List FILED IN OPEN COURT. RECESS.

OUTSIDE THE PRESENCE OF THE JURY: Deft's opening powerpoint MARKED as Court's Exhibit 2.

JURY PRESENT: Introductory comments by the Court. Clerk read the Second Amended Information to the Jury. Pre-instructions by the Court. Opening statements on behalf of the State by Ms. Mercer and on behalf of Deft by Mr. Lopez-Negrete.

Testimony and exhibits presented. (See worksheet.) Court admonished the jury and directed them to return tomorrow at 10:15 AM.

OUTSIDE THE PRESENCE OF THE JURY: Upon Court's inquiry, Mr. Rogan advised he would like the opportunity to redact page 11 of the witness' voluntary statement used today to refresh his recollection and to have the answer admitted just as a State's exhibit. Court so noted. Colloquy regarding scheduling.

Trial CONTINUED. EVENING RECESS.

4-8-15            10:15 AM            JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 08, 2015**

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C-12-286357-1      State of Nevada  
                                 vs  
                                 Troy White

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**April 08, 2015**

**10:15 AM**

**Jury Trial**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Dulce Romea

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Coffee, Scott L.	Attorney
	Lopez-Negrete, David E.	Attorney
	Mercer, Elizabeth A.	Attorney
	Rogan, Jeffrey	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- DAY 3

OUTSIDE THE PRESENCE OF THE JURY: State's Bench Brief Regarding the Admissibility of Evidence of Traits of Character of the Victims FILED IN OPEN COURT. RECESS.

Proceedings resumed. Colloquy regarding taking video footage of a child witness. Pursuant to stipulation, COURT ORDERED, Deft's Exhibits F through V as well as State's Exhibits 94 and 95 ADMITTED into evidence. Further, State's Exhibits 92 and 93 ADMITTED with a limiting instruction to the jury.

JURY PRESENT: Clerk called roll. Court gave a limiting instruction with respect to State's Exhibits 92 and 93, stating, the jury will CONSIDER only the portions that are not blocked out as those portions are not admissible evidence.

Testimony and exhibits presented. (See worksheet.) RECESS.

Testimony and exhibits continued. LUNCH RECESS.

OUTSIDE THE PRESENCE OF THE JURY: Court advised a juror had stopped to ask about Potter's House and was advised counsel will tell them about it during the trial. COURT ORDERED, Deft's Exhibit W ADMITTED by stipulation.

JURY PRESENT: Testimony and exhibits presented. (See worksheet.) RECESS.

Testimony and exhibits continued. Jury admonished and directed to return tomorrow at 9:45 AM.

OUTSIDE THE PRESENCE OF THE JURY: Court inquired of the parties if anyone wished to mark for any purpose the statement of Jodey Gaines / White, the report of Tracey Kruse, and the statement of Fernando Diaz. Ms. Mercer declined on behalf of the State. Mr. Coffee advised he would have to review Jodey's statement. Court DIRECTED counsel to bring a redacted version tomorrow morning if he wished to have it marked so the Court can do an accompanying limiting instruction.

Trial CONTINUED. EVENING RECESS.

4-9-15      9:45 AM              JURY TRIAL

CLERK'S NOTE: State's Exhibit 92 was subsequently STRICKEN pursuant to parties' stipulation following a bench conference.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 09, 2015**

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C-12-286357-1      State of Nevada  
vs  
Troy White

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**April 09, 2015**

**9:45 AM**

**Jury Trial**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Dulce Romea

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Coffee, Scott L.	Attorney
	Lopez-Negrete, David E.	Attorney
	Mercer, Elizabeth A.	Attorney
	Rogan, Jeffrey	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- DAY 4

OUTSIDE THE PRESENCE OF THE JURY: Court NOTED both sides did not wish to mark for any purpose the documents or portion(s) thereof that were used yesterday to refresh witnesses' recollection. Mr. Rogan advised, with regards to State's bench brief filed in open court yesterday, they simply wanted to put everyone on notice that today character traits of either the Deft or the witnesses themselves will be discussed with one or more of the State's witnesses today, and that if they open the door they are willing to rebut those with other evidence under NRS 48.045, but of course approach the bench first and ask for permission. Comments by Mr. Coffee on the relationship of the 3 individuals - the 2 victims and Deft himself - with respect to character evidence. Court recognized the issue and directed counsel to ask for a bench conference if there is an objection. COURT ORDERED, trial will start at 10:30 AM on Monday, April 13, 2015.

JURY PRESENT: Clerk called roll. Testimony and exhibits presented. (See worksheet.)

OUTSIDE THE PRESENCE OF THE JURY: Upon Court's inquiry, Mr. Rogan stated he needs to review the documents that were used to refresh witnesses' recollection before determining whether he would like them marked. Objections related to relevance and foundation, which the Court overruled, regarding issues related to tattoos and accuracy of witness L. Gavin's report placed on the record. RECESS.

JURY PRESENT: Testimony and exhibits continued. (See worksheet.) LUNCH RECESS.

Proceedings resumed. Testimony and exhibits presented. (See worksheet.)

OUTSIDE THE PRESENCE OF THE JURY: Mr. Coffee laid his proffer for Deft's Proposed Exhibits Y, Z, AA, and BB. Mr. Rogan objected stating these photos are prejudicial and irrelevant as the relationship can be established through testimony. Court notes it is not yet to admission but to asking the officer and testing the relationship issue. RECESS.

JURY PRESENT: Testimony and exhibits continued. (See worksheet.) Court admonished the jury and directed them to return on Monday, April 13, 2015 at 10:30 AM. Court further reminded the jury that they will not be in session next Wednesday, April 15, 2015 in case they have any work plans.

OUTSIDE THE PRESENCE OF THE JURY: Discussion commenced regarding documents used to refresh witnesses' recollection, a series of photographs that Mr. Coffee chose to admit, and a separate discussion as to Deft's Exhibit CC. Mr. Rogan noted for the record State had objected based upon foundation and hearsay with regards to CC. Court pointed out, it had inquired during the bench conference as to how CC would be different from the post-it that was admitted.

Mr. Coffee further noted he wanted to make sure a piece of physical evidence, the holster, would be offered at some point as the detective had been taken out of order; additionally, with regards to the photo with the baby, he will consider it with foundation. Court so noted. Court directed counsel to contact the Department if they should need anything tomorrow, April 10th, while trial is not in session.

Trial CONTINUED. WEEKEND RECESS.

4-13-15          10:30 AM          JURY TRIAL

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 13, 2015**

---

C-12-286357-1      State of Nevada  
                                 vs  
                                 Troy White

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**April 13, 2015**

**10:30 AM**

**Jury Trial**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Tia Everett

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Coffee, Scott L.	Attorney
	Lopez-Negrete, David E.	Attorney
	Mercer, Elizabeth A.	Attorney
	Rogan, Jeffrey	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- OUTSIDE THE PRESENCE OF THE JURY:

Mr. Coffee advised that this morning while in line for the elevator a person said good morning who was recognized as one of the jurors. Mr. Rogan advised the State has no issue. COURT SO NOTED. Colloquy regarding scheduling and jury instructions.

**JURY PRESENT:**

Testimony and exhibits presented. (See worksheets)

Court recessed for the evening.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 14, 2015**

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C-12-286357-1      State of Nevada  
                                 vs  
                                 Troy White

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**April 14, 2015**

**9:30 AM**

**Jury Trial**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Tia Everett

**RECORDER:** Jill Hawkins

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Coffee, Scott L.	Attorney
	Lopez-Negrete, David E.	Attorney
	Mercer, Elizabeth A.	Attorney
	Rogan, Jeffrey	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- DAY 6

OUTSIDE THE PRESENCE OF THE JURY: COURT ORDERED the following exhibits ADMITTED pursuant to parties' stipulation: State's Proposed Exhibits 102, 102 A, 102B, 103, and 104 through 111; Defendant's Proposed Exhibits EE through NN.

JURY PRESENT: Testimony and exhibits presented. (See worksheet.) RECESS.

OUTSIDE THE PRESENCE OF THE JURY: Court advised Deft of his right not to testify.

Mr. Coffee noted, in addition to text messages recovered from the cellphone of Echo Lucas there were 2 voice messages on the day of the shooting left by the Deft and later recovered by forensics; Deft will be offering those 2 messages to provide context during direct rebuttal for the 130 text messages on

threats to Ms. Lucas, indications of stalking, etc; the first message lasts a minute and a half and the second message lasts 2 minutes. Ms. Mercer objected to their admission based upon hearsay, noting the State does not have the right to cross-examine the Deft. Mr. Coffee further argued they go to Deft's state of mind leading up to the shooting, and added, prior to the trial there was no objection as to their authenticity. Ms. Mercer stated, in fairness to the Deft the State introduced the entire string of text messages which has plenty of Deft indicating that he loved and wanted to get back with Ms. Lucas. COURT ORDERED, OBJECTION SUSTAINED; statements by Deft are hearsay; there is significant additional evidence of Deft's state of mind in the text messages. Voice messages played for the Court and MARKED as Deft's Proposed Exhibits OO and PP. Following further arguments by counsel, Court noted it will reconsider its ruling if Deft testifies.

JURY PRESENT: Testimony and exhibits continued. (See worksheet.) LUNCH RECESS.

Proceedings resumed. Testimony and exhibits presented. (See worksheet.)

OUTSIDE THE PRESENCE OF THE JURY: Further argument by Defense regarding Defendant's Proposed Exhibits OO and PP. No additional record by the State. COURT ORDERED, decision related to hearsay exclusion still operates. RECESS.

JURY PRESENT: At the hour of 2:48 PM, the State RESTED. Deft's case-in-chief commenced. Testimony and exhibits presented. (See worksheet.) At the hour of 3:08 PM, Deft RESTED.

Mr. Rogan advised State has no rebuttal.

CONFERENCE AT BENCH. Court admonished the Jury and DIRECTED them to return on Thursday, April 16, at 9:30 AM, for closing arguments.

OUTSIDE THE PRESENCE OF THE JURY: Court DIRECTED parties to return on Thursday, April 16, at 9:00 AM for settling of jury instructions; State to bring a clean laptop for the jury's use during deliberations. Upon being advised by the bailiff, Court further noted some of the jurors have indicated one of the other jurors has been texting during trial; the Court will make inquiry of said juror on Thursday to confirm this.

EVENING RECESS. Trial CONTINUED.

4-16-15      9:00 AM      JURY TRIAL



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 16, 2015**

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C-12-286357-1      State of Nevada  
                                 vs  
                                 Troy White

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**April 16, 2015**

**9:00 AM**

**Jury Trial**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Dulce Romea

**RECORDER:** Debbie Winn

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Coffee, Scott L.	Attorney
	Lopez-Negrete, David E.	Attorney
	Mercer, Elizabeth A.	Attorney
	Rogan, Jeffrey	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- DAY 7

OUTSIDE THE PRESENCE OF THE JURY and of the DEFT: Email communications regarding proposed jury instructions and comments thereof MARKED as Court's Exhibits 17 through 27.

Deft's presence WAIVED for the Court's inquiry of Juror No. 6 and for formal setting of jury instructions. Upon inquiry of the Court regarding cellphone use, Juror No. 6 stated most of the time he is simply turning off alerts and setting his phone to airplane mode, and that he is not doing anything on this case. Juror leaves. Court directed the marshal to send the jurors on break. Verdict form MARKED as Court's Exhibit 28 and jury instructions (not numbered) MARKED as Court's Exhibit 29. Jury instructions and verdict form settled on the record. Court noted it had overruled counsel's objection regarding the verdict form. RECESS.

JURY and DEFT PRESENT: Court apologized for the delay, and instructed the jury on the law as it applies to this case. LUNCH RECESS.

OUTSIDE THE PRESENCE OF THE JURY: Mr. Coffee advised the Court of a missing instruction from the final packet. COURT ORDERED, it will be added as a supplemental instruction, numbered as "15A" and "15B" and read to the jury upon their return. LUNCH RECESS.

Proceedings resumed. State's rebuttal PowerPoint MARKED as Court's Exhibit 31 and Defendant's closing PowerPoint MARKED as Court's Exhibit 32. (See worksheets.)

JURY PRESENT: Court instructed the Jury at to 15A and 15B. Closing arguments on behalf of the State by Mr. Rogan, and on behalf of Deft by Mr. Coffee. Jury admonished.

OUTSIDE THE PRESENCE OF THE JURY: State placed their objection to Mr. Coffee's closing argument with regards to negative inference as to voice mails as completely improper under Glover. RECESS.

JURY PRESENT: Argument in rebuttal by Ms. Mercer. Alternates revealed. Officers sworn. At the hour of 3:33 PM, the jury retired to deliberate. Alternates sequestered.

OUTSIDE THE PRESENCE OF THE JURY: Court DIRECTED counsel to submit any proposed jury instructions for a penalty phase as well as any additional exhibits. Colloquy regarding scheduling. Court advised parties will be contacted as to whether the jury has reached a verdict or, if they have not, what time they decide to return tomorrow. RECESS.

CLERK'S NOTE: Jury did not reach a verdict this date and requested to return tomorrow, April 17, 2015 at 9:30 AM to continue deliberations. Parties notified.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**April 17, 2015**

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C-12-286357-1      State of Nevada  
                                 vs  
                                 Troy White

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**April 17, 2015**

**9:30 AM**

**Jury Trial**

**HEARD BY:** Gonzalez, Elizabeth

**COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Dulce Romea

**RECORDER:** Debbie Winn

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Coffee, Scott L.	Attorney
	Lopez-Negrete, David E.	Attorney
	Mercer, Elizabeth A.	Attorney
	Rogan, Jeffrey	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- DAY 8

Jury resumed deliberations.

OUTSIDE THE PRESENCE OF THE JURY: Court advised the jury has sent out a note requesting playback. Note MARKED as Court's Exhibit 33, and the Court's answer MARKED as Court's Exhibit 34. (See worksheet.)

JURY PRESENT: Video of witness Michael Montalto's testimony played for the jury. Further notes from the jury MARKED as Court's Exhibits next in order. Court directed the jury to provide more definition for playback of Joe Averman's testimony as it is long. LUNCH RECESS.

At the hour of 1:33 PM, the jury returned with a verdict, as follows:

COUNT 1 - GUILTY OF SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON;  
COUNT 2 - GUILTY OF ATTEMPT MURDER WITH USE OF A DEADLY WEAPON;  
COUNT 3 - GUILTY OF CARRYING A CONCEALED FIREARM;  
COUNT 4 - GUILTY OF CHILD ABUSE, NEGLECT OR ENDANGERMENT (as to Jodey White);  
COUNT 5 - GUILTY OF CHILD ABUSE, NEGLECT OR ENDANGERMENT (as to Jesse White);  
COUNT 6 - GUILTY OF CHILD ABUSE, NEGLECT OR ENDANGERMENT (as to Jayce White);  
COUNT 7 - GUILTY OF CHILD ABUSE, NEGLECT OR ENDANGERMENT (as to Jazzy White);  
COUNT 8 - GUILTY OF CHILD ABUSE, NEGLECT OR ENDANGERMENT (as to Jett White).

Verdict and Jury Instructions FILED IN OPEN COURT. Counsel requested Deft remain in custody without bail pending sentencing. COURT ORDERED, matter referred to the Division of Parole and Probation (P & P) for a Pre-Sentence Investigation (PSI) report and SET for sentencing. Counsel may file a sentencing memorandum.

CUSTODY

6-1-15          9:00 AM          SENTENCING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****June 23, 2015**

C-12-286357-1      State of Nevada  
vs  
Troy White

**June 23, 2015      11:45 AM      Telephonic Conference**

**HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** RJC Courtroom 14C**COURT CLERK:** Dulce Romea**RECORDER:** Jill Hawkins**REPORTER:****PARTIES**

<b>PRESENT:</b>	Coffee, Scott L.	Attorney
	Mercer, Elizabeth A.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Court advised Ms. Mercer has requested to trail sentencing to the end of tomorrow's calendar. Mr. Coffee stated this is okay. COURT ORDERED, case will be called at 9:45 AM, although it will remain on the 9:00 AM session so Deft will not be transported separately. Secondly, Court advised it understands from the Law Clerk that Ms. Mercer has submitted documents for in camera review, and NOTED, the Court does NOT EXAMINE documents for in camera review unless it has previously issued an order. Ms. Mercer advised she thought they would be relevant; additionally, Mr. Coffee has already reviewed the complete packet of CPS records. Colloquy between counsel regarding the documents. Upon Court's inquiry, Ms. Mercer advised the submitted documents are unredacted. Court noting its procedure for in camera submissions advised that based upon the presentation it needs to determine whether the documents can be produced to the other side and then issue a limiting order; if a record needs to be made about the records, there needs to be an ability to do so. Mr. Coffee his side also intends to submit to the Court an assessment from a doctor. Upon further inquiry by the Court, Ms. Mercer stated the submitted documents are not Bates numbered; she does not believe there was a prior order to submit those records, but another deputy was able to obtain them from DCFS. Court further explained its procedure regarding documents for in camera review and PAUSED the call for parties to talk. Call RESUMED. Ms. Mercer apologized for not knowing the

procedure for CPS records and advised that parties are in agreement to continue sentencing for a month for her to get the records Bates stamped. Mr. Coffee concurred this is fine, as something also came up in the State's sentencing memorandum that he needs to investigate. COURT ORDERED, sentencing RESET to July 20, 2015. Status Check on CPS records SET on July 2, 2015 in Chambers; no appearances are required for this date.

CUSTODY

7-2-15	CHAMBERS	STATUS CHECK: RECORDS
7-20-15	9:00 AM	SENTENCING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****June 30, 2015**

C-12-286357-1      State of Nevada  
vs  
Troy White

**June 30, 2015****1:30 PM****Minute Order****Minute Order: In  
Camera Review****HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** RJC Courtroom 14C**COURT CLERK:** Dulce Romea**RECORDER:****REPORTER:****PARTIES****PRESENT:**

**JOURNAL ENTRIES**

- Court MARKED unredacted unnumbered documents subject to prior conference call as Court's Exhibit 1 and SEALED it. (See worksheet.) Court reviewed in camera unredacted 0001-0329 (MARKED as Court's Exhibit 2 and SEALED). These records are to be released to the District Attorney and Mr. Coffee contingent upon both maintaining the confidentiality of these records and execution of the Court's receipt. If any additional disclosure of the records is to be made, counsel may seek an additional order of the Court.

CLERK'S NOTE: A copy of the above minute order was distributed to Deputy District Attorneys Liz Mercer and Jeffrey Rogan, and Deputy Public Defenders Scott Coffee and David Lopez-Negrete. / dr

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****July 20, 2015**

C-12-286357-1      State of Nevada  
vs  
Troy White

**July 20, 2015      9:00 AM      Sentencing**

**HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** RJC Courtroom 14C**COURT CLERK:** Tena Jolley**RECORDER:** Jill Hawkins**REPORTER:****PARTIES**

<b>PRESENT:</b>	Coffee, Scott L.	Attorney
	Mercer, Elizabeth A.	Attorney
	Rogan, Jeffrey	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- Mr. Coffee advised there were errors in the Pre-Sentence Investigation (PSI) report; P&P have been contacted and are in the process of preparing a Supplemental PSI; and asked that the Court accept the Supplement PSI before a Judgment of Conviction is signed as it could affect Deft's. housing. State had no objection. Based on the representations, COURT ORDERED, PSI be amended to modify the offenses shown on page 4, to correctly reflect the charges and on page 5, to modify the mention of the gang issue. Court directed Mr. Coffee to prepare an order so that Parole and Probation will be directed to modify the PSI prior to the Court's rendition of sentencing.

DEFT. WHITE ADJUDGED GUILTY as to COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON (F); COUNT 2 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (F); COUNT 3 - CARRYING A CONCEALED FIREARM OR OTHER DEADLY WEAPON (F); and COUNTS 4, 5, 6, 7 and 8 - CHILD ABUSE, NEGLECT OR ENDANGERMENT (F). Matter argued and submitted. Statement by Defendant. Victim Witnesses sworn and testified. COURT ORDERED, in addition to the \$25.00 Administrative Assessment Fee, \$250.00 Indigent Defense Civil Assessment Fee, \$335.50



Extradition Costs, \$3.00 DNA Collection fee, and \$150.00 DNA Analysis Fee including testing to determine genetic markers, the Defendant is SENTENCED to the Nevada Department of Corrections (NDC) on COUNT 1 to a MINIMUM of TEN (10) YEARS and a MAXIMUM of LIFE, plus a CONSECUTIVE term of a MINIMUM OF SEVENTY-SIX (76) MONTHS and a MAXIMUM ONE HUNDRED NINETY-TWO (192) MONTHS for the Use of a Deadly Weapon; on COUNT 2 to a MINIMUM of SEVENTY-SIX (76) MONTHS and a MAXIMUM of ONE HUNDRED NINETY-TWO (192) MONTHS, plus a CONSECUTIVE term of ONE HUNDRED NINETY-TWO (192) MONTHS for the Use of a Deadly Weapon; CONSECUTIVE to COUNT 1; on COUNT 3 to a MINIMUM of NINETEEN (19) MONTHS and a MAXIMUM of FORTY-EIGHT (48) MONTHS, CONCURRENT WITH COUNTS 1 & 2; on COUNT 4 to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS, CONSECUTIVE TO COUNTS 1 & 2; on COUNT 5 to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS, CONCURRENT with ALL OTHER COUNTS; on COUNT 6 to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS, CONCURRENT with ALL OTHER COUNTS; on COUNT 7 to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS, CONCURRENT with ALL OTHER COUNTS; and on COUNT 8 to a MINIMUM of TWENTY-FOUR (24) MONTHS and a MAXIMUM of SIXTY (60) MONTHS, CONCURRENT with ALL OTHER COUNTS; with ONE THOUSAND EIGHTY-EIGHT DAYS (1,088) DAYS CREDIT FOR TIME SERVED; for an AGGREGATE TOTAL SENTENCE of a MINIMUM OF THIRTY-FOUR (34) YEARS to a MAXIMUM of LIFE.

BOND, if any, EXONERATED.

NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****January 07, 2016**

C-12-286357-1      State of Nevada  
vs  
Troy White

**January 07, 2016****9:00 AM****Minute Order****Minute Order Setting  
Status Check****HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** RJC Courtroom 14C**COURT CLERK:** Dulce Romea**RECORDER:****REPORTER:****PARTIES****PRESENT:**

**JOURNAL ENTRIES**

- The Court ORDERS this matter SET for status check to address the letter from the Nevada Department of Corrections seeking clarification regarding Deft's sentence. Deft to be transported. State to PREPARE the transport order.

NDC

1-27-16      9:00 AM  
DEFT'S SENTENCE

**STATUS CHECK: LETTER FROM NDOC REGARDING**

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****January 27, 2016**

C-12-286357-1      State of Nevada  
vs  
Troy White

**January 27, 2016****9:00 AM****Status Check**

**Status Check: Letter  
from NDOC  
regarding Deft's  
Sentence**

**HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** RJC Courtroom 14C**COURT CLERK:** Dulce Romea**RECORDER:** Jill Hawkins**REPORTER:****PARTIES**

<b>PRESENT:</b>	Dickerson, Michael	Attorney
	Lopez-Negrete, David E.	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- Mr. Lopez-Negrete advised Deputy D.A. Liz Mercer indicated she would be present today; with regards to the issue about the aggregation language, Ms. Mercer indicated she would agree to strike it. Court noted the Presiding Judge of the Criminal Division has directed sentences be aggregated; this Court does not know the basis that the Nevada Department of Corrections is arguing about aggregation; the Court understands the statutory basis, but not the impact of what the Prison is saying. Mr. Lopez-Negrete advised that from his math it should be 31 years to life. COURT ORDERED, matter trailed for Ms. Mercer.

Matter RECALLED. Counsel advised the State has no objection to striking the aggregation pronouncement in the Judgment of Conviction. COURT ORDERED, while it disagrees with the Nevada Department of Corrections' legal analysis, given the stipulation of the parties the aggregation language on Page 2, lines 16 and 17 on the Judgment of Conviction will be STRICKEN. Upon Court's

inquiry, Deft stated this is okay.

Clerk's Office to prepare an Amended Judgment of Conviction.

NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**October 23, 2017**

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C-12-286357-1      State of Nevada  
                                 vs  
                                 Troy White

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**October 23, 2017      9:00 AM      Motion**

**HEARD BY:** Cory, Kenneth      **COURTROOM:** RJC Courtroom 16A

**COURT CLERK:** Michele Tucker

**RECORDER:** Lisa Lizotte

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Beverly, Leah C	Attorney
	Logan, Geordan G.	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Defendant White NOT PRESENT, IN CUSTODY.

COURT ORDERED, Defendant's Pro Per Motion to Withdraw Counsel GRANTED. Mr. Logan advised the Public Defender's Office would provide the file to the defendant.

NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**May 21, 2018**

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C-12-286357-1      State of Nevada  
                                 vs  
                                 Troy White

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**May 21, 2018**

**9:00 AM**

**Motion**

**HEARD BY:** Bonaventure, Joseph T.

**COURTROOM:** RJC Courtroom 16A

**COURT CLERK:** Michele Tucker

**RECORDER:** Lisa Lizotte

**REPORTER:**

**PARTIES**

**PRESENT:**      Dickerson, Michael      Attorney  
                         Folkestad, Jessie Lee      Attorney  
                         State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Defendant White NOT PRESENT, IN CUSTODY.

COURT ORDERED, Briefing schedule SET. Supplemental brief due 8/20/18, Opposition due 9/17/18, Reply due 10/15/18 and matter SET for argument.

NDC

10/29/18 PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**September 05, 2018**

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C-12-286357-1      State of Nevada  
                                 vs  
                                 Troy White

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<b>September 05, 2018</b>	<b>9:00 AM</b>	<b>Motion</b>	<b>Deft's Motion to place on calendar to extend the time for the filing of the supplemental brief in support of defendant's petition for writ of habeas corpus</b>
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**HEARD BY:** Israel, Ronald J.

**COURTROOM:** RJC Courtroom 15C

**COURT CLERK:** Kathy Thomas

**RECORDER:** Judy Chappell

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Beverly, Leah C	Attorney
	Folkestad, Jessie Lee	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- Deft. WHITE not present, in the Nevada Department of Corrections. Ms. Folkestad requested to submit her brief by 11/19/18. State requested 60 days for their opposition. COURT ORDERED, Deft's Motion to Extend the Time to File Supplemental Briefs, GRANTED. COURT ORDERED, Briefing Schedule; Deft's Brief by 11/19/18, State's Opposition by 01/16/19, Deft's Reply by 02/13/19 and Petition CONTINUED.

NDC

02/27/19 9:00 AM PETITION FOR WRIT OF HABEAS CORPUS/POSE CONVICITION



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 03, 2018

C-12-286357-1      State of Nevada  
vs  
Troy White

December 03, 2018	9:00 AM	Motion	<b>Defendant's Motion to Place on Calendar to Extend the Time for the Filing of the Supplemental Brief in Support of Defendant's Petition for Writ of Habeas Corpus</b>
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HEARD BY: Israel, Ronald J.

COURTROOM: RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

**PARTIES**

<b>PRESENT:</b>	Beverly, Leah C	Attorney
	Folkestad, Jessie Lee	Attorney
	Oram, Christopher R	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Deft. WHITE not present, in the Nevada Department of Corrections. Ms. Folkestad requested to extend time for briefs and noted she could submit her brief by 12/20/18. COURT ORDERED, Deft's Motion to Extend Time For Supplemental Brief In support of Defendant's Petition for Writ of Habeas Corpus, GRANTED. COURT FURTHER ORDERED Briefing Schedule, Deft's Supplemental Brief by 12/20/018, State's Opposition by 02/20/19, Deft's Reply by 03/20/19 and Hearing Vacated and RESET. State to prepare a new order for transport of Deft.

NDC

03/27/19 9:00 AM PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 27, 2019**

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C-12-286357-1      State of Nevada  
                                 vs  
                                 Troy White

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**March 27, 2019**

**9:00 AM**

**All Pending Motions**

**All Pending Motions  
(03/27/19)**

**HEARD BY:** Israel, Ronald J.

**COURTROOM:** RJC Courtroom 15C

**COURT CLERK:** Kathy Thomas

**RECORDER:** Judy Chappell

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	LoGrippo, Frank R.	Attorney
	Oram, Christopher R	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)...DEFENDANT'S MOTION FOR AUTHORIZATION TO OBTAIN EXPERT AND FOR PAYMENT OF FEES INCURRED HEREIN

Deft. WHITE present, in custody, in the Nevada Department of Corrections. Mr. Oram noted they had contacted chambers and requested 30 days to file a reply. COURT ORDERED, Matter CONTINUED and Defendant's Reply due by 04/24/19.

NDC

05/15/19 9:00 AM PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)...DEFENDANT'S MOTION FOR AUTHORIZATION TO OBTAIN EXPERT AND FOR PAYMENT OF FEES INCURRED HEREIN

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 15, 2019

C-12-286357-1      State of Nevada  
vs  
Troy White

May 15, 2019

9:00 AM

All Pending Motions

All Pending Motions  
(05/15/19)

HEARD BY: Israel, Ronald J.

COURTROOM: RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

**PARTIES**

<b>PRESENT:</b>	Oram, Christopher R	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant
	Zadrowski, Bernard B.	Attorney

**JOURNAL ENTRIES**

- PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)...DEFT'S MOTION FOR AUTHORIZATION TO OBTAIN EXPERT AND FOR PAYMENTS OF FEES INCURRED HEREIN

Deft. WHITE present, in custody in the Nevada Department of Corrections. Assigned Deputy District Attorney not present. Mr. Oram requested matter be continued. Court trailed the matter for the State's appearance.

Later recalled: Mr. Zadrowski, Deputy District Attorney standing in. Mr. Zadrowski stated the assigned deputy would not be available today. COURT ORDERED, Matter CONTINUED. Mr. Oram requested the Deft's presence be waived at the next hearing. COURT SO ORDERED, No order to transport.

NDC

06/12/19 9:00 AM PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)...DEFT'S  
MOTION FOR AUTHORIZATION TO OBTAIN EXPERT AND FOR PAYMENTS OF FEES  
INCURRED HEREIN

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**June 12, 2019**

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C-12-286357-1      State of Nevada  
                                 vs  
                                 Troy White

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**June 12, 2019**

**9:00 AM**

**All Pending Motions**

**HEARD BY:** Johnson, Eric

**COURTROOM:** RJC Courtroom 12A

**COURT CLERK:** Linda Skinner

**RECORDER:** Angie Calvillo

**REPORTER:**

**PARTIES**

**PRESENT:**      Oram, Christopher R      Attorney  
                         State of Nevada      Plaintiff  
                         White, Troy Richard      Defendant  
                         Zadrowski, Bernard B.      Attorney

**JOURNAL ENTRIES**

- PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)...DEFENDANT'S MOTION FOR AUTHORIZATION TO OBTAIN EXPERT AND FOR PAYMENT OF FEES INCURRED HEREIN

Upon Court's inquiry, Mr. Oram advised he needs the Investigator to obtain the cell phone records and feels it could be accomplished within 60 days. Following colloquy, Mr. Oram requested 90 days. Mr. Zadrowski had no objection. COURT ORDERED, the following briefing schedule:

Mr. Oram to file Supplemental by 9/11;  
State to respond by 11/12 and matter SET for argument.

As to the Motion, COURT ORDERED, GRANTED up to \$1,000.

Additionally, Mr. Oram advised Defendant WAIVES his right to be present, however, they keep bringing him. Court directed Mr. Oram file an Order for Defendant not to brought to Court and ORDERED, DEFENDANT IS NOT TO BE TRANSPORTED. Court advised Mr. Oram that he will

need to file a new Order when/if he wants Defendant transported.

NDC

11/25/19 9:00 AM ARGUMENT

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**September 23, 2019**

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C-12-286357-1      State of Nevada  
vs  
Troy White

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<b>September 23, 2019</b>	<b>9:00 AM</b>	<b>Motion for Order Extending Time</b>	<b>Motion to Place on Calendar to Extend the Time for the Filing of the Second Supplemental Brief in Support of the Defendant's Petition for Writ of Habeas Corpus</b>
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**HEARD BY:** Israel, Ronald J.

**COURTROOM:** RJC Courtroom 15C

**COURT CLERK:** Kathy Thomas

**RECORDER:** Judy Chappell

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Folkestad, Jessie Lee	Attorney
	Marland, Melanie H.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Deft. WHITE not present, in the Nevada Department of Corrections (NDC). Ms. Folkestad requested an additional 60 days for continued investigations and noted Mr. Oram is in trial. State had no objection with a new briefing schedule. COURT ORDERED, Briefing schedule set: Deft's Supplemental Brief by 11/25/19, State's Opposition by 01/22/20, Deft's Reply by 02/19/20 and Hearing RESET.

NDC



02/26/20 9:00 AM ARGUMENT: PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****January 06, 2020**

C-12-286357-1      State of Nevada  
vs  
Troy White

**January 06, 2020****10:00 AM****Motion**

**Motion To Place On  
Calendar To Extend  
The Time For The  
Filing Of The Second  
Supplemental Brief  
In Support Of  
Defendant's Petition  
For Writ Of Habeas**

**HEARD BY:** Israel, Ronald J.**COURTROOM:** RJC Courtroom 15C**COURT CLERK:** Kathy Thomas**RECORDER:** Judy Chappell**REPORTER:****PARTIES**

<b>PRESENT:</b>	Folkestad, Jessie Lee	Attorney
	Lamanna, Brianna K.	Attorney
	State of Nevada	Plaintiff

**JOURNAL ENTRIES**

- Deft. WHITE not present, in custody in the Nevada Department of Correction (NDC). Upon Court's inquiry, Ms. Folkestad noted they did send a subpoena to Verizon and advised it could take 60 days to receive and review the discovery. State had no objection. At the request of Counsel, COURT ORDERED, Motion to Extend Time for the Filing of the Second Supplemental Brief, GRANTED and Petition for Writ, VACATED. COURT FURTHER ORDERED, Matter SET for a status check to reset briefing schedule and Petition.

NDC

03/09/2020 9:00 AM STATUS CHECK: RESET BRIEFING SCHEDULE AND PETITION FOR WRIT

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor****COURT MINUTES****March 09, 2020**

C-12-286357-1      State of Nevada  
vs  
Troy White

**March 09, 2020****9:00 AM****Status Check**

**Status Check: Reset  
Briefing Schedule &  
PTN & Arguments**

**HEARD BY:** Israel, Ronald J.**COURTROOM:** RJC Courtroom 15C**COURT CLERK:** Kathy Thomas**RECORDER:** Judy Chappell**REPORTER:****PARTIES**

<b>PRESENT:</b>	Oram, Christopher R	Attorney
	State of Nevada	Plaintiff
	Waters, Steven L	Attorney
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- Deft. WHITE present, in custody in the Nevada Department of Corrections (NDC). Mr. Oram noted the briefs had been filed and requested a hearing be set. COURT ORDERED, Matter SET for Hearing for the Petition of Writ. State to prepare an order to transport.

NDC

04/06/2020 9:00 AM HEARING RE: PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**July 22, 2020**

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C-12-286357-1      State of Nevada  
vs  
Troy White

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**July 22, 2020      1:45 PM      Petition for Writ of Habeas  
Corpus**

**HEARD BY:** Israel, Ronald J.

**COURTROOM:** RJC Courtroom 15C

**COURT CLERK:** Natalie Ortega

**RECORDER:** Judy Chappell

**REPORTER:**

**PARTIES**

**PRESENT:**      Brooks, Parker      Attorney  
State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Christopher Oram, Esq. not present. Defendant present by video.

Mr. Brooks noted it was the State's fault Mr. Oram was not present. COURT ORDERED, matter CONTINUED.

CONTINUED TO: 08/19/20 1:45 PM

NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 02, 2020

C-12-286357-1      State of Nevada  
vs  
Troy White

September 02, 2020      1:45 PM      Petition for Writ of Habeas  
Corpus

HEARD BY: Israel, Ronald J.

COURTROOM: RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

**PARTIES**

<b>PRESENT:</b>	Mercer, Elizabeth A.	Attorney
	Oram, Christopher R	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- Deft. WHITE present, in custody in the Nevada Department of Corrections (NDC). Court noted the briefs had been read twice. Arguments by Mr. Oram in support of the Motion. Mr. Oram requested an evidentiary hearing. Colloquy regarding the two cell phones, text and prior counsel not moving to suppress. Mr. Oram noted their investigator was unable to prove the phone was the Deft's because the phone company recorders were gone now. Mr. Oram further noted if the text would have been suppressed the second degree murder could have been reduced to a manslaughter. Colloquy. Argument by the State against the motion. State noted based on the phone download, it was clearly the victims phone and counsel did not move to suppress due to having to put the Deft. on the stand. State further noted the text evidence is in the transcript and referred to the pages where it could be found. Court noted the 2nd prong of Strickland had not been met. Mr. Oram requested the hearing. Court noted at the interest of giving the Deft. every chance, COURT ORDERED, a limited Evidentiary Hearing to be set. Court stated findings and ORDERED, Petition DENIED IN PART as to the cell phone, However Court will Allow a hearing on the remaining issues. State to prepare an order to transport Deft. for the hearing. Counsel estimated one hour and requested 60 days for the date

certain. Due to COVID a special hearing session will need to be scheduled through the Judicial Executive Assistant (JEA).

NDC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**November 16, 2020**

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C-12-286357-1      State of Nevada  
                                 vs  
                                 Troy White

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**November 16, 2020      12:00 AM      Petition for Writ of Habeas  
Corpus**

**HEARD BY:** Israel, Ronald J.

**COURTROOM:** RJC Courtroom 15C

**COURT CLERK:** Kathy Thomas

**RECORDER:** Judy Chappell

**REPORTER:**

**PARTIES**

**PRESENT:**      Mercer, Elizabeth A.      Attorney  
                                 Oram, Christopher R      Attorney  
                                 State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Deft. WHITE in custody, in the Nevada Department of Corrections (NDC). Court noted Chambers was notified, High Desert State Prison is on lock down for two weeks and the Deft's will not be transported. Upon Court's inquiry, Mr. Oram estimated the hearing to be a 1/2 hour. Court noted this is a special setting and it would be limited to a Thursday or Friday about a month out. Court noted the Judicial Executive Assistant (JEA) will RESET the hearing and notify counsel.

NDC



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Felony/Gross Misdemeanor**

**COURT MINUTES**

**March 04, 2021**

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C-12-286357-1      State of Nevada  
                                 vs  
                                 Troy White

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**March 04, 2021      1:30 PM      Petition for Writ of Habeas  
Corpus**

**HEARD BY:** Israel, Ronald J.

**COURTROOM:** RJC Courtroom 15C

**COURT CLERK:** Kathy Thomas

**RECORDER:** Judy Chappell

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Mercer, Elizabeth A.	Attorney
	Oram, Christopher R	Attorney
	State of Nevada	Plaintiff
	White, Troy Richard	Defendant

**JOURNAL ENTRIES**

- Deft. WHITE present by video, in custody in the Nevada Department of Corrections (NDC). Also present, Mr. Coffee, prior counsel, appearing by video. Court noted most of the issues the Court gave a detailed order at the previous hearing and the only remaining issue is the issue regarding investigation of the phone. Hearing held: Mr. Coffee sworn and testified. Arguments by counsel. Court noted it understood the request to investigate the phone however did not see it s the issue, the issue is whether or not Mr. Coffee was in-effective counsel for not investigating the phone. Court noted Mr. Coffee considered the phone being evaluated and weighed the risks and he was concerned they could find more bad then good. Court stated detailed findings and DENIED the entire Petition for Writ of Habeas Corpus. Court directed the State to review both hearing transcripts and prepare a detailed order.

## VAULT EXHIBIT FORM

CASE NO: C286357	TRIAL DATE: APRIL 6, 2015
DEPT. NO: XI	JUDGE : HON. ELIZABETH GONZALEZ
	CLERK: DULCE ROMEA
	RECORDER: JILL HAWKINS
PLAINTIFF: STATE OF NEVADA	JURY FEES:
	COUNSEL FOR PLAINTIFF: DEPUTY DISTRICT ATTORNEYS ELIZABETH MERCER & JEFFREY ROGAN
DEFENDANT: TROY WHITE	
	COUNSEL FOR DEFENDANT: DEPUTY PUBLIC DEFENDERS SCOTT COFFEE & DAVID LOPEZ-NEGRET

[illegible]

CASE NO. C-12-286357-1

DEPT NO. XI

THE STATE OF NEVADA

PLAINTIFF

VS

TROY RICHARD WHITE

#1383512

DEFENDANT

TRIAL DATE APRIL 6, 2015

JUDGE Hon. Elizabeth Gonzalez

CLERK Dulce Romea

RECORDER Jill Hawkins

Liz Mercer and Jeffrey S. Rogan  
COUNSEL FOR PLAINTIFF

Scott Coffee and David Lopez-Negrete  
COUNSEL FOR DEFENDANT

No		Date Offered	Obj	Date Admitted
1	Photograph – Echo White	4-6-15	STIP	4-6-15
2	Photograph – Echo White at Autopsy			
3	Photograph – Echo White – Bullet Entrance Wound			
4	Photograph – Echo White – Close up of Entrance Wound			
5	Photograph – Echo White – X-ray			
6	Photograph – Echo White – Excision of Bullet			
7	Photograph – Echo White – Recovered Bullet			
8	Photograph – Echo White – Left Elbow			
9	Photograph – Echo White – Left Wrist			
10	Photograph – Coroner Seal			
11	Photograph – Joseph Averman			
12	Photograph – Joseph Averman – Inside of Right Arm			
13	Photograph – Joseph Averman – Outside of Right Arm			
14	Photograph – Joseph Averman – Abdomen			
15	Photograph – Jodey White			
16	Photograph – Jayce White			
17	Photograph – Jesse White			
18	Photograph – Jett White	4-6-15	STIP	4-6-15

No		Date Offered	Obj	Date Admitted
19	Photograph – Jazzy White	4-6-15	STIP	4-6-15
20	Photograph – Defendant Full Body			
21	Photograph – Defendant Face			
22	Photograph – Defendant Left Hand			
23	Photograph – Defendant Right Hand			
24	Photograph – Defendant Palms			
25	Photograph – Crime Scene Diagram			
26	Photograph – Exterior 325 Altamira			
27	Photograph – Driveway 325 Altamira with Scene Tape			
28	Photograph – Close Up of Driveway 325 Altamira			
29	Photograph – Driveway with Evidence Markers			
30	Photograph – Expended Bullet (Evidence Marker #1)			
31	Photograph – Close Up of Bullet			
32	Photograph – Backpack (Evidence Marker #2)			
33	Photograph – Front of Backpack			
34	Photograph – Opened Backpack Depicting Holster			
35	Photograph – Holster			
36	Photograph – Entrance to 325 Altamira			
37	Photograph – South Exterior Wall of 325 Altamira			
38	Photograph – Interior Hallway Facing Living Room			
39	Photograph – Living Room Facing East Wall			
40	Photograph – Living Room Facing North Wall			
41	Photograph – Interior Hallway Facing Bedrooms			
42	Photograph – NE Bedroom from Hallway			
43	Photograph – Cartridge Case (Evidence Marker #5)			
44	Photograph – Close up of Cartridge Case			
45	Photograph – Headstamp of Cartridge Case	4-6-15	STIP	4-6-15

No		Date Offered	Obj	Date Admitted
46	Photograph – NW Bedroom from Hallway	4-6-15	STIP	4-6-15
47	Photograph – NW Bedroom With Evidence Markers 7-11			
48	Photograph – Cartridge Case (Evidence Marker #6)			
49	Photograph – Headstamp of Cartridge Case (E.M. #6)			
50	Photograph – Cartridge Case (Evidence Marker #7)			
51	Photograph – Headstamp of Cartridge Case (E.M. #7)			
52	Photograph – Black Shirt (Evidence Marker #11)			
53	Photograph – Close Up of Black Shirt			
54	Photograph – iPhone in NW Bedroom			
55	Photograph – SW Bedroom from Hallway			
56	Photograph – SW Bedroom Facing Hallway			
57	Photograph – SW Bedroom Facing Closet			
58	Photograph – SW Bedroom with Apparent Blood on Floor			
59	Photograph – Shirt with Apparent Blood in NW Bedroom			
60	Photograph – Close Up of Shirt with Apparent Blood			
61	Photograph – Face of Mirror with Trajectory Rod			
62	Photograph – Side of Mirror with Trajectory Rod			
63	Photograph – Exterior South Wall with Trajectory Rod			
64	Photograph – Bullet Hole in Exterior South Wall			
65	Photograph – 2008 Dodge Durango			
66	Photograph – License Plate of Durango			
67	Photograph – Driver Side Door of Durango			
68	Photograph – Defect in Driver Side Door of Durango			
69	Photograph – Driver Side of Durango Depicting Seals			
70	Photograph – Handgun and Magazine #1 in Storage Hold			
71	Photograph – Magazine #2 in Storage Hold			
72	Photograph – Handgun with Both Magazines	4-6-15	STIP	4-6-15

No		Date Offered	Obj	Date Admitted
73	Photograph – Magazine #1 with 12 Cartridges	4-6-15	STIP	4-6-15
74	Photograph – Magazine #2 with 9 Cartridges			
75	Photograph – Loose Cartridge in Storage Hold			
76	Photograph – Close Up of Loose Cartridge			
77	Photograph – Headstamp of Cartridge			
78	Photograph – AllState Payment Receipt			
79	Photograph – Living Room Closet of 6255 W. Tropicana			
80	Photograph – Primer Area Comparison			
81	Photograph – Cartridge Marking Comparison			
82	DNA Allele Chart	4-6-15	STIP	4-6-15
83	911 Call	4-7-15	STIP	4-7-15
84	Lantern Forensic Report: Calls	4-6-15	STIP	4-6-15
85	Lantern Forensic Report: Messages	4-6-15	STIP	4-6-15
86	Facebook Status Updates	4-7-15	STIP	4-7-15
87	Facebook Message			
88	Facebook Message			
89	Facebook Message			
90	Facebook Message			
91	Facebook Message	4-7-15	STIP	4-7-15
92	<del>REDACTED PAGE 6 OF JAYCE WHITE #92</del> <del>VOLUNTARY STATEMENT STRICKEN</del>	<del>4-8-15</del>	<del>NO</del>	<del>4-8-15</del>
93	<del>REDACTED PAGE 11 OF JAYCE WHITE</del> <del>VOLUNTARY STATEMENT</del>	<del>4-8-15</del>	<del>NO</del>	<del>4-8-15</del>
94	SCRAPS OF PAPER (PHOTO)	4-8-15	STIP	4-8-15
95	DUS PASS (BLOWN-UP PHOTO THEREOF)	4-8-15	STIP	4-8-15
96	BOX CONTAINING FIREARM	4-8-15	NO	4-8-15
96A.	FIREARM	4-8-15	NO	4-8-15
97.	EVIDENCE BAG	4-8-15	NO	4-8-15
97A.	MAGAZINE (ENVELOPE LABELLED "#6")	4-8-15	NO	4-8-15

\* 92 & 93 ADMITTED WITH LIMITING INSTRUCTION TO THE JURY.  
 \* STRICKEN.

## STATE'S EXHIBITS

CASE NO. C286357

	Date Offered	Objection	Date Admitted
97B. MAGAZINE WITH INDICATORS (ENVELOPE LABELLED "#7")	4-8-15	NO	4-8-15
97B-1. 9 CARTRIDGES			
97C. CARTRIDGE (ENVELOPE LABELLED "#8")			
97D. 12 CARTRIDGES			
98. MAP (AERIAL IMAGE)			
99. MAP (AERIAL IMAGE)			
100. MAP (AERIAL IMAGE)	4-8-15	NO	4-8-15
101. photograph - YESCO shirt w/ name TROY	4-13-15	STIP	4-13-15
102. EVIDENCE BAG.	4-14-15	STIP	4-14-15
102A. EVIDENCE BAG INSIDE 102			
102B. HOLSTER			
103. PHOTOGRAPH: DEFT WEARING BACKPACK	4-14-15	STIP	4-14-15
104. PHOTOGRAPH			
105. "			
106. "			
107. "			
108. "			
109. PHOTOGRAPH			
110. DISC: A 911 CALL			
111. FACEBOOK MESSAGES	4-14-15	STIP	4-14-15

DEFENDANT'S EXHIBITS

CASE NO. C286357

	Date Offered	Objection	Date Admitted
A. PHOTOGRAPH OF FAMILY	4-7-15	NO	4-7-15
B. PHOTOGRAPH			
C. PHOTOGRAPH			
D. PHOTOGRAPH			
E. PHOTOGRAPH			
F. PHOTOGRAPH	4-7-15	NO	4-7-15
G.	4-8-15	STP	4-8-15
H.			
I.			
J.			
K.			
L.			
M.			
N.			
O.			
P.			
Q.			
R.			
S.			
T.			
U.			
V. PHOTOGRAPH	4-8-15	STP	4-8-15
W. PHOTOGRAPH	4-8-15	STP	4-8-15
X. PHOTOGRAPH	4-8-15	NO	4-8-15



DEFT'S EXHIBITS

CASE NO. C286357

	Date Offered	Objection	Date Admitted
Y. PHOTOGRAPH: ECHO LUCAS & JOE AVERMAN	4-9-15	OBJ	4-9-15
Z. PHOTOGRAPH			
AA. PHOTOGRAPH: JOE AVERMAN HOLDING BABY	4-9-15	OBJ Sustained	
BB. PHOTOGRAPH: ECHO LUCAS & JOE AVERMAN	4-9-15	OBJ	4-9-15
CC. NOTE FOUND AT HERMAN ALLEN'S APARTMENT	4-9-15	OBJ	4-9-15
DD. PAGE 8 OF THE REDACTED VOLUNTARY STATEMENT OF HERMAN ALLEN			
EE. PHOTOGRAPH	4-14-15	STP	4-14-15
FF. "			
GG. "			
HH. "			
II. "			
JJ. "			
KK. "			
LL. "			
MM. "			
NN. PHOTOGRAPH	4-14-15	STP	4-14-15
OO. DISC: VOICEMAIL 102.0mr by TROY RICHARD WHITE	4-14-15	OBJ Sustained	
PP. DISC VOICEMAIL 103.0mr by TROY RICHARD WHITE	4-14-15	OBJ Sustained	

# COURT'S EXHIBITS

CASE NO. C286357

	Date Offered	Objection	Date Admitted
1. STATE'S OPENING POWERPOINT (DNC)	—		4-7-15
2. DEFT'S OPENING POWERPOINT (DNC)	—		4-7-15
3. QUESTION BY JUROR # 11	—		4-9-15
4. QUESTION BY JUROR # 13	—		4-9-15
5. QUESTION BY JUROR # 6	—		4-9-15
6. Question By Juror #8	—		4-13-15
7. Question By Juror #8	—		4-13-15
8. Question By Juror #13	—		4-13-15
9. Question By Juror #10	—		4-13-15
10. Question By Juror #6	—		4-13-15
11. Question By Juror #4	—		4-13-15
12. QUESTION BY JUROR # 8	—		4-14-15
13. QUESTION BY JUROR # 11	—		4-14-15
14. QUESTION BY JUROR # 6	—		4-14-15
15. QUESTION BY JUROR # 3 (NOT ASKED; Δ OBJECTION)	—		4-14-15
16. QUESTION BY JUROR # 8	—		4-14-15
17. COMMUNICATION RE: JURY INSTRUCTIONS	—		4-16-15
18. COMMUNICATION RE: JURY INSTRUCTIONS	—	—	—
19. COMMUNICATION RE: JURY INSTRUCTIONS			
20. COMMUNICATION RE: JURY INSTRUCTIONS			
21. COMMUNICATION RE: JURY INSTRUCTIONS			
22. COMMUNICATION RE: JURY INSTRUCTIONS			
23. COMMUNICATION RE: JURY INSTRUCTIONS			
24. COMMUNICATION RE: JURY INSTRUCTIONS			
25. COMMUNICATION RE: JURY INSTRUCTIONS	—		4-16-15

COURT'S EXHIBITS

CASE NO. C286357

[illegible]

## VAULT EXHIBIT FORM

CASE NO: C286357	HEARING DATE: JUNE 30, 2015 – MINUTE ORDER
DEPT. NO: XI	JUDGE : HON. ELIZABETH GONZALEZ
	CLERK: DULCE ROMEA
	RECORDER: N/A
PLAINTIFF: STATE OF NEVADA	JURY FEES: N/A
	COUNSEL FOR PLAINTIFF: DEPUTY DISTRICT ATTORNEYS LIZ MERCER & JEFFREY ROGAN
DEFENDANT: TROY WHITE	
	COUNSEL FOR DEFENDANT: DEPUTY PUBLIC DEFENDERS SCOTT COFFEE & DAVID LOPEZ-NEGRETE

COURT'S EXHIBITS \*\*\* SEALED BY ORDER OF THE COURT \*\*\*

[illegible]

# Certification of Copy

State of Nevada }  
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT  
DOCKET ENTRIES; FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER; NOTICE OF  
ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; DISTRICT COURT  
MINUTES; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

vs.

TROY RICHARD WHITE,

Defendant(s).

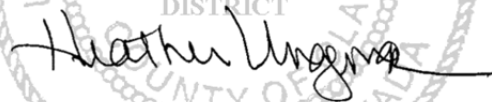
Case No: C-12-286357-1

Dept No: XXVIII

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 19 day of April 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk