

BENNETT G. GRINES #10918810
HIGH DESERT STATE PRISON
POST OFFICE BOX 650
INDIAN SPRINGS, NV. 89070.

Electronically Filed
6/17/2021 2:32 PM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

IN THE 8TH JUDICIAL
DISTRICT COURT OF THE
STATE OF NEVADA IN AND
FOR THE COUNTY OF CLARK

Electronically Filed
Jun 22 2021 09:18 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

BENNETT G. GRINES,
DEFENDANT / PETITIONER,

V.

THE STATE OF NEVADA,
PLAINTIFF / RESPONDENT,

CASE NO. C276163

DEPT NO. XII

APPEAL FROM THE 8TH JUDICIAL
DISTRICT COURT DENIAL OF DEFENDANT'S
MOTION TO MODIFY AND/OR CORRECT
ILLEGAL SENTENCE

PURSUANT TO NRS. 176.555, NRS. 34.360, NRS. 34.500,
(3), (8), (9); U.S. CONST. V, VI, VIII, XIV; NEV. CONST.
ART. 136, 138, 139 CL 2.

I, BENNETT G. GRINES, DO HEREBY,
RESPECTFULLY APPEAL THE PRESIDING JUDGE,
MICHAEL BEATTI, DENIAL OF THE MOTION
TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE.
BASED ON THE FOREGOING REASONS:

1) MOTION TO MODIFY AND/OR CORRECT
ILLEGAL SENTENCE, MADE MARCH 2, 2021

Docket 83088 Document 2021-17896

Case Number: C-11-276163-1

RECEIVED

JUN 17 2021

CLERK OF THE COURT

A. STAMPED RECEIVED BY CLERK OF THE COURT, MARCH 8, 2021.

B. STAMPED FILED BY CLERK OF COURT, MARCH 9, 2021.

C. HEARINGS SET, MARCH 30, 2021, 8:30 AM.

2) STATES RESPONSE TO DEFENDANT'S MOTION TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE, MADE, MARCH 22, 2021 VIA ALEXANDER G. CHEN NEW BAR# 010539.

A. HEARINGS SET, MARCH 30, 2021, 11:00 AM.

B. NICHOLE LEAH II IS NOT ALLOWING A WINDOW/TIME FRAME AMPLE FOR DEFENDANT TO FILE AN OPPOSITION TO THE STATES RESPONSE, BEFORE ISSUING A RULING

3) CALLS WERE MADE TO THE COURT'S CLERK. NEITHER OF THE ABOVE HEARINGS, CAME ON CALENDAR AS OF THE MONTH OF MAY.

4) APPELLANT'S MOTION FOR EXTENSION OF TIME TO REPLY TO STATES RESPONSE TO APPELLANT'S MOTION TO MODIFY AND/OR

CORRECT ILLEGAL SENTENCE, WAS
MADE ON APRIL 13, 2021.

A. STAMPED RECEIVED BY,
THE CLERK OF THE COURT, APRIL
19, 2021.

B. STAMPED FILED BY,
CLERK OF COURT MAY 18, 2021,
(28) DAYS OUT FROM ITS RECEIVED
DATE.

C. HEARING SET, JUNE 8,
2021.

5) PETITIONERS OPPOSITION TO
STATE'S RESPONSE TO PETITIONER'S
MOTION TO "MUNIFY" AND/OR
CORRECT "ILLEGAL SENTENCE", WAS
MADE, APRIL 22, 2021.

A. "WAS NOT" STAMPED
RECEIVED BY CLERK OF THE COURT.

B. "WAS" STAMPED FILED BY
CLERK OF COURT, MAY 6, 2021, (12)
DAYS PRIOR TO EXTENSION FOR
TIME TO FILE OPPOSITION.

C. "WAS NOT" STAMPED WITH A
HEARING DATE/TIME OF HEARING.

6) ORDER DENYING DEFENDANT'S MOTION TO MODIFY AND/OR CORRECT "SENTENCE", WAS MADE, JUNE 3, 2021.

A. (65) DAYS OUT FROM HEARING DATE:

B. MARCH 30, 2021, IN WHICH AS OF JUNE;

C. CALLS MADE TO COURT CLERK "NO HEARING OF A RULING HAS COME ON CALENDAR.

7) ORDER DENYING DEFENDANT'S MOTION TO MODIFY AND/OR CORRECT "SENTENCE":

A. MADE ON JUNE 3, 2021.

B. MARKED BY U.S. POSTAGE, JUNE 9, 2021.

C. DISTRICT ATTORNEY OFFICE REPRESENTED, VIA BERNARD B. ZADROWSKI, NEVADA BAR # 006545.

D. ORDER WAS MAILED DIRECTLY FROM, OFFICE OF THE DISTRICT ATTORNEY.

E. THERE "WAS NOT" A FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER, DRAFTED

BY THE DISTRICT COURT, BUT
INSTEAD SIGNED A DOCUMENT
SUBMITTED EX PARTE, WITH NO
DIRECTION OR GUIDANCE. THE DISTRICT
COURT MADE ABSOLUTELY ZERO
FINDINGS OF LAW OR FACT FOLLOWING
THE RULING ON THE MOTION
HEARING.

THE DISTRICT COURT'S ORDER
SHOULD NOT BE GIVEN ANY
DEFERENCE AND ENTIRELY DISREGARDED.
IN VIOLATION OF THE 14TH AMENDMENT
RIGHT TO U.S. CONST. AND 6TH

(SUBSTANTIAL AND PROCEDURAL DUE PROCESS; COMPULSORY)

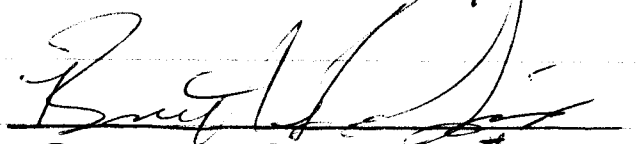
8) CERTIFICATE OF SERVICE ADOPTED
VIA, J. HAYES, SECRETARY FOR THE
DISTRICT ATTORNEY'S OFFICE.

A. MADE, JUNE 3, 2021.

B. RECEIVED BY BENNETT G.

GRIMES #1098810 @ H.D.S.P., P.O. BOX
650, INDIAN SPRINGS, NEVADA 89070.

DATED: THIS 14TH DAY OF JUNE, 2021.


BENNETT G. GRIMES #1098810

PETITIONER/PROPER.

CERTIFICATE OF SERVICE
BY MAILING

THIS APPEAL FROM THE DISTRICT'S COURT, DENIAL ORDER OF "MOTION TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE" IS MADE AND BASED ON THE AFFIDAVIT OF BENNETT G. GRIMES, ATTACHED HERETO, AND IS MADE IN GOOD FAITH AND NOT FOR PURPOSES OF DELAY.

I, BENNETT G. GRIMES, HEREBY CERTIFY, PURSUANT TO NRCIP 5(b), THAT ON THIS 14TH DAY OF JUNE, 2021, I MAILED A TRUE AND CORRECT COPY OF THE FOREGOING "APPEAL FROM DENIAL OF MOTION TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE" BY DEPOSITING IT IN THE HIGH DESERT STATE PRISON, LEGAL LIBRARY, FIRST-CLASS POSTAGE, FULLY PREPAID, ADDRESSED AS FOLLOWS:

SUPREME COURT OF NEVADA

OFFICE OF THE CLERK

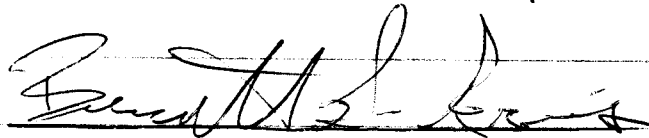
201 S. CARSON STREET, SUITE 201
CARSON CITY, NEVADA 89701.

AARON D. FORD
NEVADA ATTORNEY GENERAL
100 NORTH CARSON STREET
CARSON CITY, NEVADA 89701-4717.

STEVEN D. GRIERSON
CLERK OF THE COURT
200 LEWIS AVENUE 3RD FLOOR.
LAS VEGAS, NEVADA 89155-1160.

STEVEN B. WOLFSON
CLARK COUNTY DISTRICT ATTORNEY
200 LEWIS AVENUE
P.O. BOX 552212
LAS VEGAS, NV 89155-2212.

DATED: THIS 14TH DAY OF JUNE, 2021.



BENNETT G. GRIMES #1098810

1 IN PROPR PERSONAM

POST OFFICE BOX 650 [H155P]

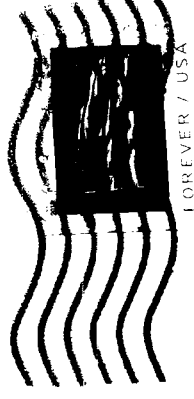
INDIAN SPRINGS, NEVADA 89070.

IN FORMA PAUPERIS.

BENNETT G. GRIMES #1098810
H. D. S. P.
P.O. Box 650
INDIAN SPRINGS, NV. 89070.

LAS VEGAS NV 890

15 JUN 2021 PM 3 L

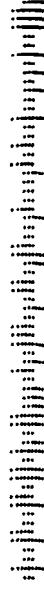


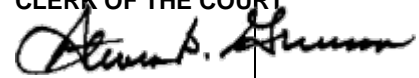
RECEIVED

JUN 17 2021

STEVEN G. OF THE COURTESY
CLERK OF THE COURT
200 LEWIS AVENUE 3RD FLOOR.
LAS VEGAS, NV 89155-1160.

89101-820199





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3
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7 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
8 **STATE OF NEVADA IN AND FOR**
9 **THE COUNTY OF CLARK**

10 STATE OF NEVADA,

11 Plaintiff(s),

12 vs.

13 BENNETT GRIMES,

14 Defendant(s),
15

Case No: C-11-276163-1

Dept No: XII

16
17 **CASE APPEAL STATEMENT**
18

19 1. Appellant(s): Bennett Grimes

20 2. Judge: Michelle Leavitt

21 3. Appellant(s): Bennett Grimes

22 Counsel:

23 Bennett Grimes #1098810
24 P.O. Box 650
Indian Springs, NV 89070

25 4. Respondent: The State of Nevada

26 Counsel:

27 Steven B. Wolfson, District Attorney
28 200 Lewis Ave.
Las Vegas, NV 89101

(702) 671-2700

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: Yes

7. Appellant Represented by Appointed Counsel On Appeal: Yes

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

9. Date Commenced in District Court: September 13, 2011

10. Brief Description of the Nature of the Action: Criminal

Type of Judgment or Order Being Appealed: Misc. Order

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 62835, 67741, 74419, 81042, 81335, 81531, 81697

12. Child Custody or Visitation: N/A

Dated This 18 day of June 2021.

Steven D. Grierson, Clerk of the Court

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Bennett Grimes

CASE SUMMARY
CASE NO. C-11-276163-1

§	Location:	Department 12
§	Judicial Officer:	Leavitt, Michelle
§	Filed on:	09/13/2011
§	Cross-Reference Case	C276163
§	Number:	
§	Defendant's Scope ID #:	2762267
§	ITAG Booking Number:	1100043435
§	ITAG Case ID:	1278290
§	Lower Court Case # Root:	11F13012
§	Lower Court Case Number:	11F13012X
§	Supreme Court No.:	62835
§		67598
§		67741
§		74419
§		81042



















Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER	200.030	F	07/22/2011	Case Status:	03/04/2013 Closed
2. BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER	205.060	F	07/22/2011		
3. BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY..	200.481	F	07/22/2011		

03/04/2013 Jury Trial - Conviction - Criminal



















PARTY INFORMATION		
Defendant	Grimes, Bennett	Resch, Jamie J. <i>Retained</i> 702-483-7360(W)
Plaintiff	State of Nevada	Wolfson, Steven B 702-671-2700(W)

Printed on 06/18/2021 at 10:27 AM

CASE SUMMARY
CASE NO. C-11-276163-1

09/13/2011	 Redacted Version <i>Criminal Bindover</i>
09/14/2011	 Notice of Change of Hearing
09/14/2011	 Information
09/21/2011	 Amended Information
10/04/2011	 Reporters Transcript Filed By: Plaintiff State of Nevada <i>Transcript of Hearing Held on August 25, 2011</i>
10/12/2011	 Petition for Writ of Habeas Corpus Filed by: Defendant Grimes, Bennett
10/14/2011	 Order
10/14/2011	 Writ of Habeas Corpus
10/25/2011	 Amended Information <i>Second Amended Information</i>
10/26/2011	 Return to Writ of Habeas Corpus
01/31/2012	 Notice of Expert Witnesses <i>Notice of Expert Witnesses [NRS 174.234(2)]</i>
01/31/2012	 Notice of Witnesses <i>Notice of Witnesses [NRS 174.234(1)(a)]</i>
02/09/2012	 Order Filed By: Plaintiff State of Nevada <i>Order Releasing Medical Records</i>
02/09/2012	 Ex Parte Motion <i>Ex Parte Motion for Release of Medical Records</i>
02/22/2012	 Supplemental <i>Supplemental Notice of Expert Witnesses [NRS 174.234(2)]</i>
02/27/2012	 Motion to Continue Trial Filed By: Defendant Grimes, Bennett <i>Motion to Continue Trial Date</i>
05/25/2012	 Motion for Discovery
05/29/2012	 Supplemental <i>Second Supplemental Notice of Expert Witnesses [NRS 174.234(2)]</i>
06/05/2012	

CASE SUMMARY
CASE NO. C-11-276163-1

	 Response <i>State's Response to Defendant's Motion for Discovery</i>
06/05/2012	 Motion to Dismiss <i>Defendant's Motion to Dismiss for Failure to Gather Evidence</i>
06/12/2012	 Motion to Continue Trial <i>Motion to Continue Trial Date</i>
07/18/2012	 Opposition to Motion to Dismiss <i>State's Opposition to Defendant's Motion to Dismiss for Failure to Gather Evidence</i>
09/19/2012	 Supplemental <i>Supplemental Notice of Expert Witnesses [NRS 174.234 (2)]</i>
10/02/2012	 Notice of Witnesses <i>Defendant's Notice of Witnesses, Pursuant to NRS 174.234</i>
10/02/2012	 Motion in Limine Filed By: Defendant Grimes, Bennett <i>Defendant's Motion In Limine to Preclude Introduction of Temporary Protective Order At Trial</i>
10/04/2012	 Supplemental <i>Supplemental Notice of Witnesses [NRS 174.234(1)(a)]</i>
10/10/2012	 Amended Information Filed By: Plaintiff State of Nevada <i>Third Amended Information</i>
10/10/2012	 Jury List
10/15/2012	 Amended Jury List
10/15/2012	 Instructions to the Jury
10/15/2012	 Verdict Party: Plaintiff State of Nevada
10/22/2012	 Motion for New Trial
10/23/2012	 Notice of Intent <i>Notice of Intent to Seek Punishment as a Habitual Criminal</i>
11/05/2012	 Opposition to Motion <i>State's Opposition to Defendant's Motion for a New Trial</i>
12/05/2012	 PSI <i>Pre-Sentence Investigation Report (Unfiled) Confidential</i>
12/18/2012	 PSI - Miscellaneous <i>Defendant's Statement</i>

CASE SUMMARY
CASE NO. C-11-276163-1

02/21/2013	 Judgment of Conviction <i>Judgment of Conviction (Jury Trial)</i>
03/04/2013	 Criminal Order to Statistically Close Case
03/18/2013	 Notice of Appeal (Criminal) <i>Notice of Appeal</i>
03/18/2013	 Request <i>Request for Rough Draft Transcript</i>
03/18/2013	 Case Appeal Statement
04/09/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on September 20, 2011</i>
04/16/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on August 23, 2012</i>
04/19/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on February 7, 2013</i>
04/24/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on November 3, 2011</i>
04/24/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on July 19, 2012</i>
04/26/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on June 7, 2012</i>
04/26/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on June 12, 2012</i>
04/26/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on August 14, 2012</i>
04/26/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on September 13, 2012</i>
04/26/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on December 18, 2012</i>
04/26/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on March 20, 2012</i>
04/26/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on July 31, 2012</i>
04/26/2013	 Recorders Transcript of Hearing

CASE SUMMARY
CASE NO. C-11-276163-1

	<i>Transcript of Hearing Held on October 2, 2012</i>
04/26/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on November 6, 2012</i>
05/07/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on February 12, 2013</i>
06/04/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on October 10, 2012</i>
06/04/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on October 11, 2012</i>
06/04/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on October 12, 2012</i>
06/04/2013	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on October 15, 2012</i>
09/09/2013	 Motion to Correct Sentence <i>Defendant's Motion to Correct Illegal Sentence</i>
09/23/2013	 Opposition to Motion <i>State's Opposition to Defendant's Motion to Correct Illegal Sentence,</i>
09/24/2013	 Motion to Strike <i>Defendant's Motion to Strike as Untimely the State's Opposition to Defendant's Motion to Correct Illegal Sentence</i>
10/03/2013	 Reply in Support <i>State's Surreply in Support of Opposition to Defendant's Motion to Correct Illegal Sentence</i>
10/03/2013	 Reply in Support <i>Defendant's Reply in Support of Motion to Correct Illegal Sentence</i>
03/27/2014	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed</i>
11/21/2014	 Order <i>Order for Transcript</i>
12/19/2014	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on October 3, 2013</i>
02/20/2015	 Inmate Filed - Petition for Writ of Habeas Corpus Party: Defendant Grimes, Bennett <i>Petition for Writ of Habeas Corpus (Post-Conviction)</i>
02/20/2015	 Motion for Appointment of Attorney Filed By: Defendant Grimes, Bennett <i>Motion to Appoint Counsel</i>

CASE SUMMARY
CASE NO. C-11-276163-1

03/02/2015	 Motion to Withdraw As Counsel <i>Defendant's Motion to Withdraw Due to Conflict and Motion to Appoint New Counsel</i>
03/16/2015	 Notice of Appeal (Criminal) <i>Notice of Appeal</i>
03/16/2015	 Request <i>Request for Rough Draft Transcript</i>
03/16/2015	 Case Appeal Statement
03/18/2015	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on February 10, 2015</i>
03/23/2015	 Notice of Appeal (Criminal) <i>Notice of Appeal</i>
03/23/2015	 Case Appeal Statement
03/25/2015	 Order for Production of Inmate <i>Order for Production of Inmate Bennett Grimes, BAC #1098810</i>
04/01/2015	 Notice of Appeal (Criminal) <i>Notice of Appeal</i>
04/03/2015	 Case Appeal Statement
04/08/2015	 Order for Production of Inmate <i>Order for Production of Inmate Bennett Grimes, BAC #1098810</i>
05/01/2015	 Order Denying Motion <i>Order Denying Defendant's Motion to Correct Illegal Sentence</i>
05/14/2015	 Order for Production of Inmate <i>Order for Production of Inmate Bennett Grimes, BAC #1098810</i>
06/08/2015	 Order for Production of Inmate <i>Order for Production of Inmate Bennett Grimes, BAC #1098810</i>
06/18/2015	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed</i>
03/25/2016	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed</i>
08/25/2016	 Motion <i>Motion to Add an Additional Ground i.e. Ground Four</i>
08/25/2016	 Motion <i>Motion to Request Evidentiary Hearing</i>

CASE SUMMARY

CASE NO. C-11-276163-1

08/25/2016	 Motion <i>Motion to Add an Additional Ground; i.e. Ground Five Counsel Stipulated to Use of Deadly Weapon and Failed to Object to Deadly Weapon Instruction</i>
09/08/2016	 Opposition to Motion <i>State's Opposition to Defendant's Motion to Add an Additional Ground, I.E. Ground Four, Motion to Add an Additional Ground I.E. Ground Five, and Motion to Request an Evidentiary Hearing.</i>
09/13/2016	 Motion <i>Motion for Leave of Court to File Amended Petition</i>
09/23/2016	 Motion <i>Motion to Discharge Mr. William H. Ramage as Attorney Pursuant to Nevada R.P.C. 1.16</i>
01/19/2017	 Ex Parte Order <i>Ex Parte Order for Investigative Fees</i>
05/16/2017	 Supplement Filed by: Defendant Grimes, Bennett <i>Supplement to Petition for Writ of Habeas Corpus (Post-Conviction)</i>
05/16/2017	 Exhibits Filed By: Defendant Grimes, Bennett <i>Petitioner's Exhibits in Support of Supplement to Post-Conviction Writ of Habeas Corpus</i>
07/17/2017	 Response <i>State's Response to Defendant's Supplemental Petition for Writ of Habeas Corpus</i>
08/07/2017	 Reply Filed by: Defendant Grimes, Bennett <i>Reply to State's Response to Supplement to Petition for Writ of Habeas Corpus (Post-Conviction)</i>
09/06/2017	 Errata
09/06/2017	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on February 7, 2013</i>
10/20/2017	 Ex Parte Order Filed By: Defendant Grimes, Bennett <i>Ex Parte Order Appointing Counsel for Purposes of Appeal</i>
11/02/2017	 Notice of Appeal (Criminal) Party: Defendant Grimes, Bennett <i>Motion to Appeal Denial of Habeas Corpus (Writ for Post-Conviction)</i>
11/07/2017	 Case Appeal Statement
11/20/2017	 Findings of Fact, Conclusions of Law and Order
11/27/2017	 Notice of Entry <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>

CASE SUMMARY

CASE NO. C-11-276163-1

01/10/2018	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on August 24, 2017</i>
01/10/2018	 Recorders Transcript of Hearing <i>Transcript of Hearing Held on October 5, 2017</i>
05/03/2019	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed; Review Denied</i>
02/03/2020	 Motion Filed By: Defendant Grimes, Bennett <i>Motion to Remove "Firearm" and Correct All Court Records</i>
03/09/2020	 Motion to Modify Sentence Filed By: Defendant Grimes, Bennett <i>Motion to Modify and/or Correct Illegal Sentence</i>
03/09/2020	 Notice of Motion Filed By: Defendant Grimes, Bennett
04/10/2020	 Order Denying Motion <i>Order Denying Defendant's Pro Per Motion to Modify and/or Correct Illegal Sentence</i>
04/10/2020	 Notice of Appeal (Criminal) Party: Defendant Grimes, Bennett <i>An Appeal from the Denial of a Motion to an Illegal Sentence Correct</i>
04/17/2020	 Case Appeal Statement Filed By: Defendant Grimes, Bennett
04/29/2020	 Order Denying Motion <i>Order Denying Defendant's Pro Per Motion and/or Correct Illegal Sentence</i>
06/08/2020	 Motion Filed By: Defendant Grimes, Bennett <i>Motion for Status Check: on Order From the Supreme Court on Appellant's Motion to Modify or Correct Illegal Sentence</i>
07/08/2020	 Order Denying Motion <i>Order Denying Defendant's Pro Per Motion for Status Check: on Order from the Supreme Court on Appellant's Motion to Modify or Correct Illegal Sentence</i>
07/24/2020	 Motion Filed By: Defendant Grimes, Bennett <i>Motion for Production of Court Records and Minutes : from Status Check on 06/30/2020.</i>
11/25/2020	 Status Change <i>201151644C-ORDR-(BENNETT GRIMES)-001</i>
02/22/2021	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed; Rehearing Denied</i>
03/09/2021	

CASE SUMMARY

CASE NO. C-11-276163-1

	 Motion to Modify Sentence Filed By: Defendant Grimes, Bennett <i>Motion to Modify and or Correct Sentence</i>
03/09/2021	 Notice of Motion Filed By: Defendant Grimes, Bennett
03/22/2021	 Response <i>State s Response to Defendant s Motion to Modify and/or Correct Illegal Sentence</i>
05/06/2021	 Opposition Filed By: Defendant Grimes, Bennett <i>Opposition to State's Response to Petitioner's Motion to Modify and or Correct Illegal Sentence</i>
05/06/2021	 Notice of Motion Filed By: Defendant Grimes, Bennett
05/18/2021	 Motion Filed By: Defendant Grimes, Bennett <i>Motion for Extension of Time to Reply to State's Response to Appellant's Motion to Modify and or Correct Illegal Sentence</i>
05/18/2021	 Affidavit in Support Filed By: Defendant Grimes, Bennett <i>Affidavit in Support of Motion for Extension of Time</i>
06/03/2021	 Order Denying Motion Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Motion to Modify and/or Correct Sentence</i>
06/17/2021	 Notice of Appeal (Criminal) <i>Notice of Appeal</i>
06/18/2021	 Case Appeal Statement Filed By: Defendant Grimes, Bennett <i>Case Appeal Statement</i>
	<u>DISPOSITIONS</u>
09/20/2011	Plea (Judicial Officer: Leavitt, Michelle) 1. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF TEMPORARY PROTECTIVE ORDER Not Guilty PCN: Sequence: 2. BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN VIOLATION OF PROTECTIVE ORDER Not Guilty PCN: Sequence: 3. BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY.. Not Guilty PCN: Sequence:
02/12/2013	Disposition (Judicial Officer: Leavitt, Michelle) 1. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY

CASE SUMMARY
CASE NO. C-11-276163-1

PROTECTIVE ORDER

Guilty

PCN: Sequence:

2. BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER

Guilty

PCN: Sequence:

3. BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY..

Guilty

PCN: Sequence:

02/12/2013 **Adult Adjudication** (Judicial Officer: Leavitt, Michelle)

1. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER

07/22/2011 (F) 200.030 (5045A)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Minimum:8 Years, Maximum:20 Years

Consecutive Enhancement:for Use of Deadly Weapon, Minimum:5 Years, Maximum:15 Years

02/12/2013 **Adult Adjudication** (Judicial Officer: Leavitt, Michelle)

2. BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER

07/22/2011 (F) 205.060 (5506P)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Minimum:8 Years, Maximum:20 Years

Concurrent: Charge 1

Comments: Deft Sentenced Under the Small Habitual Criminal Statute

02/12/2013 **Adult Adjudication** (Judicial Officer: Leavitt, Michelle)

3. BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY..

07/22/2011 (F) 200.481 (4932)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Minimum:8 Years, Maximum:20 Years

Consecutive: Charge 1 & 2

Credit for Time Served: 581 Days

Comments: Deft Sentenced Under the Small Habitual Criminal Statute

Fee Totals:

Administrative

Assessment Fee

25.00

\$25

DNA Analysis Fee


150.00

\$150

Fee Totals \$

175.00

HEARINGS

09/20/2011  **Initial Arraignment** (1:30 PM) (Judicial Officer: Togliatti, Jennifer)

Events: 09/13/2011 Criminal Bindover

Trial Date Set;




Journal Entry Details:

ALSO PRESENT: Shawn Morgan, Assistant District Attorney. Upon Deft's questioning, Mr. Morgan stated that an

CASE SUMMARY

CASE NO. C-11-276163-1

Enhancements had been added to Count 2 and the spelling of the victim's name has been corrected on the Information. DEFT. GRIMES ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. COURT ORDERED, matter set for trial. CUSTODY 12/6/11 8:30 AM CALENDAR CALL (DEPT 12) 12/13/11 1:30 PM JURY TRIAL (DEPT 12) ;

11/03/2011	 Petition for Writ of Habeas Corpus (8:30 AM) (Judicial Officer: Leavitt, Michelle) Events: 10/12/2011 Petition for Writ of Habeas Corpus <i>Petition for Writ of Habeas Corpus</i> Matter Heard; Journal Entry Details: <i>DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS COURT noted Deft's Petition for Writ of Habeas Corpus is on in error and ORDERED, matter OFF CALENDAR. At the request of counsel, COURT ORDERED, trial date VACATED and RESET. Upon Court's inquiry, Deft. WAIVED the 60-Day Rule. CUSTODY 3/20/12 8:30 A.M. CALENDAR CALL 3/27/12 1:30 P.M. JURY TRIAL ;</i>
12/06/2011	CANCELED Calendar Call (8:30 AM) (Judicial Officer: Leavitt, Michelle) <i>Vacated</i>
12/13/2011	CANCELED Jury Trial (1:30 PM) (Judicial Officer: Leavitt, Michelle) <i>Vacated</i>
03/20/2012	Calendar Call (8:30 AM) (Judicial Officer: Leavitt, Michelle) Matter Heard;
03/20/2012	Motion to Continue Trial (8:30 AM) (Judicial Officer: Leavitt, Michelle) Events: 02/27/2012 Motion to Continue Trial <i>Motion to Continue Trial Date</i> Granted;
03/20/2012	 All Pending Motions (8:30 AM) (Judicial Officer: Leavitt, Michelle) Matter Heard; Journal Entry Details: <i>CALENDAR CALL...DEFENDANT'S MOTION TO CONTINUE TRIAL DATE COURT ORDERED, Motion GRANTED as unopposed; trial date VACATED AND RESET. CUSTODY 6/12/12 8:30 A.M. CALENDAR CALL 6/19/12 1:30 P.M. TRIAL BY JURY ;</i>
03/27/2012	CANCELED Jury Trial (1:30 PM) (Judicial Officer: Leavitt, Michelle) <i>Vacated - per Judge</i>
06/07/2012	 Motion for Discovery (8:30 AM) (Judicial Officer: Leavitt, Michelle) <i>Defendant's Motion for Discovery</i> Granted in Part; Journal Entry Details: <i>Deft. not present. Mr. Hillman advised Deft. refused to be transported to Court today. SO NOTED. Statements by counsel. COURT ORDERED, as follows: As to: 1. Any and all notes and records of any physical examinations, scientific tests, or specific experiments done in connection with this case. Motion GRANTED to the extent that the material exists, as State has already handed over all of this discovery to the defense. As to: 2. Any and all records and notes regarding any benefits or assistance given to any informant or witness related to the case, as well as any other evidence of bias of State informants or witnesses. Motion GRANTED. As to: 3. Any and all notes of interviews of any witnesses and any potential witnesses in the case. Motion GRANTED to the extent the material exists, as the State filed a response to this issue stating they have complied with the request. As to: 4. Any evidence that any State informant or witness was intoxicated or impaired at the time of the incident about which the witness will testify. Motion GRANTED. Court NOTED, State is not aware of the information, however, the State will provide this discovery to defense, if available. As to: 5. Any information that the alleged victim or any State witness was or is a police informant. Motion GRANTED. Court NOTED, State is not aware of the information, however, the State will provide this discovery to defense, if available. As to: 6. Any information related to the case given by anyone to any police department or crime tip organization such as Crime Stoppers, and any reward or benefit received for such tip. Motion GRANTED. As to: 7. The State must disclose whether its attorneys, officers or any other witnesses have cooperated with or been interviewed by any media organizations, the extent of the cooperation, and whether the cooperation is ongoing or planned for the future. Motion GRANTED to the extent that the material exists. Ms. Hojjat argued in support of relief requested on any information regarding criminal history of the alleged victim, citing Brady and the Kyles case law. Further arguments as to admissibility and relevancy. Following colloquy, counsel advised defense is seeking to have the State run the NCIC scope on the alleged victim, pursuant to the Kyles and Giglio cases. As to: 8. Any information regarding</i>

CASE SUMMARY

CASE NO. C-11-276163-1

criminal history of the alleged victim and / or any material witness in the case. Motion GRANTED IN PART only as to prior felonies or crimes involving honesty, including truthful or untruthfulness, to the extent that the material exists; Motion DENIED IN PART on the remaining relief. As to: 9. Any notes of any statements by the Deft. to include any notes of patrol officers or other agents of the State who have had contact with the Deft. in this case. Motion DENIED as the State had informed the Court these notes do not exist. As to: 10. All relevant reports of chain of custody and all reports of any destruction of evidence or failure to collect and / or preserve evidence in the case. Motion GRANTED to the extent that the material exists. As to: 11. All statements made by any material witnesses in the case, and any inconsistent statements made by a material witness. Motion GRANTED. Following arguments by counsel, COURT FURTHER ORDERED, Motion No. 11 DENIED as to the State having to issue a subpoena for this material, as the defense may issue one. As to: 12. Any information tending to show the unreliability of a State informant or witness in the case. Motion GRANTED. As to: 13. Any and all notes and reports of any experts in the case, to include mental health workers and crime scene investigators. Motion GRANTED only to the extent it is required by statute only. As to: 14. All updated witness contact information in the case, including the witnesses' last known address and phone number. Motion DENIED; the defense may contact the witness through the State, and schedule an appointment to have an interview with the witness, if necessary. As to: 15. Any and all books, papers, documents, and tangible objects related to the case. Motion GRANTED. As to: 16. Any and all electronic communications in the case, as well as any reports related to those communications. Motion GRANTED. As to: 17. Any and all photographs, video recordings, and / or audio recordings related to the case within the possession, control, or control of the State. Motion GRANTED to the extent that the material exists. As to: 18. Any and all documents and notes pertaining to the identification of Deft. as a suspect. Motion GRANTED. Moving counsel to prepare the orders. CUSTODY ;


06/12/2012  **Calendar Call** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Matter Heard;

Journal Entry Details:

Mr. Hillman requested the trial date be continued. Deft's Motion To Continue Trial Date FILED IN OPEN COURT. Arguments by State in opposition to the continuance. Mr. Hillman argued as to additional discovery being sought on Deft's medical condition, text messages being sought, and self-defense scenario. Mr. Morgan argued no mitigation evidence was submitted. Following further arguments, COURT ORDERED, Deft's Motion GRANTED; trial date VACATED AND RESET. Court advised Deft. to let his attorney know where to obtain the medical records being sought. Deft. acknowledged. CUSTODY 8/21/12 8:30 A.M. CALENDAR CALL 8/28/12 1:30 P.M. TRIAL BY JURY ;

06/19/2012 **CANCELED Jury Trial** (1:30 PM) (Judicial Officer: Leavitt, Michelle)
Vacated - per Judge

07/19/2012  **Motion to Dismiss** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

07/19/2012, 07/31/2012, 08/14/2012, 08/23/2012, 09/13/2012

Defendant's Motion to Dismiss for Failure to Gather Evidence

Continued;

Continued;

Continued;

Continued;

Denied;

Journal Entry Details:

Ms. Hojjat argued regarding visible blood on the weapon in question, being a knife. Upon Court's inquiry, counsel advised defense is not seeking to test the weapon. Arguments by counsel as to burden shifting, fingerprints on the weapon, and the State having had the obligation to test the knife. Ms. Hojjat argued defense was seeking what the test results would have been, if the weapon was tested one year ago. Further arguments. Thereafter, Ms. Hojjat requested a jury instruction be given. Court advised counsel this issue can be presented at time of trial; and stated there is no rule indicating that State is required to test every single piece of evidence. Ms. Hojjat advised defense believes the fingerprints on the knife belong to the victim. Ms. Botelho argued in opposition to the motion, and noted the State has no obligation to test every single piece of evidence, as this is basically an assumption that the defense believes this knife needed to be tested by the State. Additionally, if the defense wanted to test the weapon, they could have done so. Further arguments by counsel regarding Brady evidence State has obligation to collect. COURT ORDERED, Motion DENIED. State to prepare the order. Ms. Hojjat requested to make a record on this issue for preservation; and COURT SO ORDERED. Counsel noted, defense had no knowledge that the knife was available, and that testing was not done on this knife, as the defense was under the impression that testing was already completed on all of the items collected, based on the evidence list report. SO NOTED. CUSTODY ;

Continued;

Continued;

Continued;

Continued;

Denied;

Journal Entry Details:

CASE SUMMARY

CASE NO. C-11-276163-1

Ms. Diefenbach advised this case is assigned to Ms. Hojjat, who is seeking to be present to handle these proceedings, and requested a continuance. Additionally, Mr. Hillman is currently out of the office. Statements by Deft. Colloquy. Mr. Morgan advised State is seeking to discuss the issues with opposing counsel, and also requested a continuance. COURT SO ORDERED. CUSTODY 9/13/12 8:30 A.M. DEFENDANT'S MOTION TO DISMISS FOR FAILURE TO GATHER EVIDENCE ;

Continued;

Continued;

Continued;

Continued;

Denied;

Journal Entry Details:

CONFERENCE AT BENCH. Based on representations made by counsel at the Bench, COURT ORDERED, matter CONTINUED for determination to be made to the Court as to whether or not the defense is seeking to have the alleged weapon tested. FURTHER, trial date VACATED AND RESET on the next criminal stack, due to Mr. Hillman being assigned to this case, and currently out of the office. CUSTODY 8/23/12 8:30 A.M. DEFENDANT'S MOTION TO DISMISS OR FAILURE TO GATHER EVIDENCE 10/02/12 8:30 A.M. CALENDAR CALL 10/09/12 1:30 P.M. TRIAL BY JURY ;

Continued;

Continued;

Continued;

Continued;

Denied;

Journal Entry Details:

Ms. Diefenbach advised parties stipulated to continue this matter. COURT SO ORDERED. CUSTODY 8/9/12 8:30 AM DEFENDANT'S MOTION TO DISMISS FOR FAILURE TO GATHER EVIDENCE ;

Continued;

Continued;

Continued;

Continued;

Denied;

Journal Entry Details:

Mr. Hillman requested an opportunity to file a Reply and review the Opposition filed by the State. Court ORDERED, matter CONTINUED. CUSTODY 7/31/2012 8:30 AM DEFENDANT'S MOTION TO DISMISS FOR FAILURE TO GATHER EVIDENCE ;

08/21/2012 **CANCELED Calendar Call** (8:30 AM) (Judicial Officer: Leavitt, Michelle)
Vacated - per Judge

08/28/2012 **CANCELED Jury Trial** (1:30 PM) (Judicial Officer: Leavitt, Michelle)
Vacated - per Judge

10/02/2012  **Calendar Call** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Matter Heard;

Journal Entry Details:

Defendant's Motion in Limine To Preclude Introduction Of Temporary Protective Order At Trial FILED IN OPEN COURT. Ms. Botelho announced ready for trial on behalf of State, and estimated 3-4 days, with 12-14 witnesses. Upon Court's inquiry, Ms. Botelho advised this case is Overflow eligible. Mr. Hillman indicated the Motion in limine can be heard at time of trial. SO ORDERED. Court TRAILED matter to hear the remaining cases on for Calendar Call. RECALLED. Ms. Botelho clarified there are 2 out-of-state witnesses in this case. Following colloquy, COURT ORDERED, trial date RESET. CUSTODY 10/10/12 10:30 A.M. TRIAL BY JURY...DEFENDANT'S MOTION IN LIMINE TO PRECLUDE INTRODUCTION OF TEMPORARY PROTECTIVE ORDER AT TRIAL ;

10/09/2012 **CANCELED Jury Trial** (1:30 PM) (Judicial Officer: Leavitt, Michelle)
Vacated - per Judge

10/10/2012  **Jury Trial** (10:30 AM) (Judicial Officer: Leavitt, Michelle)

10/10/2012-10/12/2012, 10/15/2012

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

CASE SUMMARY

CASE NO. C-11-276163-1

JURY PRESENT: State and defense rested. Instructions To The Jury FILED IN OPEN COURT. Court instructed Jury on the law. Closing arguments by Mr. Burns, Mr. Hillman, and by Ms. Botelho. Court Marshal and Matron sworn by Clerk, and took charge of Jury. Alternate identified, and instructed by Court. At the hour of 11:52 a.m., Jury retired to deliberate. JURY DELIBERATING. 2:55 P.M.--JURY PRESENT: Court reconvened with all parties present from before. JURY RETURNED VERDICTS as follows: COUNT 1 - GUILTY OF ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); COUNT 2 - GUILTY OF BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); AND, COUNT 3 - GUILTY OF BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY HARM IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F). Jury polled at request of Mr. Hillman. Court thanked and excused the Jury from trial proceedings. OUTSIDE PRESENCE OF JURY: COURT ORDERED, current bail setting REVOKED; Deft. REMANDED into CUSTODY WITHOUT BAIL. FURTHER, matter REFERRED to Division of Parole and Probation (P&P), and SET for Sentencing. Court advised parties Juror Foreperson submitted a note to the Court Marshal for the Court, during deliberations. Court stated it did not respond to the note, as the Jury needed to review their Instructions on finding the answer, during their deliberations. Parties acknowledged, and made no objections. Court read the note as follows: "Does criminal intent have to be established before entering the structure, or can intent change during the chain of events, for the charge of burglary?" Court Exhibit 13 MARKED AND ADMITTED. Court adjourned. TRIAL ENDS. CUSTODY 12/18/12 8:30 A.M. SENTENCING (JURY VERDICT) ;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

JURY PRESENT: Testimony and exhibits presented (see worksheets). OUTSIDE THE PRESENCE OF THE JURY: Witness excused from courtroom. Defense counsel summarized objection at conference at the bench regarding testimony of crime scene analyst regarding nature of wounds and notice objection. Arguments by counsel. Court noted it believes the testimony already came in from doctor at UMC. Discussion regarding notice. Court stated its findings and ORDERED, objection sustained. Jury will be told to disregard last question about defensive wounds and any response from the witness. JURY PRESENT: Court instructed the jury to disregard last question and any response. Further testimony and exhibits. Lunch recess. Court and counsel met in chambers to discuss jury instructions. OUTSIDE THE PRESENCE OF THE JURY: Court informed Deft. of his right not to testify. Mr. Hillman noted when Court and counsel were reviewing jury instructions and came across self-defense proposed instruction Court indicated there was no evidence shown of that. Court asked Mr. Hillman to put on the record theory of how Ms. Grimes received wounds. Mr. Hillman and Ms. Hojjat advised what the argument would be. Court stated its findings regarding state of the record and advised it is not going to give self-defense instruction. Court and counsel met in chambers to continue discussing jury instructions. Jury released for the weekend, to return Monday, 10/15 at 10:30 a.m. OUTSIDE PRESENCE OF JURY: Jury instructions settled on the record. CUSTODY CONTINUED TO: 10/15/12 10:30 AM ;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

OUTSIDE PRESENCE OF JURY: Ms. Botelho placed a stipulation on the record, stating both parties agreed to not have bad acts presented in this case, without having a Petrocelli hearing, and no details of the TPO will be discussed during trial. SO NOTED. JURY PRESENT: Opening statements by Ms. Botelho and Ms. Hojjat. Testimony and Exhibits presented (See Worksheets.). OUTSIDE PRESENCE OF JURY: Colloquy regarding witness line up. Upon Court's inquiry, Mr. Hillman advised he will speak with Deft. further regarding the case, including his rights to testify, and this Court may canvass the Deft. tomorrow morning on those rights. SO NOTED. Ms. Botelho requested a Hernandez hearing. Following colloquy, Mr. Hillman provided stipulations made by parties regarding specific witnesses to not be called to testify, including the witness who took the DNA sample from Deft, through search warrant, as State will make representations to the Jury that a DNA sample was taken in this case. SO NOTED. Deft. concurred on the stipulations. Evening recess. TRIAL CONTINUES. CUSTODY 10/12/12 8:15 A.M. TRIAL BY JURY ;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

10/10/2012 **Motion in Limine** (10:30 AM) (Judicial Officer: Leavitt, Michelle)

Defendant's Motion in Limine to Preclude Introduction of Temporary Protective Order at Trial Denied;

10/10/2012 **All Pending Motions** (10:30 AM) (Judicial Officer: Leavitt, Michelle)

Matter Heard;

Journal Entry Details:

DEFENDANT'S MOTION IN LIMINE TO PRECLUDE INTRODUCTION OF TEMPORARY PROTECTIVE ORDER

CASE SUMMARY

CASE NO. C-11-276163-1

AT TRIAL...JURY TRIAL OUTSIDE PRESENCE OF JURY: Ms. Botelho advised State has not filed an Opposition to Deft's Motion, further noting she spoke with Mr. Hillman during file review, and State is in agreement to not bring in underlined facts of the temporary restraining order (TPO). Ms. Hojjat argued in support of Motion, stating defense is not seeking to have the Jury hear about the TPO, as it is prejudicial. Following additional arguments, Court stated it is just an enhancement. Upon Court's inquiry, Mr. Botelho advised Deft. and alleged victim were married, but separated at time of alleged incident. Further arguments. Ms. Hojjat argued there is a dispute on facts of what Deft's intension was, while at the apartment. COURT ORDERED, Motion DENIED. Both parties stipulated that the facts that led up to the TPO will not be allowed to be presented to the Jury. SO NOTED. PROSPECTIVE JURY PANEL PRESENT: Introductory statements by Court and by Counsel. Clerk called roll. Prospective Jury Panel sworn. Voir Dire commenced. Lunch recess. OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Court admonished Deft. to stand when jury members appear in the Courtroom. Mr. Hillman requested Court to remind the Jury members that trial attorneys are not permitted to speak to the members of the jury venire, during trial, as one of the Jury members was ignored by defense counsel, during the lunch break, while waiting for the elevators. Mr. Hillman stated that nothing happened, and he just wanted to make the Court aware. SO NOTED. Court stated it will be sure to remind the Jury members. PROSPECTIVE JURY PANEL PRESENT: Voir dire continues. CONFERENCE AT BENCH. During the conference, State made a Batson challenge. Further discussions at the Bench. JURY SELECTED. Court thanked and excused the remaining jury panel members. Court instructed the Jury. Clerk read the Third Amended Information. Further instructions were given by the Court. OUTSIDE PRESENCE OF JURY: Court stated it amended the Third Amended Information, to reflect Steven B. Wolfson as the District Attorney, and not David Roger. Parties acknowledged and agreed. Court admonished Deft. to cooperate with directives from Court Services, and to not give Court Services staff members a hard time, due to not wanting to get up early in the mornings. Court stated it received notification from the jail, that Deft. complained about not wanting to get up early in the mornings for transport. Deft. acknowledged. Evening recess. TRIAL CONTINUES. CUSTODY 10/11/12 10:30 A.M. TRIAL BY JURY ;

11/06/2012



Motion for New Trial (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Defendant's Motion for New Trial

Denied;

Journal Entry Details:

Matter submitted on the pleadings. COURT ORDERED, Motion DENIED. State to prepare the order. CUSTODY ;

12/18/2012



Sentencing (8:30 AM) (Judicial Officer: Leavitt, Michelle)

12/18/2012, 02/07/2013, 02/12/2013

SENTENCING (JURY VERDICT)

MINUTES

Continued;

Continued;

Defendant Sentenced;

Journal Entry Details:

Colloquy regarding case law from the Jackson matter, and discussions made during settlement of jury instructions at time of trial, on Count 3 merging. Arguments by counsel regarding law from various cases, including Strickland and Morales. Mr. Burns further argued quantum of punishment has not changed. Following further colloquy, Court stated it needs to sentence Deft. today, prior to any additional claims on appeal being filed with the Nevada Supreme Court. DEFT. GRIMES ADJUDGED GUILTY of COUNT 1 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); COUNT 2 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); and COUNT 3 - BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY HARM IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F). Arguments by State. Statements by Deft. Arguments by counsel. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, and \$150.00 DNA Analysis fee including testing to determine genetic markers, Deft. SENTENCED on COUNT 1 - to a MINIMUM of EIGHT (8) YEARS and a MAXIMUM of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC), plus a CONSECUTIVE TERM of a MINIMUM of FIVE (5) YEARS and a MAXIMUM of FIFTEEN (15) YEARS in the Nevada Department of Corrections (NDC), for use of deadly weapon, and Court considered the factors outlined in NRS 193.165 Subsection 1; COUNT 2 - DEFT. SENTENCED UNDER THE SMALL HABITUAL CRIMINAL STATUTE to a MINIMUM of EIGHT (8) YEARS and a MAXIMUM of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC), COUNT 2 to run CONCURRENT to COUNT 1; and COUNT 3 - DEFT. SENTENCED UNDER THE SMALL HABITUAL CRIMINAL STATUTE to a MINIMUM of EIGHT (8) YEARS and a MAXIMUM of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC), COUNT 3 to run CONSECUTIVE to COUNT 2 and COUNT 1, with FIVE HUNDRED EIGHTY ONE (581) DAYS CREDIT FOR TIME SERVED. BOND, if any, EXONERATED. NDC ;

Continued;

Continued;

Defendant Sentenced;

Journal Entry Details:

CASE SUMMARY

CASE NO. C-11-276163-1

Ms. Hojjat advised the Pre Sentence Investigation (PSI) report indicates P&P is recommending that Deft. receive large habitual treatment, and the PSI is incorrect, as Deft. is not qualified for large habitual treatment. Ms. Botelho responded State is only seeking small habitual criminal treatment. Deft. provided a written statement to the Court, for review, and inquired if the proposition 36 halfway house program is available for him. Following colloquy between Court and Deft, Court stated it will not impose the program in this case. DEFT. GRIMES ADJUDGED GUILTY of COUNT 1 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); COUNT 2 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); and COUNT 3 - BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY HARM IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F). Ms. Botelho argued as to imposition of sentence, and requested small habitual criminal treatment be imposed, for use of deadly weapon enhancement, on Counts 2 and 3. State's Exhibits presented (See Worksheets.). Ms. Hojjat made no objections to the Exhibits. Court reviewed Deft's written statements. Ms. Hojjat objected to adjudication of Count 3, based on trial proceedings. Ms. Botelho argued in support of adjudication; and provided case law from Jackson vs. State, to the Court. Upon review, Court stated it needs more time to finish reviewing the supporting case law, before making a decision. COURT ORDERED, matter CONTINUED. Court provided a copy of the case law to Ms. Hojjat. CASE RECALLED. Ms. Hojjat requested to a transcript from trial, to verify if a record was made on dismissal of Count 3, as State may have agreed to it. Court advised counsel to request a CD recording of the trial from the Recorder, and listen to the trial proceedings, to verify. CUSTODY 2/12/13 8:30 A.M. SENTENCING ;

Continued;

Continued;

Defendant Sentenced;

Journal Entry Details:

Ms. Botelho not present. Ms. Diefenbach requested a continuance, further noting this case is assigned to Mr. Hillman and Ms. Hojjat, who handled trial proceedings. Following colloquy, Court TRAILED and RECALLED matter for all parties to appear. Ms. Botelho now present. Statements by counsel. At request of State, COURT ORDERED, victim impact statements will be given today. COURT FURTHER ORDERED, Deft's sentencing will be continued at a later date, for Judge Leavitt to handle the proceedings, as she heard the entire trial, and she knows the factual basis of the case. Court NOTED, Judge Leavitt can review the victim impact statements on JAVS video, prior to sentencing Deft. Earl Newman provided sworn statements. COURT ORDERED, matter CONTINUED. CUSTODY 2/07/13 8:30 A.M. SENTENCING (JURY VERDICT) ;

09/26/2013 **Motion to Correct Sentence** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

09/26/2013, 10/03/2013

Defendant's Motion To Correct Illegal Sentence

Continued;

Denied;

Continued;

Denied;

09/26/2013 **Motion to Strike** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

09/26/2013, 10/03/2013


Defendant's Motion To Strike As Untimely The State's Opposition To Defendant's Motion To Correct Illegal Sentence

Continued;

Denied;

Continued;


Denied;

09/26/2013  **All Pending Motions** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Matter Heard;

Journal Entry Details:

DEFT'S MOTION TO CORRECT ILLEGAL SENTENCE...DEFT'S MOTION TO STRIKE AS UNTIMELY THE STATE'S OPPOSITION TO DEFT'S MOTION TO CORRECT ILLEGAL SENTENCE Deft. not present; incarcerated in Nevada Department of Corrections (NDC). At request of parties, COURT ORDERED, matters are CONTINUED. NDC 10/03/13 8:30 A.M. DEFT'S MOTION TO CORRECT ILLEGAL SENTENCE...DEFT'S MOTION TO STRIKE AS UNTIMELY THE STATE'S OPPOSITION TO DEFT'S MOTION TO CORRECT ILLEGAL SENTENCE ;

10/03/2013  **All Pending Motions** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Matter Heard;


Journal Entry Details:

Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Deft's Reply In Support Of Motion To Correct Illegal Sentence FILED IN OPEN COURT. DEFT'S MOTION TO STRIKE AS UNTIMELY THE STATE'S OPPOSITION TO DEFT'S MOTION TO CORRECT ILLEGAL SENTENCE Mr. Westbrook objected to State's

CASE SUMMARY

CASE NO. C-11-276163-1

Opposition having been filed untimely, and argued as to Rule 3.20 (c). Court stated it will consider the issue, based on substance. Mr. Westbrook advised he did not receive the written response from State. COURT ORDERED, Motion to strike DENIED. DEFT'S MOTION TO CORRECT ILLEGAL SENTENCE Arguments by counsel in support of Motion. Further arguments regarding DCR 13, Jackson and Edwards cases, NRS 176.555, dicta in Edwards, Anderson vs. State, foreseeability, ex post facto, Blockburger case, redundancy no longer being applicable in double jeopardy, and fundamental of fairness. Mr. Westbrook additionally argued as to the Salazar Skiba case, Barton case, Stevens vs. Warden standard, and there being prejudice on an illegal sentence. Arguments regarding Calder vs. Bull. Mr. Westbrook requested the Battery with Use of Deadly Weapon felony charge be dismissed, and argued as to the 5th Amendment Due Process clause. Colloquy as to Judgment of Conviction. Mr. Burns opposed the Motion, and argued regarding jurisprudence. Thereafter, Mr. Burns submitted on the pleadings. Mr. Westbrook made reply arguments. Upon Court's inquiry, Mr. Westbrook requested Count 3 be dismissed, as illegal. COURT ORDERED, the Reply will be reviewed, and a decision by Minute Order will issue from Chambers. Mr. Westbrook objected to consecutive time being imposed on Count 3, and not concurrent time. Court stated it reviewed the Judgment of Conviction, and Count 3 is to run consecutive, therefore, the Judgment of Conviction was correct. NDC ;

02/10/2015  **Request** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

02/10/2015, 02/17/2015

Defendants Status Check on Court's Order (Defendant's Motion to Correct Illegal Sentence)

Continued;

Off Calendar;

Journal Entry Details:

Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Westbrook not present. COURT ORDERED, matter OFF CALENDAR. Court to issue a decision by written order or minute order. NDC ;

Continued;

Off Calendar;

Journal Entry Details:

Defendant not present. Colloquy regarding what specific motion was to be addressed. Mr. Westbrook requested a continuance. COURT SO ORDERED. NDC 2/17/15; 8:30 AM: DEFENDANT'S STATUS CHECK ON COURT'S ORDER (DEFENDANT'S MOTION TO CORRECT ILLEGAL SENTENCE) ;

02/26/2015  **Minute Order** (3:00 AM) (Judicial Officer: Leavitt, Michelle)

Minute Order - No Hearing Held;

Journal Entry Details:

Minute Order Re: Deft s Motion To Correct Illegal Sentence The Court, having reviewed the Motion To Correct Illegal Sentence, hereby DENIES the Motion. The State to prepare the order. CLERK'S NOTE: A copy of the above minute order has been provided to Deputy District Attorney Patrick Burns, Esq., and Deputy Public Defender P. David Westbrook, Esq. /// sj ;

03/19/2015  **Motion to Withdraw as Counsel** (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Defendant's Motion to Withdraw Due to Conflict and Motion to Appoint New Counsel

Granted;

Journal Entry Details:

Deft. not present. Ms. Westbrook argued in support of the Motion. There being no objection from the State, COURT ORDERED, Motion GRANTED, counsel WITHDRAWN; and a Status Check SET. NDC 04/02/15 8:30 A.M. STATUS CHECK: DEFENDANTS PRESENCE CLERK S NOTE: A copy of this Minute Order was mailed to Deft. at: Bennett Grimes #2762267 PO BOX 208 Indian Springs, NV 89070 CLERK'S NOTE: Deft's address was updated and a copy of this Minute Order mailed to Deft. / sb 04/08/15;

04/02/2015  **Status Check** (8:30 AM) (Judicial Officer: Barker, David)

Status Check: Deft's Presence

Matter Heard; Status Check: Deft's Presence

Journal Entry Details:

Deft. present in custody, and appearing in proper person. Court reviewed the case, including the prior Motion to withdraw as counsel being the Public Defender, which was granted. Discussions between Court and Deft. regarding history of the case, pending appeal on the denial of Deft's Motion to correct illegal sentence, and appointment of counsel being sought by Deft. in this case for post-conviction proceedings. Court stated it could not find the remittitur in the file. Mr. Shaygan advised he can look into this for the Court. Deft. stated he already has legal counsel for the Supreme Court case, being Ms. Westbrook, this is post-conviction relief (PCR) in the instant case, and he needs a lawyer for the PCR. CONFERENCE AT BENCH. Court advised Deft. regarding the conversation made during the Bench Conference; and further advised Deft. parties believe the procedural problem is Judge Leavitt already granted the Motion to withdraw for the Public Defender, he cannot have one lawyer appointed and handling the appeal aspect of the case, and have a different lawyer appointed for the aspect in the District Court case. Mr. Shaygan requested two

CASE SUMMARY

CASE NO. C-11-276163-1

weeks to look into this further and get in touch with Ms. Westbrook to make better representations to the Court. COURT ORDERED, matter SET for status check; Deft. does not need to appear for the next scheduled hearing. Court noted, Deft. will be kept informed by minute orders sent by Clerk, or by his attorney. FURTHER, Deft. will have counsel appointed for the post-conviction relief by Judge Leavitt, and Judge Leavitt can make a decision on this, when the concerns get cleared up. Deft. inquired if a video conference can be done. Court stated there is no mechanism for this and the Court cannot do that. NDC 4/14/15 8:30 A.M. STATUS CHECK: STATUS OF CASE / NEW COUNSEL FOR DEFT. CLERK'S NOTE: A copy of the above minute order, including a copy of the minute order dated March 19, 2015 was delivered by regular mail to: Bennett Grimes, #1098810, P.O. Box 208, Indian Springs, Nevada 89070. /// 4/08/15 sj;

04/14/2015



Status Check: Status of Case (8:30 AM) (Judicial Officer: Leavitt, Michelle)

04/14/2015, 04/21/2015

Status Check: Status Of Case / New Counsel For Deft. & Confirmation Of Appointed Counsel

Matter Continued;

Counsel Confirmed;

Journal Entry Details:

Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Presence WAIVED. Mr. Gamage advised he will accept the appointment and confirm. Discussions as to two appeals having been filed with the Nevada Supreme Court, one being from the Public Defender's office on this Court's decision on the Motion to correct illegal sentence, and the other appeal having been filed by Deft. in proper person. At request of Mr. Gamage, COURT ORDERED, Mr. Gamage APPOINTED as counsel of record for Deft; Mr. Gamage will be allowed to take over both appeals. FURTHER, Public Defender is officially WITHDRAWN by Court on all matters as to Deft. Mr. Gamage requested Public Defender to prepare a copy of the entire case file; and COURT SO ORDERED. At request of counsel, COURT ADDITIONALLY ORDERED, status check hearing SET for Mr. Gamage to meet with Deft. on the case, and provide the Court a status on file review; Mr. Gamage may also seek additional relief, including a briefing schedule to file pleadings addressing post-conviction relief, if appropriate. NDC 5/19/15 8:30 A.M. STATUS CHECK: FILE REVIEW ;

Matter Continued;

Counsel Confirmed;

Journal Entry Details:

Mr. Westbrook advised Public Defender had a conflict in the case, further noting Public Defender filed the Notice of Appeal and the Supreme Court has defense counsel on record. Additionally, Deft. filed his own Notice of Appeal, and this Court did not prepare the written order yet on the denial of Deft's Motion to correct illegal sentence. Court stated Deft. appealed the Court's decision on the Motion to correct, and also filed a pro per Petition for writ of habeas corpus, claiming Public Defender was ineffective. Upon Court's inquiry, Mr. Westbrook requested new counsel be appointed before the Order denying the Motion to correct illegal sentence is prepared and filed. Following discussions, Mr. Laurent advised State can get the Order denying Deft's Motion to correct done, and Mr. Burns can handle this. Mr. Westbrook requested the case be continued for new counsel to be substituted in from Mr. Christensen's office, and for the Public Defender to be released from this case. Statements by Deft. Mr. Westbrook advised Public Defender filed a Motion to withdraw with the Supreme Court, which was denied, and thereafter, the written order was prepared indicating Supreme Court had no jurisdiction on the case, as the jurisdiction is still in District Court. Deft. indicated the ineffective assistance of counsel claim is from the direct appeal not being filed from the Petition for writ of habeas corpus. Court advised Deft. when ineffective assistance of counsel claims are raised during sentencing or trial, a conflict is created with the Public Defender. Thereafter, Court NOTED, a ruling was made that Deft. will need new counsel appointed for post-conviction proceedings. COURT ORDERED, Public Defender REMOVED from the case; matter CONTINUED for new counsel to be appointed from Drew Christensen's office; hearing SET for confirmation. Deft. will not need to appear at the next scheduled hearing. CASE RECALLED after Court concluded the calendar. Mr. Westbrook not present. Deft. inquired on issues with the Judgment of Conviction, stating if the Court imposed concurrent time on his sentence, due to the Judgment of Conviction stating the sentence differently from the Court's notes. Court clarified to Deft. he has no access to this Court's notes, and the Judgment of Conviction stands. NDC 4/21/15 8:30 A.M. STATUS CHECK: STATUS OF CASE / NEW COUNSEL FOR DEFT. & CONFIRMATION OF APPOINTED COUNSEL CLERK'S NOTE: A copy of the above minute order has been delivered by facsimile to the office of Drew Christensen, Esq., for counsel to be appointed. /// sj CLERK'S NOTE: Clerk reviewed Judgment of Conviction and the record; and determined the Judgment of Conviction clearly reflects the sentence imposed by Court at time of sentencing. /// sj ;

05/19/2015



Status Check (8:30 AM) (Judicial Officer: Leavitt, Michelle)

05/19/2015, 06/18/2015, 07/23/2015

FILE REVIEW

MINUTES

Continued;

Continued;

Set Status Check;

CASE SUMMARY

CASE NO. C-11-276163-1

Journal Entry Details:

Mr. Gamage advised the appeal is moving forward, and one appeal was dismissed. At request of counsel, COURT ORDERED, matter SET for status check on the supplement and appeal. Deft. does not need to be transported to the next scheduled hearing. NDC 1/21/16 8:30 A.M. STATUS CHECK: SUPPLEMENT ;

Continued;

Continued;

Set Status Check;

Journal Entry Details:

Defense counsel not present. COURT ORDERED, matter CONTINUED. Court NOTED, Deft. does not need to be present at the next scheduled hearing. NDC 7/23/15 8:30 A.M. STATUS CHECK: FILE REVIEW CLERK'S NOTE: Deft's attorney Mr. Gamage was notified by JEA regarding continuance date. /// sj;

Continued;

Continued;

Set Status Check;

Journal Entry Details:

At request of counsel, COURT ORDERED, matter CONTINUED for another status check. NDC 6/18/15 8:30 A.M. STATUS CHECK: FILE REVIEW ;

SCHEDULED HEARINGS



Status Check (01/21/2016 at 8:30 AM) (Judicial Officer: Leavitt, Michelle)

01/21/2016, 07/21/2016

01/21/2016



Status Check (8:30 AM) (Judicial Officer: Leavitt, Michelle)

01/21/2016, 07/21/2016

Continued;

Briefing Schedule Set;

Journal Entry Details:

Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Gamage advised the appeal has resolved; and requested a briefing schedule be set for the Petition. COURT ORDERED, briefing schedule SET as follows: Deft's Petition due August 18, 2016; State's response due October 29, 2016, and Deft's reply due November 9, 2016. FURTHER, matter SET for hearing. NDC 11/15/16 8:30 A.M. DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION);

Continued;

Briefing Schedule Set;

Journal Entry Details:

Deft. not present; incarcerated in Nevada Department of Corrections (NDC). At request of counsel, COURT ORDERED, matter CONTINUED for next status check in six months, pending appellate proceedings. NDC 7/21/16 8:30 A.M. STATUS CHECK: SUPPLEMENT;

09/15/2016

Motion (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Petitioner's Pro Per Motion to Request Evidentiary Hearing

Off Calendar;

09/15/2016

Motion (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Petitioner's Pro Per Motion to Add an Additional Gound; i.e. Ground Five Counsel Stipulated to Use of Deadly Weapon and Failed to object to Deadly Weapon Instruction

Off Calendar;

09/15/2016

Motion (8:30 AM) (Judicial Officer: Leavitt, Michelle)

Petitioner's Pro Per Motion to Add an Additional Ground i.e. Ground Four

Off Calendar;

09/15/2016



All Pending Motions (8:30 AM) (Judicial Officer: Leavitt, Michelle)




Matter Heard;

Journal Entry Details:

PETITIONER'S PRO PER MOTION TO REQUEST EVIDENTIARY HEARING...PETITIONER'S PRO PER MOTION TO ADD AN ADDITIONAL GROUND, I.E. GROUND FIVE COUNSEL STIPULATED TO USE OF DEADLY WEAPON AND FAILED TO OBJECT TO DEADLY WEAPON INSTRUCTIONS...PETITIONER'S PRO PER MOTION TO ADD AN ADDITIONAL GROUND, I.E. GROUND FOUR Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Court stated these Motions are fugitive documents, counsel has been appointed to represent Deft. in this matter, and all of these motions were forwarded to Deft's attorney for review. COURT ORDERED, Matter OFF CALENDAR. NDC ;

CASE SUMMARY


CASE NO. C-11-276163-1


10/04/2016	 Motion (8:30 AM) (Judicial Officer: Leavitt, Michelle) <i>Petitioner's Pro Per Motion for Leave of Court to File Amended Petition Off Calendar;</i> Journal Entry Details: <i>Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Gamage not present. Court noted Deft. has an attorney in this matter, and Deft. keeps filing motions in proper person. Court stated it will forward the Motion to Deft's attorney, for review. COURT ORDERED, matter OFF CALENDAR. NDC;</i>
10/18/2016	 Motion (8:30 AM) (Judicial Officer: Leavitt, Michelle) <i>Defendant's Motion to Discharge Mr. William H. Gamage as Attorney Pursuant to Nevada R.P.C 1.16</i> Denied; Journal Entry Details: <i>Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Gamage not present. COURT ORDERED, Deft's Motion DENIED, as Deft. has a court appointed lawyer. State to prepare order. NDC CLERK'S NOTE: A copy of above minute order was delivered by e-mail to Attorney William Gamage. /// sj;</i>
11/15/2016	 Petition for Writ of Habeas Corpus (8:30 AM) (Judicial Officer: Leavitt, Michelle) <i>Petition For Writ Of Habeas Corpus (Post-Conviction)</i> MINUTES Set Status Check; Journal Entry Details: <i>Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Attorney Jamie Resch, Esq., is present; and accepted the appointment as new counsel for Deft. CONFERENCE AT BENCH. COURT ORDERED, Mr. Gamage WITHDRAWN from the case; matter SET for status check for a briefing schedule, and for new counsel to do a file review and notify Deft. NDC 1/17/17 8:30 A.M. STATUS CHECK: FILE REVIEW / SET BRIEFING SCHEDULE;</i> SCHEDULED HEARINGS  Status Check (01/17/2017 at 8:30 AM) (Judicial Officer: Leavitt, Michelle) <i>Status Check: File Review / Set Briefing Schedule</i>
01/17/2017	 Status Check (8:30 AM) (Judicial Officer: Leavitt, Michelle) <i>Status Check: File Review / Set Briefing Schedule</i> MINUTES Briefing Schedule Set; Journal Entry Details: <i>Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Upon Court's inquiry, Ms. Resch confirmed he reviewed the case, and he got to go see Deft. at the prison. Mr. Resch requested a briefing schedule and a hearing for the Petition. COURT SO ORDERED; briefing schedule SET as follows: Deft's supplemental Petition due May 16, 2017; State's response to Petition due July 18, 2017, and Deft's reply due August 17, 2017. NDC 8/24/17 8:30 A.M. DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION);</i> SCHEDULED HEARINGS  Petition for Writ of Habeas Corpus (08/24/2017 at 8:30 AM) (Judicial Officer: Leavitt, Michelle) 08/24/2017, 10/05/2017 <i>Petition For Writ Of Habeas Corpus (Post-Conviction)</i>
08/24/2017	 Petition for Writ of Habeas Corpus (8:30 AM) (Judicial Officer: Leavitt, Michelle) 08/24/2017, 10/05/2017 <i>Petition For Writ Of Habeas Corpus (Post-Conviction)</i> Evidentiary Hearing; Denied; Evidentiary Hearing; Denied; Journal Entry Details: <i>Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Resch addressed the Petition; and argued as to the four claims, affidavit explaining what happened, and redundant count not having been dismissed. Discussions as to case law from Salazar and Jackson, and State's arguments. Further arguments by counsel as to error</i>


CASE SUMMARY**CASE NO. C-11-276163-1**


having occurred. Further discussions as to relief being sought by defense counsel, and claims being raised about trial and appellate counsel. Mr. Resch requested Count 3 be dismissed or an evidentiary hearing be set. State submitted to Court's discretion. COURT ORDERED, Petition CONTINUED; evidentiary hearing SET as to issue regarding Count 3. Court noted parties may need to expand the record, but this issue is important, and it may need to be adjudicated on the merits, and not based on procedural grounds. Upon Court's inquiry, Mr. Resch estimated needing a half a day or less for evidentiary hearing. NDC 10/05/17 8:30 A.M. EVIDENTIARY HEARING...DEFT'S PETITION FOR WRIT OF HABEAS CORPUS;

10/05/2017 **Evidentiary Hearing** (10:30 AM) (Judicial Officer: Leavitt, Michelle)
Decision Made;

10/05/2017  **All Pending Motions** (10:30 AM) (Judicial Officer: Leavitt, Michelle)
Matter Heard;
Journal Entry Details:
EVIDENTIARY HEARING...DEFT'S PETITION FOR WRIT OF HABEAS CORPUS Deft. present in custody. EXCLUSIONARY RULE INVOKED. Roger Hillman, Esq., Nadia Hojjat, Esq., and Deborah Westbrook, Esq., all sworn and testified. Exhibits presented (See Worksheets.). Arguments by counsel regarding transcript issue, Hallmark standard for evidentiary hearing, mistakes having gone around, Count 3, defense counsel's meeting with State and Court in Chambers when jury instructions were discussed, testimony provided today, Ex Post Facto, evidence not having been available at time of direct appeal, prejudice having occurred, Count 3 needing to have been dismissed based on double jeopardy, and Byars vs. State. Discussions as to Jackson case law. Further arguments by counsel as to sentence having been unfair, and reconstruction of record having been done. State argued as to strategic decision having been made by former defense counsel, request for relief for dismissing count 3 having been uncognizable until jury verdict, State disagreeing with appellate counsel's analysis about the issue not being properly preserved, assessment having been made by counsel for Deft. and this not having fallen below competency, appellate counsel having been diligent, the issue having been fully briefed, and prong for dismissing Count 3 not having been met by defense. Further arguments as to strategy having been made on a request to correct illegal sentence, and there having been individual ineffectiveness of counsel here. COURT ORDERED, Petition DENIED. State to prepare order. At request of Mr. Resch, COURT FURTHER ORDERED, Mr. Resch is APPOINTED as counsel for appeal purposes. Mr. Resch to submit an order. NDC;

02/25/2020  **Motion** (8:30 AM) (Judicial Officer: Leavitt, Michelle)
Defendant's Pro Per Motion to Remove Firearm and Correct All Court Records
Off Calendar; Defendant's Pro Per Motion to Remove Firearm and Correct All Court Records
Journal Entry Details:
Defendant not present. Court stated it is unsure what the Motion is seeking in removing "firearm" and ORDERED, Motion OFF CALENDAR. NDC;

03/31/2020  **Motion to Modify Sentence** (12:00 PM) (Judicial Officer: Becker, Nancy)
Defendant's Pro Per Motion to Modify and/or Correct Illegal Sentence
Denied;
Journal Entry Details:
Defendant not present. Without hearing oral argument, COURT STATED this issue was first raised at Sentencing and could have been raised at the direct appeal and was not; the State of Nevada has indicated that the redundancy doctrine was prior to Sentencing and had been rejected in State v Jackson; therefore, the redundancy doctrine would not apply in this case and there is no double jeopardy issues. In addition, COURT STATED the Supreme Court already ruled on a previous motion in March of 2015 where the Court dismissed an appeal from a denial from such motion finding that this issue is not properly raised in the Motion to Modify or Correct an Illegal Sentence; therefore, ORDERED, Motion DENIED; State to prepare the Order; Minutes are to go to the Defendant in custody. NDC CLERK'S NOTE: The above minute order has been distributed to: BENNETT GRIMES # 1098810 POST OFFICE BOX 650 INDIAN SPRINGS, NEVADA 89018 hvp/4/2/20 ;



06/30/2020  **Motion** (12:00 PM) (Judicial Officer: Leavitt, Michelle)
Defendant's Pro Per Motion for Status Check: On Order From The Supreme Court on Appellant's Motion to Modify or Correct Illegal Sentence
Denied;
Journal Entry Details:
COURT ORDERED, motion DENIED. NDC;

08/18/2020  **Motion** (12:00 PM) (Judicial Officer: Leavitt, Michelle)
Motion for Production of Court Records and Minutes from Status Check on 6/30/2020

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-11-276163-1

	<p>Denied; Motion for Production of Court Records and Minutes from Status Check on 6/30/2020</p> <p>Journal Entry Details:</p> <p><i>Defendant not present. COURT STATED the Defendant is seeking a transcript and has not met his burden; therefore, ORDERED, Motion DENIED. NDC;</i></p>
03/30/2021	<p> Motion to Modify Sentence (11:00 AM) (Judicial Officer: Leavitt, Michelle)</p> <p><i>Motion to Modify and or Correct Sentence</i></p> <p>Denied; Motion to Modify and or Correct Sentence</p> <p>Journal Entry Details:</p> <p><i>Defendant not present. COURT STATED this Motion was previously denied and ORDERED, Motion DENIED; State to prepare the Order. NDC;</i></p>
06/08/2021	<p> Motion (11:00 AM) (Judicial Officer: Leavitt, Michelle)</p> <p><i>Motion for Extension of Time to Reply to State's Response to Appellant's Motion to Modify and or Correct Illegal Sentence</i></p> <p>Denied; Motion for Extension of Time to Reply to State's Response to Appellant's Motion to Modify and or Correct Illegal Sentence</p> <p>Journal Entry Details:</p> <p><i>Defendant not present. COURT ORDERED, Motion DENIED as MOOT; State to prepare the Order. NDC;</i></p>

DATE

FINANCIAL INFORMATION

Defendant Grimes, Bennett	
Total Charges	175.00
Total Payments and Credits	0.00
Balance Due as of 6/18/2021	175.00

ORDR

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
BERNARD B. ZADROWSKI
Chief Deputy District Attorney
Nevada Bar #006545
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

BENNETT GRIMES,
#2762267

Defendant.

CASE NO: C-11-276163-1

DEPT NO: XII

**ORDER DENYING DEFENDANT'S MOTION TO MODIFY AND/OR
CORRECT SENTENCE**

DATE OF HEARING: March 30, 2021
TIME OF HEARING: 11:00 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 30th day of March, 2021, the Defendant not being present, IN PROPER PERSON, the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through BERNARD B. ZADROWSKI, Chief Deputy District Attorney, and the Court without argument, based on the pleadings and good cause appearing therefor,

///

///

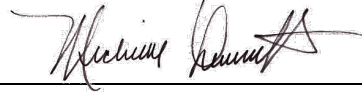
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1 IT IS HEREBY ORDERED that the Defendant's Motion to Modify and/or Correct
2 Sentence, shall be, and it is DENIED.

3 Dated this 3rd day of June, 2021

4 
5 _____

6 STEVEN B. WOLFSON
7 Clark County District Attorney
8 Nevada Bar #001565

00B D24 2EDD 71CA
Michelle Leavitt
District Court Judge

9 BY /s/ BERNARD ZADROWSKI
10 BERNARD ZADROWSKI
11 Chief Deputy District Attorney
12 Nevada Bar #006545

13 CERTIFICATE OF SERVICE

14 I certify that on the 3rd day of June, 2021, I mailed a copy of the foregoing Order to:

15 BENNETT GRIMES, BAC #1098810
16 HIGH DESERT STATE PRISON
17 P. O. BOX 650
18 INDIAN SPRINGS, NEVADA 89070

19 BY /s/ J. HAYES
20 Secretary for the District Attorney's Office

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 State of Nevada

CASE NO: C-11-276163-1

7 vs

DEPT. NO. Department 12

8 Bennett Grimes
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 6/3/2021

15 Agnes Botelho . agnes.botelho@ccdandv.com

16 Carrie Connolly . connolcm@ClarkCountyNV.gov

17 Cheryl Misuraca . misuracj@ClarkCountyNV.gov

18 Deborah . Deborah.Westbrook@ClarkCountyNV.gov

19 Dept12LC . Dept12LC@ClarkCountyCourts.us

20 Eileen Davis . Eileen.Davis@clarkcountyda.com

21 Jamie Resch . jresch@convictionsolutions.com

22 Jennifer Garcia . Jennifer.Garcia@clarkcountyda.com

23 Kerry Esparza . esparzak@clarkcountycourts.us

24 Kiara Schmidt . SchmidtK@clarkcountycourts.us

25 Kristine . CorneliusK@clarkcountycourts.us
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Lara Corcoran .	CorcoranL@clarkcountycourts.us
Master Calendar .	clerkmastercalendar@ClarkCountyCourts.us
Pam Rocha .	RochaP@ClarkCountyCourts.us
Patrick .	patrick.burns@clarkcountyda.com
PD Motions .	PDMotions@clarkcountyda.com
pdclerk .	pdclerk@ClarkCountyNV.gov
R Roger Hillman .	hillmaRR@clarkcountyNV.gov
R. Roger Hillman .	hillmarr@ClarkCountyNV.gov
Clark County DA	motions@clarkcountyda.com

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 20, 2011

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

September 20, 2011 1:30 PM Initial Arraignment

HEARD BY: Togliatti, Jennifer

COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Sharon Chun

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PRESENT: Grimes, Bennett Defendant
 Hillman, Ralph R. Attorney

JOURNAL ENTRIES

- ALSO PRESENT: Shawn Morgan, Assistant District Attorney.

Upon Deft's questioning, Mr. Morgan stated that an Enhancements had been added to Count 2 and the spelling of the victim's name has been corrected on the Information.

DEFT. GRIMES ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. COURT ORDERED, matter set for trial.

CUSTODY

12/6/11 8:30 AM CALENDAR CALL (DEPT 12)

12/13/11 1:30 PM JURY TRIAL (DEPT 12)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 03, 2011

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

**November 03, 2011 8:30 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Monique Alberto

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Grimes, Bennett	Defendant
	Ponticello, Frank M.	Attorney
	Public Defender	Attorney
	Saxe, Benjamin	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS

COURT noted Deft's Petition for Writ of Habeas Corpus is on in error and ORDERED, matter OFF CALENDAR. At the request of counsel, COURT ORDERED, trial date VACATED and RESET. Upon Court's inquiry, Deft. WAIVED the 60-Day Rule.

CUSTODY

3/20/12 8:30 A.M. CALENDAR CALL

3/27/12 1:30 P.M. JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 20, 2012

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

March 20, 2012 8:30 AM All Pending Motions

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Diefenbach, Lauren R	Attorney
	Grimes, Bennett	Defendant
	Public Defender	Attorney
	Schifalacqua, Marc M.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- CALENDAR CALL...DEFENDANT'S MOTION TO CONTINUE TRIAL DATE

COURT ORDERED, Motion GRANTED as unopposed; trial date VACATED AND RESET.

CUSTODY

6/12/12 8:30 A.M. CALENDAR CALL

6/19/12 1:30 P.M. TRIAL BY JURY

June 07, 2012

Minutes Date: September 20, 2011

Motion GRANTED.

As to: 3. Any and all notes of interviews of any witnesses and any potential witnesses in the case.

Motion GRANTED to the extent the material exists, as the State filed a response to this issue stating they have complied with the request.

As to: 4. Any evidence that any State informant or witness was intoxicated or impaired at the time of the incident about which the witness will testify.

Motion GRANTED. Court NOTED, State is not aware of the information, however, the State will provide this discovery to defense, if available.

As to: 5. Any information that the alleged victim or any State witness was or is a police informant.

Motion GRANTED. Court NOTED, State is not aware of the information, however, the State will provide this discovery to defense, if available.

As to: 6. Any information related to the case given by anyone to any police department or crime tip organization such as Crime Stoppers, and any reward or benefit received for such tip.

Motion GRANTED.

As to: 7. The State must disclose whether its attorneys, officers or any other witnesses have cooperated with or been interviewed by any media organizations, the extent of the cooperation, and whether the cooperation is ongoing or planned for the future.

Motion GRANTED to the extent that the material exists.

Ms. Hojjat argued in support of relief requested on any information regarding criminal history of the alleged victim, citing Brady and the Kyles case law. Further arguments as to admissibility and relevancy. Following colloquy, counsel advised defense is seeking to have the State run the NCIC scope on the alleged victim, pursuant to the Kyles and Giglio cases.

As to: 8. Any information regarding criminal history of the alleged victim and / or any material witness in the case.

Motion GRANTED IN PART only as to prior felonies or crimes involving honesty, including truthful or untruthfulness, to the extent that the material exists; Motion DENIED IN PART on the remaining relief.

As to: 9. Any notes of any statements by the Deft. to include any notes of patrol officers or other

agents of the State who have had contact with the Deft. in this case.

Motion DENIED as the State had informed the Court these notes do not exist.

As to: 10. All relevant reports of chain of custody and all reports of any destruction of evidence or failure to collect and / or preserve evidence in the case.

Motion GRANTED to the extent that the material exists.

As to: 11. All statements made by any material witnesses in the case, and any inconsistent statements made by a material witness.

Motion GRANTED. Following arguments by counsel, COURT FURTHER ORDERED, Motion No. 11 DENIED as to the State having to issue a subpoena for this material, as the defense may issue one.

As to: 12. Any information tending to show the unreliability of a State informant or witness in the case.

Motion GRANTED.

As to: 13. Any and all notes and reports of any experts in the case, to include mental health workers and crime scene investigators.

Motion GRANTED only to the extent it is required by statute only.

As to: 14. All updated witness contact information in the case, including the witnesses' last known address and phone number.

Motion DENIED; the defense may contact the witness through the State, and schedule an appointment to have an interview with the witness, if necessary.

As to: 15. Any and all books, papers, documents, and tangible objects related to the case.

Motion GRANTED.

As to: 16. Any and all electronic communications in the case, as well as any reports related to those communications.

Motion GRANTED.

As to: 17. Any and all photographs, video recordings, and / or audio recordings related to the case within the possession, control, or control of the State.

Motion GRANTED to the extent that the material exists.

As to: 18. Any and all documents and notes pertaining to the identification of Deft. as a suspect.

Motion GRANTED.

Moving counsel to prepare the orders.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 12, 2012

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

June 12, 2012 8:30 AM Calendar Call

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Grimes, Bennett	Defendant
	Hillman, Ralph R.	Attorney
	Morgan, Shawn A.	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Hillman requested the trial date be continued. Deft's Motion To Continue Trial Date FILED IN OPEN COURT. Arguments by State in opposition to the continuance. Mr. Hillman argued as to additional discovery being sought on Deft's medical condition, text messages being sought, and self-defense scenario. Mr. Morgan argued no mitigation evidence was submitted. Following further arguments, COURT ORDERED, Deft's Motion GRANTED; trial date VACATED AND RESET. Court advised Deft. to let his attorney know where to obtain the medical records being sought. Deft. acknowledged.

CUSTODY

8/21/12 8:30 A.M. CALENDAR CALL

8/28/12 1:30 P.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 19, 2012

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

July 19, 2012 8:30 AM Motion to Dismiss

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart
 Sharon Coffman
 Aaron Carbajal
 Vanessa Ward
 Ying Pan

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Botelho, Agnes M.	Attorney
	Grimes, Bennett	Defendant
	Hillman, Ralph R.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Hillman requested an opportunity to file a Reply and review the Opposition filed by the State.
Court ORDERED, matter CONTINUED.

CUSTODY

7/31/2012 8:30 AM DEFENDANT'S MOTION TO DISMISS FOR FAILURE TO GATHER
EVIDENCE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 31, 2012

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

July 31, 2012 8:30 AM Motion to Dismiss

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart
 Sharon Coffman
 Vanessa Ward
 Aaron Carbajal
 Ying Pan

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Diefenbach, Lauren R	Attorney
	Grimes, Bennett	Defendant
	Morgan, Shawn A.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. Diefenbach advised parties stipulated to continue this matter. COURT SO ORDERED.

CUSTODY

8/9/12 8:30 AM DEFENDANT'S MOTION TO DISMISS FOR FAILURE TO GATHER EVIDENCE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 14, 2012

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

August 14, 2012 8:30 AM Motion to Dismiss

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Botelho, Agnes M.	Attorney
	Grimes, Bennett	Defendant
	Hojjat, Nadia	Attorney
	Imlay, Darin F.	Attorney
	Morgan, Shawn A.	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- CONFERENCE AT BENCH. Based on representations made by counsel at the Bench, COURT ORDERED, matter CONTINUED for determination to be made to the Court as to whether or not the defense is seeking to have the alleged weapon tested. FURTHER, trial date VACATED AND RESET on the next criminal stack, due to Mr. Hillman being assigned to this case, and currently out of the office.

CUSTODY

8/23/12 8:30 A.M. DEFENDANT'S MOTION TO DISMISS OR FAILURE TO GATHER EVIDENCE

C-11-276163-1

10/02/12 8:30 A.M. CALENDAR CALL

10/09/12 1:30 P.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 23, 2012

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

August 23, 2012 8:30 AM Motion to Dismiss

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Diefenbach, Lauren R	Attorney
	Grimes, Bennett	Defendant
	Morgan, Shawn A.	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. Diefenbach advised this case is assigned to Ms. Hojjat, who is seeking to be present to handle these proceedings, and requested a continuance. Additionally, Mr. Hillman is currently out of the office. Statements by Deft. Colloquy. Mr. Morgan advised State is seeking to discuss the issues with opposing counsel, and also requested a continuance. COURT SO ORDERED.

CUSTODY

9/13/12 8:30 A.M. DEFENDANT'S MOTION TO DISMISS FOR FAILURE TO GATHER EVIDENCE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 13, 2012**

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

September 13, 2012 8:30 AM Motion to Dismiss

HEARD BY: Leavitt, Michelle**COURTROOM:** RJC Courtroom 14D**COURT CLERK:** Susan Botzenhart**RECORDER:** Kerry Esparza**REPORTER:****PARTIES**

PRESENT:	Botelho, Agnes M.	Attorney
	Grimes, Bennett	Defendant
	Hillman, Ralph R.	Attorney
	Hojjat, Nadia	Attorney
	Morgan, Shawn A.	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. Hojjat argued regarding visible blood on the weapon in question, being a knife. Upon Court's inquiry, counsel advised defense is not seeking to test the weapon. Arguments by counsel as to burden shifting, fingerprints on the weapon, and the State having had the obligation to test the knife. Ms. Hojjat argued defense was seeking what the test results would have been, if the weapon was tested one year ago. Further arguments. Thereafter, Ms. Hojjat requested a jury instruction be given. Court advised counsel this issue can be presented at time of trial; and stated there is no rule indicating that State is required to test every single piece of evidence. Ms. Hojjat advised defense believes the fingerprints on the knife belong to the victim. Ms. Botelho argued in opposition to the motion, and noted the State has no obligation to test every single piece of evidence, as this is basically an assumption that the defense believes this knife needed to be tested by the State. Additionally, if

the defense wanted to test the weapon, they could have done so. Further arguments by counsel regarding Brady evidence State has obligation to collect. COURT ORDERED, Motion DENIED. State to prepare the order. Ms. Hojjat requested to make a record on this issue for preservation; and COURT SO ORDERED. Counsel noted, defense had no knowledge that the knife was available, and that testing was not done on this knife, as the defense was under the impression that testing was already completed on all of the items collected, based on the evidence list report. SO NOTED.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 02, 2012

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

October 02, 2012 8:30 AM Calendar Call

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Botelho, Agnes M.	Attorney
	Grimes, Bennett	Defendant
	Hillman, Ralph R.	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant's Motion in Limine To Preclude Introduction Of Temporary Protective Order At Trial FILED IN OPEN COURT. Ms. Botelho announced ready for trial on behalf of State, and estimated 3-4 days, with 12-14 witnesses. Upon Court's inquiry, Ms. Botelho advised this case is Overflow eligible. Mr. Hillman indicated the Motion in limine can be heard at time of trial. SO ORDERED. Court TRAILED matter to hear the remaining cases on for Calendar Call. RECALLED. Ms. Botelho clarified there are 2 out-of-state witnesses in this case. Following colloquy, COURT ORDERED, trial date RESET.

CUSTODY

10/10/12 10:30 A.M. TRIAL BY JURY...DEFENDANT'S MOTION IN LIMINE TO PRECLUDE INTRODUCTION OF TEMPORARY PROTECTIVE ORDER AT TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 10, 2012

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

October 10, 2012 10:30 AM All Pending Motions

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Botelho, Agnes M.	Attorney
	Burns, J Patrick	Attorney
	Grimes, Bennett	Defendant
	Hillman, Ralph R.	Attorney
	Hojjat, Nadia	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFENDANT'S MOTION IN LIMINE TO PRECLUDE INTRODUCTION OF TEMPORARY PROTECTIVE ORDER AT TRIAL...JURY TRIAL

OUTSIDE PRESENCE OF JURY: Ms. Botelho advised State has not filed an Opposition to Deft's Motion, further noting she spoke with Mr. Hillman during file review, and State is in agreement to not bring in underlined facts of the temporary restraining order (TPO). Ms. Hojjat argued in support of Motion, stating defense is not seeking to have the Jury hear about the TPO, as it is prejudicial. Following additional arguments, Court stated it is just an enhancement. Upon Court's inquiry, Mr. Botelho advised Deft. and alleged victim were married, but separated at time of alleged incident. Further arguments. Ms. Hojjat argued there is a dispute on facts of what Deft's intension was, while

at the apartment. COURT ORDERED, Motion DENIED. Both parties stipulated that the facts that led up to the TPO will not be allowed to be presented to the Jury.
SO NOTED.

PROSPECTIVE JURY PANEL PRESENT: Introductory statements by Court and by Counsel. Clerk called roll. Prospective Jury Panel sworn. Voir Dire commenced.

Lunch recess.

OUTSIDE PRESENCE OF PROSPECTIVE JURY PANEL: Court admonished Deft. to stand when jury members appear in the Courtroom. Mr. Hillman requested Court to remind the Jury members that trial attorneys are not permitted to speak to the members of the jury venire, during trial, as one of the Jury members was ignored by defense counsel, during the lunch break, while waiting for the elevators. Mr. Hillman stated that nothing happened, and he just wanted to make the Court aware.
SO NOTED. Court stated it will be sure to remind the Jury members.

PROSPECTIVE JURY PANEL PRESENT: Voir dire continues. CONFERENCE AT BENCH. During the conference, State made a Batson challenge. Further discussions at the Bench. JURY SELECTED. Court thanked and excused the remaining jury panel members. Court instructed the Jury. Clerk read the Third Amended Information. Further instructions were given by the Court.

OUTSIDE PRESENCE OF JURY: Court stated it amended the Third Amended Information, to reflect Steven B. Wolfson as the District Attorney, and not David Roger. Parties acknowledged and agreed. Court admonished Deft. to cooperate with directives from Court Services, and to not give Court Services staff members a hard time, due to not wanting to get up early in the mornings. Court stated it received notification from the jail, that Deft. complained about not wanting to get up early in the mornings for transport. Deft. acknowledged.

Evening recess. TRIAL CONTINUES.

CUSTODY

10/11/12 10:30 A.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 11, 2012

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

October 11, 2012 10:30 AM Jury Trial

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Botelho, Agnes M.	Attorney
	Burns, J Patrick	Attorney
	Grimes, Bennett	Defendant
	Hillman, Ralph R.	Attorney
	Hojjat, Nadia	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- OUTSIDE PRESENCE OF JURY: Ms. Botelho placed a stipulation on the record, stating both parties agreed to not have bad acts presented in this case, without having a Petrocelli hearing, and no details of the TPO will be discussed during trial. SO NOTED.

JURY PRESENT: Opening statements by Ms. Botelho and Ms. Hojjat. Testimony and Exhibits presented (See Worksheets.).

OUTSIDE PRESENCE OF JURY: Colloquy regarding witness line up. Upon Court's inquiry, Mr. Hillman advised he will speak with Deft. further regarding the case, including his rights to testify, and this Court may canvass the Deft. tomorrow morning on those rights. SO NOTED. Ms. Botelho

requested a Hernandez hearing. Following colloquy, Mr. Hillman provided stipulations made by parties regarding specific witnesses to not be called to testify, including the witness who took the DNA sample from Deft, through search warrant, as State will make representations to the Jury that a DNA sample was taken in this case. SO NOTED. Deft. concurred on the stipulations.

Evening recess. TRIAL CONTINUES.

CUSTODY

10/12/12 8:15 A.M. TRIAL BY JURY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 12, 2012

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

October 12, 2012 8:15 AM Jury Trial

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Carol Foley

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Botelho, Agnes M.	Attorney
	Burns, J Patrick	Attorney
	Grimes, Bennett	Defendant
	Hillman, Ralph R.	Attorney
	Hojjat, Nadia	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- JURY PRESENT: Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Witness excused from courtroom. Defense counsel summarized objection at conference at the bench regarding testimony of crime scene analyst regarding nature of wounds and notice objection. Arguments by counsel. Court noted it believes the testimony already came in from doctor at UMC. Discussion regarding notice. Court stated its findings and ORDERED, objection sustained. Jury will be told to disregard last question about defensive wounds and any response from the witness.

JURY PRESENT: Court instructed the jury to disregard last question and any response. Further

testimony and exhibits.

Lunch recess.

Court and counsel met in chambers to discuss jury instructions.

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

Mr. Hillman noted when Court and counsel were reviewing jury instructions and came across self-defense proposed instruction Court indicated there was no evidence shown of that. Court asked Mr. Hillman to put on the record theory of how Ms. Grimes received wounds. Mr. Hillman and Ms. Hojjat advised what the argument would be. Court stated its findings regarding state of the record and advised it is not going to give self-defense instruction.

Court and counsel met in chambers to continue discussing jury instructions.

Jury released for the weekend, to return Monday, 10/15 at 10:30 a.m.

OUTSIDE PRESENCE OF JURY: Jury instructions settled on the record.

CUSTODY

CONTINUED TO: 10/15/12 10:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 15, 2012

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

October 15, 2012 10:30 AM Jury Trial

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Botelho, Agnes M.	Attorney
	Burns, J Patrick	Attorney
	Grimes, Bennett	Defendant
	Hillman, Ralph R.	Attorney
	Hojjat, Nadia	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- JURY PRESENT: State and defense rested. Instructions To The Jury FILED IN OPEN COURT. Court instructed Jury on the law. Closing arguments by Mr. Burns, Mr. Hillman, and by Ms. Botelho. Court Marshal and Matron sworn by Clerk, and took charge of Jury. Alternate identified, and instructed by Court. At the hour of 11:52 a.m., Jury retired to deliberate.

JURY DELIBERATING.

2:55 P.M.--JURY PRESENT: Court reconvened with all parties present from before. JURY RETURNED VERDICTS as follows: COUNT 1 - GUILTY OF ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); COUNT 2 -

GUILTY OF BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); AND, COUNT 3 - GUILTY OF BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY HARM IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F).

Jury polled at request of Mr. Hillman. Court thanked and excused the Jury from trial proceedings.

OUTSIDE PRESENCE OF JURY: COURT ORDERED, current bail setting REVOKED; Deft. REMANDED into CUSTODY WITHOUT BAIL. FURTHER, matter REFERRED to Division of Parole and Probation (P&P), and SET for Sentencing. Court advised parties Juror Foreperson submitted a note to the Court Marshal for the Court, during deliberations. Court stated it did not respond to the note, as the Jury needed to review their Instructions on finding the answer, during their deliberations. Parties acknowledged, and made no objections. Court read the note as follows: "Does criminal intent have to be established before entering the structure, or can intent change during the chain of events, for the charge of burglary?" Court Exhibit 13 MARKED AND ADMITTED. Court adjourned.

TRIAL ENDS.

CUSTODY

12/18/12 8:30 A.M. SENTENCING (JURY VERDICT)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 06, 2012

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

November 06, 2012 8:30 AM Motion for New Trial

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Cooper, Jonathan	Attorney
	Grimes, Bennett	Defendant
	Hillman, Ralph R.	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Matter submitted on the pleadings. COURT ORDERED, Motion DENIED. State to prepare the order.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****December 18, 2012**

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

December 18, 2012 8:30 AM Sentencing

HEARD BY: Barker, David **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Botelho, Agnes M.	Attorney
	Diefenbach, Lauren R	Attorney
	Grimes, Bennett	Defendant
	Public Defender	Attorney
	State of Nevada	Plaintiff
	Trippiedi, Hagar	Attorney

JOURNAL ENTRIES

- Ms. Botelho not present. Ms. Diefenbach requested a continuance, further noting this case is assigned to Mr. Hillman and Ms. Hojjat, who handled trial proceedings. Following colloquy, Court TRAILED and RECALLED matter for all parties to appear. Ms. Botelho now present. Statements by counsel. At request of State, COURT ORDERED, victim impact statements will be given today. COURT FURTHER ORDERED, Deft's sentencing will be continued at a later date, for Judge Leavitt to handle the proceedings, as she heard the entire trial, and she knows the factual basis of the case. Court NOTED, Judge Leavitt can review the victim impact statements on JAVS video, prior to sentencing Deft. Earl Newman provided sworn statements. COURT ORDERED, matter CONTINUED.

CUSTODY

PRINT DATE: 06/18/2021

Page 29 of 69

Minutes Date: September 20, 2011

2/07/13 8:30 A.M. SENTENCING (JURY VERDICT)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 07, 2013

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

February 07, 2013 8:30 AM Sentencing

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Botelho, Agnes M.	Attorney
	Burns, J Patrick	Attorney
	Grimes, Bennett	Defendant
	Hojjat, Nadia	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. Hojjat advised the Pre Sentence Investigation (PSI) report indicates P&P is recommending that Deft. receive large habitual treatment, and the PSI is incorrect, as Deft. is not qualified for large habitual treatment. Ms. Botelho responded State is only seeking small habitual criminal treatment. Deft. provided a written statement to the Court, for review, and inquired if the proposition 36 halfway house program is available for him. Following colloquy between Court and Deft, Court stated it will not impose the program in this case. DEFT. GRIMES ADJUDGED GUILTY of COUNT 1 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); COUNT 2 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); and COUNT 3 - BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY HARM IN VIOLATION OF A TEMPORARY

PROTECTIVE ORDER (F). Ms. Botelho argued as to imposition of sentence, and requested small habitual criminal treatment be imposed, for use of deadly weapon enhancement, on Counts 2 and 3. State's Exhibits presented (See Worksheets.). Ms. Hojjat made no objections to the Exhibits. Court reviewed Deft s written statements. Ms. Hojjat objected to adjudication of Count 3, based on trial proceedings. Ms. Botelho argued in support of adjudication; and provided case law from Jackson vs. State, to the Court. Upon review, Court stated it needs more time to finish reviewing the supporting case law, before making a decision. COURT ORDERED, matter CONTINUED. Court provided a copy of the case law to Ms. Hojjat. CASE RECALLED. Ms. Hojjat requested to a transcript from trial, to verify if a record was made on dismissal of Count 3, as State may have agreed to it. Court advised counsel to request a CD recording of the trial from the Recorder, and listen to the trial proceedings, to verify.

CUSTODY

2/12/13 8:30 A.M. SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 12, 2013**

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

February 12, 2013 8:30 AM Sentencing

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kerry Esparza

REPORTER:

PARTIES

PRESENT:	Botelho, Agnes M.	Attorney
	Burns, J Patrick	Attorney
	Grimes, Bennett	Defendant
	Hillman, Ralph R.	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Colloquy regarding case law from the Jackson matter, and discussions made during settlement of jury instructions at time of trial, on Count 3 merging. Arguments by counsel regarding law from various cases, including Strickland and Morales. Mr. Burns further argued quantum of punishment has not changed. Following further colloquy, Court stated it needs to sentence Deft. today, prior to any additional claims on appeal being filed with the Nevada Supreme Court. DEFT. GRIMES ADJUDGED GUILTY of COUNT 1 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); COUNT 2 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F); and COUNT 3 - BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE RESULTING IN SUBSTANTIAL BODILY HARM IN VIOLATION OF A TEMPORARY PROTECTIVE ORDER (F). Arguments by State. Statements by Deft. Arguments by counsel.

COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, and \$150.00 DNA Analysis fee including testing to determine genetic markers, Deft. SENTENCED on COUNT 1 - to a MINIMUM of EIGHT (8) YEARS and a MAXIMUM of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC), plus a CONSECUTIVE TERM of a MINIMUM of FIVE (5) YEARS and a MAXIMUM of FIFTEEN (15) YEARS in the Nevada Department of Corrections (NDC), for use of deadly weapon, and Court considered the factors outlined in NRS 193.165 Subsection 1; COUNT 2 - DEFT. SENTENCED UNDER THE SMALL HABITUAL CRIMINAL STATUTE to a MINIMUM of EIGHT (8) YEARS and a MAXIMUM of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC), COUNT 2 to run CONCURRENT to COUNT 1; and COUNT 3 - DEFT. SENTENCED UNDER THE SMALL HABITUAL CRIMINAL STATUTE to a MINIMUM of EIGHT (8) YEARS and a MAXIMUM of TWENTY (20) YEARS in the Nevada Department of Corrections (NDC), COUNT 3 to run CONSECUTIVE to COUNT 2 and COUNT 1, with FIVE HUNDRED EIGHTY ONE (581) DAYS CREDIT FOR TIME SERVED. BOND, if any, EXONERATED.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 26, 2013

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

September 26, 2013 8:30 AM All Pending Motions

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Yvette G. Sison

REPORTER:

PARTIES

PRESENT:	Hojjat, Nadia	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff
	Trippiedi, Hagar	Attorney

JOURNAL ENTRIES

- DEFT'S MOTION TO CORRECT ILLEGAL SENTENCE...DEFT'S MOTION TO STRIKE AS
UNTIMELY THE STATE'S OPPOSITION TO DEFT'S MOTION TO CORRECT ILLEGAL SENTENCE

Deft. not present; incarcerated in Nevada Department of Corrections (NDC). At request of parties,
COURT ORDERED, matters are CONTINUED.

NDC

10/03/13 8:30 A.M. DEFT'S MOTION TO CORRECT ILLEGAL SENTENCE...DEFT'S MOTION TO
STRIKE AS UNTIMELY THE STATE'S OPPOSITION TO DEFT'S MOTION TO CORRECT ILLEGAL
SENTENCE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 03, 2013

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

October 03, 2013 8:30 AM All Pending Motions

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

PRESENT:	Burns, J Patrick	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff
	Westbrook, P. David	Attorney

JOURNAL ENTRIES

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC).

Deft's Reply In Support Of Motion To Correct Illegal Sentence FILED IN OPEN COURT.

DEFT'S MOTION TO STRIKE AS UNTIMELY THE STATE'S OPPOSITION TO DEFT'S MOTION TO CORRECT ILLEGAL SENTENCE

Mr. Westbrook objected to State's Opposition having been filed untimely, and argued as to Rule 3.20 (c). Court stated it will consider the issue, based on substance. Mr. Westbrook advised he did not receive the written response from State. COURT ORDERED, Motion to strike DENIED.

DEFT'S MOTION TO CORRECT ILLEGAL SENTENCE

Arguments by counsel in support of Motion. Further arguments regarding DCR 13, Jackson and Edwards cases, NRS 176.555, dicta in Edwards, Anderson vs. State, foreseeability, ex post facto, Blockburger case, redundancy no longer being applicable in double jeopardy, and fundamental of fairness. Mr. Westbrook additionally argued as to the Salazar Skiba case, Barton case, Stevens vs. Warden standard, and there being prejudice on an illegal sentence. Arguments regarding Calder vs. Bull. Mr. Westbrook requested the Battery with Use of Deadly Weapon felony charge be dismissed, and argued as to the 5th Amendment Due Process clause. Colloquy as to Judgment of Conviction. Mr. Burns opposed the Motion, and argued regarding jurisprudence. Thereafter, Mr. Burns submitted on the pleadings. Mr. Westbrook made reply arguments. Upon Court's inquiry, Mr. Westbrook requested Count 3 be dismissed, as illegal. COURT ORDERED, the Reply will be reviewed, and a decision by Minute Order will issue from Chambers. Mr. Westbrook objected to consecutive time being imposed on Count 3, and not concurrent time. Court stated it reviewed the Judgment of Conviction, and Count 3 is to run consecutive, therefore, the Judgment of Conviction was correct.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 10, 2015

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

February 10, 2015 8:30 AM Request

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart
 Keri Cromer

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT: Schwartz, Michael J. Attorney
 State of Nevada Plaintiff
 Westbrook, P. David Attorney

JOURNAL ENTRIES

- Defendant not present. Colloquy regarding what specific motion was to be addressed. Mr. Westbrook requested a continuance. COURT SO ORDERED.

NDC

2/17/15; 8:30 AM: DEFENDANT'S STATUS CHECK ON COURT'S ORDER (DEFENDANT'S MOTION TO CORRECT ILLEGAL SENTENCE)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 17, 2015

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

February 17, 2015 8:30 AM Request

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT:	State of Nevada	Plaintiff
	Trippiedi, Hagar	Attorney

JOURNAL ENTRIES

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Westbrook not present. COURT ORDERED, matter OFF CALENDAR. Court to issue a decision by written order or minute order.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 26, 2015

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

February 26, 2015 3:00 AM Minute Order

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Minute Order Re: Deft s Motion To Correct Illegal Sentence

The Court, having reviewed the Motion To Correct Illegal Sentence, hereby DENIES the Motion. The State to prepare the order.

CLERK'S NOTE: A copy of the above minute order has been provided to Deputy District Attorney Patrick Burns, Esq., and Deputy Public Defender P. David Westbrook, Esq. /// sj

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 19, 2015

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

**March 19, 2015 8:30 AM Motion to Withdraw as
Counsel**

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart
Shelley Boyle

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT: O'Halloran, Rachel Attorney
 State of Nevada Plaintiff
 Westbrook, Deborah L., ESQ Attorney

JOURNAL ENTRIES

- Deft. not present. Ms. Westbrook argued in support of the Motion. There being no objection from the State, COURT ORDERED, Motion GRANTED, counsel WITHDRAWN; and a Status Check SET.

NDC

04/02/15 8:30 A.M. STATUS CHECK: DEFENDANTS PRESENCE

CLERK S NOTE: A copy of this Minute Order was mailed to Deft. at:
Bennett Grimes #2762267
PO BOX 208
Indian Springs, NV 89070

CLERK'S NOTE: Deft's address was updated and a copy of this Minute Order mailed to Deft. / sb
04/08/15

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 02, 2015**

C-11-276163-1 State of Nevada
vs
Bennett Grimes

April 02, 2015**8:30 AM****Status Check****Status Check: Deft's
Presence****HEARD BY:** Barker, David**COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart
Shelley Boyle

RECORDER: Kristine Santi**REPORTER:****PARTIES**

PRESENT:	Grimes, Bennett	Defendant
	O'Halloran, Rachel	Attorney
	Public Defender	Attorney
	Shaygan-Fatemi, Kambiz	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft. present in custody, and appearing in proper person. Court reviewed the case, including the prior Motion to withdraw as counsel being the Public Defender, which was granted. Discussions between Court and Deft. regarding history of the case, pending appeal on the denial of Deft's Motion to correct illegal sentence, and appointment of counsel being sought by Deft. in this case for post-conviction proceedings. Court stated it could not find the remittitur in the file. Mr. Shaygan advised he can look into this for the Court. Deft. stated he already has legal counsel for the Supreme Court case, being Ms. Westbrook, this is post-conviction relief (PCR) in the instant case, and he needs a lawyer for the PCR. CONFERENCE AT BENCH. Court advised Deft. regarding the conversation made during the Bench Conference; and further advised Deft. parties believe the procedural problem is Judge Leavitt already granted the Motion to withdraw for the Public Defender, he cannot have one

lawyer appointed and handling the appeal aspect of the case, and have a different lawyer appointed for the aspect in the District Court case. Mr. Shaygan requested two weeks to look into this further and get in touch with Ms. Westbrook to make better representations to the Court. COURT ORDERED, matter SET for status check; Deft. does not need to appear for the next scheduled hearing. Court noted, Deft. will be kept informed by minute orders sent by Clerk, or by his attorney. FURTHER, Deft. will have counsel appointed for the post-conviction relief by Judge Leavitt, and Judge Leavitt can make a decision on this, when the concerns get cleared up. Deft. inquired if a video conference can be done. Court stated there is no mechanism for this and the Court cannot do that.

NDC

4/14/15 8:30 A.M. STATUS CHECK: STATUS OF CASE / NEW COUNSEL FOR DEFT.

CLERK'S NOTE: A copy of the above minute order, including a copy of the minute order dated March 19, 2015 was delivered by regular mail to: Bennett Grimes, #1098810, P.O. Box 208, Indian Springs, Nevada 89070. /// 4/08/15 sj

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 14, 2015**

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

April 14, 2015**8:30 AM****Status Check: Status of
Case****HEARD BY:** Leavitt, Michelle**COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart
 Shelley Boyle

RECORDER: Kristine Santi**REPORTER:****PARTIES**

PRESENT:	Grimes, Bennett	Defendant
	Laurent, Christopher J	Attorney
	Public Defender	Attorney
	State of Nevada	Plaintiff
	Westbrook, P. David	Attorney

JOURNAL ENTRIES

- Mr. Westbrook advised Public Defender had a conflict in the case, further noting Public Defender filed the Notice of Appeal and the Supreme Court has defense counsel on record. Additionally, Deft. filed his own Notice of Appeal, and this Court did not prepare the written order yet on the denial of Deft's Motion to correct illegal sentence. Court stated Deft. appealed the Court's decision on the Motion to correct, and also filed a pro per Petition for writ of habeas corpus, claiming Public Defender was ineffective. Upon Court's inquiry, Mr. Westbrook requested new counsel be appointed before the Order denying the Motion to correct illegal sentence is prepared and filed. Following discussions, Mr. Laurent advised State can get the Order denying Deft's Motion to correct done, and Mr. Burns can handle this. Mr. Westbrook requested the case be continued for new counsel to be substituted in from Mr. Christensen's office, and for the Public Defender to be released from this case.

Statements by Deft. Mr. Westbrook advised Public Defender filed a Motion to withdraw with the Supreme Court, which was denied, and thereafter, the written order was prepared indicating Supreme Court had no jurisdiction on the case, as the jurisdiction is still in District Court. Deft. indicated the ineffective assistance of counsel claim is from the direct appeal not being filed from the Petition for writ of habeas corpus. Court advised Deft. when ineffective assistance of counsel claims are raised during sentencing or trial, a conflict is created with the Public Defender. Thereafter, Court NOTED, a ruling was made that Deft. will need new counsel appointed for post-conviction proceedings. COURT ORDERED, Public Defender REMOVED from the case; matter CONTINUED for new counsel to be appointed from Drew Christensen's office; hearing SET for confirmation. Deft. will not need to appear at the next scheduled hearing.

CASE RECALLED after Court concluded the calendar. Mr. Westbrook not present. Deft. inquired on issues with the Judgment of Conviction, stating if the Court imposed concurrent time on his sentence, due to the Judgment of Conviction stating the sentence differently from the Court's notes. Court clarified to Deft. he has no access to this Court's notes, and the Judgment of Conviction stands.

NDC

4/21/15 8:30 A.M. STATUS CHECK: STATUS OF CASE / NEW COUNSEL FOR DEFT. & CONFIRMATION OF APPOINTED COUNSEL

CLERK'S NOTE: A copy of the above minute order has been delivered by facsimile to the office of Drew Christensen, Esq., for counsel to be appointed. /// sj

CLERK'S NOTE: Clerk reviewed Judgment of Conviction and the record; and determined the Judgment of Conviction clearly reflects the sentence imposed by Court at time of sentencing. /// sj

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 21, 2015**

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

**April 21, 2015 8:30 AM Status Check: Status of
Case**

HEARD BY: Leavitt, Michelle**COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart
Shelley Boyle

RECORDER: Kristine Santi**REPORTER:****PARTIES**

PRESENT:	Demonte, Noreen	Attorney
	Gamage, William H.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Presence WAIVED. Mr. Gamage advised he will accept the appointment and confirm. Discussions as to two appeals having been filed with the Nevada Supreme Court, one being from the Public Defender's office on this Court's decision on the Motion to correct illegal sentence, and the other appeal having been filed by Deft. in proper person. At request of Mr. Gamage, COURT ORDERED, Mr. Gamage APPOINTED as counsel of record for Deft; Mr. Gamage will be allowed to take over both appeals. FURTHER, Public Defender is officially WITHDRAWN by Court on all matters as to Deft. Mr. Gamage requested Public Defender to prepare a copy of the entire case file; and COURT SO ORDERED. At request of counsel, COURT ADDITIONALLY ORDERED, status check hearing SET for Mr. Gamage to meet with Deft. on the case, and provide the Court a status on file review; Mr. Gamage may also seek additional relief, including a briefing schedule to file pleadings addressing post-conviction relief, if appropriate.

C-11-276163-1

NDC

5/19/15 8:30 A.M. STATUS CHECK: FILE REVIEW

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 19, 2015

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

May 19, 2015 8:30 AM Status Check

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

COURT CLERK: Susan Botzenhart

RECORDER: Patti Slattery

REPORTER:

PARTIES

PRESENT:	Demonte, Noreen	Attorney
	Gamage, William H.	Attorney
	Grimes, Bennett	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- At request of counsel, COURT ORDERED, matter CONTINUED for another status check.

NDC

6/18/15 8:30 A.M. STATUS CHECK: FILE REVIEW

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 18, 2015

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

June 18, 2015 8:30 AM Status Check

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT: Christensen, Nell E. Attorney
 Grimes, Bennett Defendant
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Defense counsel not present. COURT ORDERED, matter CONTINUED. Court NOTED, Deft. does not need to be present at the next scheduled hearing.

NDC

7/23/15 8:30 A.M. STATUS CHECK: FILE REVIEW

CLERK'S NOTE: Deft's attorney Mr. Gamage was notified by JEA regarding continuance date. ///
sj

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 23, 2015

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

July 23, 2015 8:30 AM Status Check

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

PRESENT:	Gamage, William H.	Attorney
	Grimes, Bennett	Defendant
	O'Halloran, Rachel	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Gamage advised the appeal is moving forward, and one appeal was dismissed. At request of counsel, COURT ORDERED, matter SET for status check on the supplement and appeal. Deft. does not need to be transported to the next scheduled hearing.

NDC

1/21/16 8:30 A.M. STATUS CHECK: SUPPLEMENT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 21, 2016

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

January 21, 2016 8:30 AM Status Check

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT:	Burton, Chris	Attorney
	Gamage, William H.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC). At request of counsel, COURT ORDERED, matter CONTINUED for next status check in six months, pending appellate proceedings.

NDC

7/21/16 8:30 A.M. STATUS CHECK: SUPPLEMENT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 21, 2016

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

July 21, 2016 8:30 AM Status Check

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT: Gamage, William H. Attorney
 Mendoza, Erika Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Gamage advised the appeal has resolved; and requested a briefing schedule be set for the Petition. COURT ORDERED, briefing schedule SET as follows: Deft's Petition due August 18, 2016; State's response due October 29, 2016, and Deft's reply due November 9, 2016. FURTHER, matter SET for hearing.

NDC

11/15/16 8:30 A.M. DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 15, 2016

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

September 15, 2016 8:30 AM All Pending Motions

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT:	Scow, Richard H.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- PETITIONER'S PRO PER MOTION TO REQUEST EVIDENTIARY HEARING...PETITIONER'S PRO PER MOTION TO ADD AN ADDITIONAL GROUND, I.E. GROUND FIVE COUNSEL STIPULATED TO USE OF DEADLY WEAPON AND FAILED TO OBJECT TO DEADLY WEAPON INSTRUCTIONS...PETITIONER'S PRO PER MOTION TO ADD AN ADDITIONAL GROUND, I.E. GROUND FOUR

Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Court stated these Motions are fugitive documents, counsel has been appointed to represent Deft. in this matter, and all of these motions were forwarded to Deft's attorney for review. COURT ORDERED, Matter OFF CALENDAR.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 04, 2016

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

October 04, 2016 8:30 AM Motion

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT: Rogan, Jeffrey Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Gamage not present. Court noted Deft. has an attorney in this matter, and Deft. keeps filing motions in proper person. Court stated it will forward the Motion to Deft's attorney, for review. COURT ORDERED, matter OFF CALENDAR.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 18, 2016

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

October 18, 2016 8:30 AM Motion

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT:	Demonte, Noreen	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Gamage not present. COURT ORDERED, Deft's Motion DENIED, as Deft. has a court appointed lawyer. State to prepare order.

NDC

CLERK'S NOTE: A copy of above minute order was delivered by e-mail to Attorney William Gamage. /// sj

November 15, 2016

Minutes Date: September 20, 2011

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 17, 2017

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

January 17, 2017 8:30 AM Status Check

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT:	Resch, Jamie J.	Attorney
	Scow, Richard H.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Upon Court's inquiry, Ms. Resch confirmed he reviewed the case, and he got to go see Deft. at the prison. Mr. Resch requested a briefing schedule and a hearing for the Petition. COURT SO ORDERED; briefing schedule SET as follows: Deft's supplemental Petition due May 16, 2017; State's response to Petition due July 18, 2017, and Deft's reply due August 17, 2017.

NDC

8/24/17 8:30 A.M. DEFT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 24, 2017

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

**August 24, 2017 8:30 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT: Resch, Jamie J. Attorney
 Schwartz, Bryan A. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Resch addressed the Petition; and argued as to the four claims, affidavit explaining what happened, and redundant count not having been dismissed. Discussions as to case law from Salazar and Jackson, and State's arguments. Further arguments by counsel as to error having occurred. Further discussions as to relief being sought by defense counsel, and claims being raised about trial and appellate counsel. Mr. Resch requested Count 3 be dismissed or an evidentiary hearing be set. State submitted to Court's discretion. COURT ORDERED, Petition CONTINUED; evidentiary hearing SET as to issue regarding Count 3. Court noted parties may need to expand the record, but this issue is important, and it may need to be adjudicated on the merits, and not based on procedural grounds. Upon Court's inquiry, Mr. Resch estimated needing a half a day or less for evidentiary hearing.

NDC

10/05/17 8:30 A.M. EVIDENTIARY HEARING...DEFT'S PETITION FOR WRIT OF HABEAS
CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 05, 2017**

C-11-276163-1 State of Nevada
vs
Bennett Grimes

October 05, 2017 10:30 AM All Pending Motions

HEARD BY: Leavitt, Michelle**COURTROOM:** RJC Courtroom 14D**COURT CLERK:** Susan Botzenhart**RECORDER:** Kristine Santi**REPORTER:****PARTIES**

PRESENT:	Botelho, Agnes M.	Attorney
	Grimes, Bennett	Defendant
	Resch, Jamie J.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- EVIDENTIARY HEARING...DEFT'S PETITION FOR WRIT OF HABEAS CORPUS

Deft. present in custody. EXCLUSIONARY RULE INVOKED. Roger Hillman, Esq., Nadia Hojjat, Esq., and Deborah Westbrook, Esq., all sworn and testified. Exhibits presented (See Worksheets.). Arguments by counsel regarding transcript issue, Hallmark standard for evidentiary hearing, mistakes having gone around, Count 3, defense counsel's meeting with State and Court in Chambers when jury instructions were discussed, testimony provided today, Ex Post Facto, evidence not having been available at time of direct appeal, prejudice having occurred, Count 3 needing to have been dismissed based on double jeopardy, and Byars vs. State. Discussions as to Jackson case law. Further arguments by counsel as to sentence having been unfair, and reconstruction of record having been done. State argued as to strategic decision having been made by former defense counsel, request for relief for dismissing count 3 having been uncognizable until jury verdict, State disagreeing with appellate counsel's analysis about the issue not being properly preserved, assessment having been

made by counsel for Deft. and this not having fallen below competency, appellate counsel having been diligent, the issue having been fully briefed, and prong for dismissing Count 3 not having been met by defense. Further arguments as to strategy having been made on a request to correct illegal sentence, and there having been individual ineffectiveness of counsel here. COURT ORDERED, Petition DENIED. State to prepare order.

At request of Mr. Resch, COURT FURTHER ORDERED, Mr. Resch is APPOINTED as counsel for appeal purposes. Mr. Resch to submit an order.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 25, 2020

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

**February 25, 2020 8:30 AM Motion Defendant's Pro Per
Motion to Remove
Firearm and Correct
All Court Records**

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Haly Pannullo

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT: Orwoll, Andrea D. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Defendant not present. Court stated it is unsure what the Motion is seeking in removing "firearm" and ORDERED, Motion OFF CALENDAR.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 31, 2020

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

March 31, 2020 12:00 AM Motion to Modify Sentence

HEARD BY: Becker, Nancy **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Haly Pannullo

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT: Brooks, Parker Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Defendant not present. Without hearing oral argument, COURT STATED this issue was first raised at Sentencing and could have been raised at the direct appeal and was not; the State of Nevada has indicated that the redundancy doctrine was prior to Sentencing and had been rejected in State v Jackson; therefore, the redundancy doctrine would not apply in this case and there is no double jeopardy issues. In addition, COURT STATED the Supreme Court already ruled on a previous motion in March of 2015 where the Court dismissed an appeal from a denial from such motion finding that this issue is not properly raised in the Motion to Modify or Correct an Illegal Sentence; therefore, ORDERED, Motion DENIED; State to prepare the Order; Minutes are to go to the Defendant in custody.

NDC

CLERK'S NOTE: The above minute order has been distributed to:
BENNETT GRIMES # 1098810
POST OFFICE BOX 650

PRINT DATE: 06/18/2021

Page 64 of 69

Minutes Date: September 20, 2011

INDIAN SPRINGS, NEVADA 89018

hvp/4/2/20

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 30, 2020

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

June 30, 2020 12:00 AM Motion

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Alice Jacobson

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT: Dunn, Ann Marie Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- COURT ORDERED, motion DENIED.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 18, 2020

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

August 18, 2020	12:00 AM	Motion	Motion for Production of Court Records and Minutes from Status Check on 6/30/2020
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HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Haly Pannullo

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	Dunn, Ann Marie	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant not present. COURT STATED the Defendant is seeking a transcript and has not met his burden; therefore, ORDERED, Motion DENIED.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 30, 2021

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

**March 30, 2021 11:00 AM Motion to Modify Sentence Motion to Modify
and or Correct
Sentence**

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Haly Pannullo

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT: State of Nevada Plaintiff
 Zadrowski, Bernard B. Attorney

JOURNAL ENTRIES

- Defendant not present. COURT STATED this Motion was previously denied and ORDERED, Motion DENIED; State to prepare the Order.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 08, 2021

C-11-276163-1 State of Nevada
 vs
 Bennett Grimes

June 08, 2021	11:00 AM	Motion	Motion for Extension of Time to Reply to State's Response to Appellant's Motion to Modify and or Correct Illegal Sentence
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HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Haly Pannullo

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:	State of Nevada	Plaintiff
	Zadrowski, Bernard B.	Attorney

JOURNAL ENTRIES

- Defendant not present. COURT ORDERED, Motion DENIED as MOOT; State to prepare the Order.

NDC

STATE'S EXHIBIT LIST

TRIAL DATES: 10/10/12 thru 10/

Case No. C-11-276163-1	Clerk: Susan Jovanovich
Dept. 12 Judge: Michelle Leavitt	Recorder: Kerry Esparza
Pltf(s): State of Nevada	Pltf's Counsel: Agnes Botelho and Patrick Burns
Def't(s): Bennett Grimes	Def't's Counsel: Roger Hillman and Nadia Hojjat

Exhibit No.	Description	Date Offered	Obj.	Adm.	Date Admitted
1	Photo: 9325 W. Desert Inn #173 - Exterior	10-11-12	no	✓	10-11-12
2	Photo: 9325 W. Desert Inn #173 - Walkway to Front Entrance	10-11-12	no	✓	10-11-12
3	Photo: 9325 W. Desert Inn #173 - Exterior Balcony/Patio	10-11-12	no	✓	10-11-12
4	Photo: 9325 W. Desert Inn #173 - Walkway to Front Entrance	10-11-12	no	✓	10-11-12
5	Photo: 9325 W. Desert Inn #173 - Front Door and Underside Stairwell	10-11-12	no	✓	10-11-12
6	Photo: 9325 W. Desert Inn #173 - Patio Area	10-11-12	no	✓	10-11-12
7	Photo: 9325 W. Desert Inn - Parking Lot w/ Patrol Vehicles	10-11-12	no	✓	10-11-12
8	Photo: 9325 W. Desert Inn - Parking Lot w/ Patrol Vehicles and Shoes	10/12/12	no	✓	10/12/12
9	Photo: Bennett Grimes's Shoes, Socks and Puddle of Blood	10/12/12	no	✓	10/12/12
10	Photo: 9325 W. Desert Inn #173 - Interior Balcony/Patio w/ Patrol Cars	10-11-12	no	✓	10-11-12
11	Photo: 9325 W. Desert Inn #173 - Interior Balcony/Patio	10-11-12	no	✓	10-11-12
12	Photo: 9325 W. Desert Inn #173 - Dining Room and Patio Sliding Glass	10-11-12	no	✓	10-11-12
13	Photo: 9325 W. Desert Inn #173 - Front Walkway w/ Blood Drops	10-12-12	no	✓	10/12/12
14	Photo: 9325 W. Desert Inn #173 - Blood Drops Near Front Door	10/12/12	no	✓	10/12/12
15	Photo: 9325 W. Desert Inn #173 - Front Door w/ Blood Drops	10-11-12	no	✓	10-11-12
16	Photo: 9325 W. Desert Inn #173 - Front Door Cracked	10-11-12	no	✓	10-11-12
17	Photo: 9325 W. Desert Inn #173 - Interior Living Room and Kitchen	10/12/12	no	✓	10/12/12
18	Photo: 9325 W. Desert Inn #173 - Living Room, Dining, Blue Cooler	10/12/12	no	✓	10/12/12
19	Photo: 9325 W. Desert Inn #173 - Kitchen, Front Entrance, Cooler, Fruit	10-11-12	no	✓	10-11-12

STATE'S EXHIBIT LIST

CASE NO.: C-11-276163-1

TRIAL DATES: 10/10/12 thru

Exhibit No.	Description	Date Offered	Obj.	Adm.	Date Admitted
20	Photo: 9325 W. Desert Inn #173 – Interior Doorway, Wig, Blood	10/12/12	no	✓	10/12/12
21	Photo: 9325 W. Desert Inn #173 – Wig, Entrance and Carpet Blood, Towel	10/12/12	no	✓	10/12/12
22	Photo: 9325 W. Desert Inn #173 – View from Doorway	10/12/12	no	✓	10/12/12
23	Photo: 9325 W. Desert Inn #173 – Entrance, Blood, Wig, Knife, Towel	10-11-12	no	✓	10-11-12
24	Photo: “ Detail – Entrance, Blood, Wig, Towel, Knife, Remote	10/12/12	no	✓	10/12/12
25	Photo: “ Front Entrance Closet w/ Blood	10/12/12	no	✓	10/12/12
26	Photo: “ View of Living Room, Buffet, Cooler, and Interior of Front Door	10-11-12	no	✓	10-11-12
27	Photo: “ Living Room, Back of Chaise Lounge, Knife, Blood, Wig,	10/12/12	no	✓	10/12/12
28	Photo: “ Detail of Blood Pooled on Carpet	10/12/12	no	✓	10/12/12
29	Photo: “ Blood Transfer on Chaise, Knife, and Remote	10-11-12	no	✓	10-11-12
30	Photo: Knife Detail w/ Ruler	10/12/12	no	✓	10/12/12
31	Photo: Knife Detail “Stainless Steel, China”	10-11-12	yes	✓	10-11-12
32	Photo: Knife Detail – Non-Engraved Side	10-11-12	yes	✓	10-11-12
33	Photo: Knife Detail – Bend in Knife Blade	10-11-12	yes	✓	10-11-12
34	Photo: Knife Tip Detail w/ Partial Bloody Fingerprint	10/12/12	no	✓	10/12/12
35	Photo: Knife Detail – Apparent Partial Fingerprint Near Hilt	10/12/12	no	✓	10/12/12
36	Photo: Blue Cooler – Opened w/ Pens, Etc. Visible	10/12/12	no	✓	10/12/12
37	Photo: Blue Cooler – Opened w/ DVDs and Bus Schedule Visible	10/12/12	no	✓	10/12/12
38	Photo: Wal-Mart New Associate Schedule in Name of Bennett Grimes	10/12/12	no	✓	10/12/12
39	Photo: Aneka Grimes Undergoing Surgery	10-11-12	no	✓	10-11-12
40	Photo: Detail Aneka Grimes’s Face During Surgery	10-11-12	no	✓	10-11-12
41	Photo: Aneka Grimes’s Injuries to Back/Side of Head	10-11-12	Stip	✓	10-11-12
42	Photo: Detail – Aneka Grimes’s Injuries to Back/Side of Head	10-11-12	no	✓	10-11-12
43	Photo: Aneka Grimes – Injuries to Left Arm Near Elbow	10-11-12	Stip	✓	10-11-12
44	Photo: Aneka Grimes – Injuries to Left Arm Near Elbow	10-11-12	Stip	✓	10-11-12
45	Photo: Aneka Grimes – Injuries to Left Forearm	10-11-12	Stip	✓	10-11-12
46	Photo: Detail – Aneka Grimes – Injuries to Left Forearm	10-11-12	Stip	✓	10-11-12
47	Photo: Aneka Grimes – Injury	10-11-12	no	✓	10-11-12
48	Photo: Aneka Grimes – Injury	10-11-12	no	✓	10-11-12
49	Photo: Aneka Grimes – Injuries to Left Arm Near Forearm and Elbow	10-11-12	no	✓	10-11-12
50	Photo: Detail Aneka Grimes – Injuries to Left Arm Near Elbow/Forearm	10-11-12	Stip	✓	10-11-12

		Date offered	obj	Admitted	Date
page 3					
51	Photo: Detail Aneka Grimes – Injuries to Left Arm Near Elbow/Forearm	10-11-12	Stip	✓	10-11-12
52	Photo: Orientation Shot of Aneka Grimes Left Upper Body/Arm Injuries	10-11-12	no	✓	10-11-12
53	Photo: Aneka Grimes – Injuries to Neck, Chest, Shoulder, and Face	10-11-12	no	✓	10-11-12
54	Photo: Detail – Aneka Grimes – Injuries to Neck, and Chest	10-11-12	Stip	✓	10-11-12
55	Photo: Detail – Aneka Grimes – Injuries to Chest	10-11-12	Stip	✓	10-11-12
56	Photo: Detail – Aneka Grimes – Injuries to Neck	10-11-12	Stip	✓	10-11-12
57	Photo: Detail – Aneka Grimes – Injury to Shoulder/Neck Area	10-11-12	no	✓	10-11-12
58	Photo: Detail – Aneka Grimes – Injuries to Arm Pit Area	10-11-12	no	✓	10-11-12
59	Photo: Bennett Grimes's Cargo Pants – Front Side	10/12/12	no	✓	10/12/12
60	Photo: Bennett Grimes's Cargo Pants – Back Side	10/12/12	no	✓	10/12/12
61	Photo: Bennett Grimes's Tank Top – Front Side	10/12/12	no	✓	10/12/12
62	Photo: Bennett Grimes's Tank Top – Back Side	10/12/12	no	✓	10/12/12
63	Photo: Aneka Grimes's Blue Jumper and Underwear – Front Side	10/12/12	no	✓	10/12/12
64	Photo: Aneka Grimes's Blue Jumper and Underwear – Back Side	10/12/12	no	✓	10/12/12
65	Photo: Aneka Grimes's Blue Jumper – Perforations Designated	10/12/12	no	✓	10/12/12
66	Photo: Detail – Aneka Grimes's Blue Jumper – Perforations Designated	10/12/12	no	✓	10/12/12
67	Photo: Detail – Aneka Grimes's Blue Jumper – Perforations Designated	10/12/12	no	✓	10/12/12
68	Photo: Detail – Aneka Grimes's Blue Jumper – Perforations Designated	10/12/12	no	✓	10/12/12
69	Photo: Detail – Aneka Grimes's Blue Jumper – Perforations Designated	10/12/12	no	✓	10/12/12
70	Photo: Bennett Grimes in Hospital	10-11-12	no	✓	10-11-12
71	Photo: Close-Up Bennett Grimes's Face	10-11-12	no	✓	10-11-12
72	Photo: Detail – Bennett Grimes – Hand - withdrawn 10/12				
73	Photo: Laceration to Bennett Grimes's Right Index Finger	10-11-12	no	✓	10-11-12
74	Photo: Laceration to Bennett Grimes's Right Index Finger	10/12/12	no	✓	10/12/12
75	Photo: Stephanie Newman – Front	10-11-12	no	✓	10-11-12
76	Photo: Stephanie Newman – Back	10-11-12	no	✓	10-11-12
77	Photographic Diagram from Julie Marschner's DNA Analysis	10/12/12	no	✓	10/12/12
78	Audio CD: Earl Newman's 911 Call – 7/22/11				
79	Audio CD: Stephanie Newman's 911 Call – 7/22/11	10-11-12	no	✓	10-11-12
80	Audio CD: Aneka Grimes's 911 Call – 7/22/11	10-11-12	no	✓	10-11-12
81	Knife Recovered from 9325 W. Desert Inn Road #173 and box (knife strapped into box) - one exhibit	10/12/12	no	✓	10/12/12
82	Photo of victim	10/11/12	no	✓	10/11/12
83	Photo - withdrawn (marked withdrawn 10/12) cf				

85					
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89					
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Page # _____ of _____

DEFT'S EXHIBITSCASE NO. C276163-1

	Date Offered	Objection	Date Admitted
A. Diagram of Apartment	10-11-12	no	10-11-12
B. Diagram of Apartment	10-11-12	no	10-11-12
C. Diagram of Apartment	10-11-12	no	10-11-12
D. Diagram of Apartment	10/12/12	no	10/12/12
E. Diagram of Apartment			

COURT'S EXHIBITSCASE NO. C276163

	Date Offered	Objection	Date Admitted
1. Voir Dire Jury List	10-10-12	no	10-10-12
2. Note from Juror	10-11-12	no	10-11-12
3. Note from Juror	10-11-12	no	10-11-12
4. Note from Juror	10-11-12	no	10-11-12
5. Note from juror	10/12/12	"	10/12/12
6. Instruction offered by Defense & Rejected	10/12/12	"	10/12/12
7. Instructions offered by Defense & Rejected	10/12/12	"	10/12/12
8. Instruction offered by Defense & Rejected	10/12/12	"	10/12/12
9. Instruction offered by Defense & Rejected	10/12/12	"	10/12/12
10. Instruction offered by Defense & Rejected	10/12/12	"	10/12/12
11. Instruction offered by Defense & Rejected	10/12/12	"	10/12/12
12. Instruction offered by Defense & Rejected	10/12/12	"	10/12/12
13. Note from Jury Foreperson	10/15/12	no	10/15/12
14. Note from Jury Foreperson	10/15/12	no	10/15/12

VAULT EXHIBIT FORM

CASE NO: C-11-276163-1	HEARING DATE: SENTENCING: 2/12/13 (CONTINUED FROM 2/07/13)
DEPT. NO: XII	JUDGE: MICHELLE LEAVITT
	CLERK: SUSAN JOVANOVIH
	RECORDER: KERRY ESPARZA
PLAINTIFF: STATE OF NEVADA	JURY FEES:
	COUNSEL FOR PLAINTIFF: DEPUTY DISTRICT ATTYS. AGNES BOTELHO, ESQ., AND PATRICK BURNS, ESQ.
DEFENDANT: BENNETT GRIMES	A
	COUNSEL FOR DEFENDANT: DEPUTY PUBLIC DEFENDER NADIA HOJJAT, ESQ.

STATE'S EXHIBITS

	Date Offered	Objection	Date Admitted
1. CALIFORNIA CRIMINAL CASE INFORMATION	2/07/2013	NO	2/07/2013
2. CALIFORNIA CRIMINAL CASE INFORMATION	2/07/2013	NO	2/07/2013

Case No: C-11-276163-1

vs. Bennett Grimes

[illegible]

EXHIBIT(S) LIST *Evidentiary Hearing*
 -1/ Hearing Date: *10-5-17*

Case No.: C-11-276163-1

Dept. No.: XII

Plaintiff: State of Nevada

VS.

Defendant: Bennett Grimes

Hearing Date:

Judge: Michelle Leavitt

Court Clerk: Susan Botzenhart

Recorder: Kristine Santi

Counsel for Plaintiff: Agnes Lexis

Counsel for Defendant: Jamie Resch

Counsel for Defendant: Jamie Resch

BEFORE THE COURT

[illegible]



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

BENNETT GRIMES #1098810
P.O. BOX 650
INDIAN SPRINGS, NV 89070

DATE: June 18, 2021
CASE: C-11-276163-1

RE CASE: STATE OF NEVADA vs. BENNETT GRIMES

NOTICE OF APPEAL FILED: June 17, 2021

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

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

☐

Case Appeal Statement

- NRAP 3 (a)(1), Form 2

☐

Order

☒

Notice of Entry of Order

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

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

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

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):

APPEAL FROM THE 8TH JUDICIAL DISTRICT COURT DENIAL OF
DEFENDANTS MOTION TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE; CASE APPEAL
STATEMENT; DISTRICT COURT DOCKET ENTRIES; ORDER DENYING DEFENDANT'S
MOTION TO MODIFY AND/OR CORRECT SENTENCE; DISTRICT COURT MINUTES; EXHIBITS
LIST; NOTICE OF DEFICIENCY

STATE OF NEVADA,

Plaintiff(s),

vs.

BENNETT GRIMES,

Defendant(s).

Case No: C-11-276163-1

Dept No: XII

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 18 day of June 2021.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk