

1 DANIEL E. MARTINEZ, ESQ.
Nevada Bar No. 12035
2 OFFICE OF THE SPECIAL PUBLIC DEFENDER
3 330 S. Third St., Suite 800
Las Vegas, Nevada 89101
4 Telephone: 702-455-0212
Facsimile: 702-455-6273
5 Email: daniel.martinez@clarkcountynv.gov
Attorney for Defendant/Appellant

FILED
FIFTH JUDICIAL DISTRICT

JUL - 6 2021
Electronically Filed
Jul 15 2021 03:16 p.m.
~~Elizabeth A. Brown~~
Clerk of Supreme Court

7 **IN THE FIFTH JUDICIAL DISTRICT COURT OF THE STATE**
8 **OF NEVADA IN AND FOR THE COUNTY OF NYE**

9 THE STATE OF NEVADA,
10 Plaintiff/Respondent

District Court Case No. CR20-0092

11 vs.

Department No. 1

12 MARCO ANTONIO TORRES,
13 Defendant/Appellant

Supreme Court Case No:

14 **NOTICE OF APPEAL**

15 DANIEL E. MARTINEZ, ESQ. of the Office of the Special Public Defender, attorney for
16 Defendant/Appellant, MARCO ANTONIO TORRES, hereby gives notice of intent to appeal to the
17 Supreme Court of Nevada from the final Judgment of Conviction entered the 25th day of June, 2021 in
18 the above-captioned matter.

19 A copy of the Judgment of Conviction appealed from is attached to this Notice of Appeal as
20 Exhibit "1" hereto.

21 DATED this 6th day of July, 2021

22
23 *Roum'N Baskovich #14484 DB2*
24 DANIEL E. MARTINEZ, ESQ.
Nevada Bar # 12035
25 330 S. Third St., Suite 800
Las Vegas, Nevada 89101
26 Telephone: 702-455-0212
27 Attorney for Defendant/Appellant
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CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of July, 2021, I, DANIEL E. MARTINEZ, ESQ., served the foregoing NOTICE OF APPEAL by depositing a copy in the U.S. Mail, first-class postage prepaid, addressed to the following person(s) at the following address(es):

NYE COUNTY DISTRICT ATTORNEY
Chris R. Arabia, Esq., District Attorney
Kirk D. Vitto, Esq. Chief Deputy District Attorney
1520 East Basin Avenue, Suite 107
Pahrump, Nevada 89060

Ronni N. Boskovic #14484 OBO
DANIEL E. MARTINEZ, ESQ.

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EXHIBIT "1"

FILED
FIFTH JUDICIAL DISTRICT

JUN 25 2021

Nye County Clerk
Terri Pemberton Deputy

Case No. CR20-0092
Dept. 1P

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF NYE

THE STATE OF NEVADA.

Plaintiff,

vs.

JUDGMENT OF CONVICTION

MARCO ANTONIO TORRES,

Defendant.

On April 29, 2021, the Defendant above named, appeared before the Court with his counsel, Daniel Martinez, Esq., and entered a plea of guilty to the crime of *Second - Degree Murder*, a violation of NRS 200.010, 200.030, a Category "A" Felony.

On June 25, 2021 the Defendant appeared personally and with his counsel, Daniel Martinez, Esq. for entry of Judgment. No sufficient legal cause was shown by the Defendant as to why judgment should not be pronounced against him. The Court adjudged the Defendant guilty of the crime of *Second - Degree Murder*, a violation of NRS 200.010, 200.030, a Category "A" Felony.

The court sentenced the Defendant to serve Life in Prison in the Nevada Department of Corrections with parole eligibility after a minimum term of 10 years have been served.

Defendant shall pay to the Clerk of the Court a \$25.00 administrative assessment fee.

Defendant shall pay to the Clerk of the Court a \$3.00 DNA administrative fee.



FIFTH JUDICIAL DISTRICT COURT
ESMERALDA AND NYE COUNTIES



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Defendant shall pay to the Clerk of the Court a \$150.00 DNA fee.

The Defendant shall receive credit for 447 days presentence incarceration.

DATED this 28th day of June, 2021.

KIMBERLY A. WANKER,
DISTRICT JUDGE



CERTIFICATION OF SERVICE

The undersigned hereby certifies that on the 25th day of June 2021, she mailed (or hand delivered) copies of the foregoing **JUDGMENT OF CONVICTION** to the following:

NYE COUNTY DISTRICT ATTORNEY
PAHRUMP, NV
(HAND DELIVERED)

DANIEL MARTINEZ, ESQ.
PAHRUMP, NV
(HAND DELIVERED)

NEVADA DIVISION OF PAROLE AND PROBATION
PAHRUMP, NV
(HAND DELIVERED)

NYE CO. SHERIFF (DETENTION)
PAHRUMP, NV
(HAND DELIVERED)

Melissa Stepp
MELISSA STEPP, secretary to
DISTRICT COURT JUDGE

1 DANIEL E. MARTINEZ, ESQ.
Nevada Bar No. 12035
2 **OFFICE OF THE SPECIAL PUBLIC DEFENDER**
330 S. Third St., Suite 800
3 Las Vegas, Nevada 89101
4 Telephone: 702-455-0212
Facsimile: 702-455-6273
5 Email: daniel.martinez@clarkcountynv.gov
Attorney for Defendant/Appellant

FILED
FIFTH JUDICIAL DISTRICT

JUL - 6 2021

Nye County Clerk

 **Deputy**

7 **IN THE FIFTH JUDICIAL DISTRICT COURT OF THE STATE**
8 **OF NEVADA IN AND FOR THE COUNTY OF NYE**

9 THE STATE OF NEVADA,
10 Plaintiff/Respondent

District Court Case No. CR20-0092

11 vs.

Department No. 1

12 MARCO ANTONIO TORRES,
13 Defendant/Appellant

Supreme Court Case No:

14 **CASE APPEAL STATEMENT**

15 COMES NOW Defendant/Appellant, MARCO ANTONIO TORRES, by and through his
16 attorney, DANIEL E. MARTINEZ, ESQ., and hereby submits the following Case Appeal Statement
17 pursuant to N.R.A.P. 3(f):

18 1. Name of appellant(s) filing this case appeal statement:

19 MARCO ANTONIO TORRES
20

21 2. Identify the judge issuing the decision, judgment or order appealed from:

22 The Honorable Kimberly Wanker, Fifth Judicial District Court Judge, Nye County, Nevada,
23 Department 1

24 3. Identify each appellant and the name and address of counsel for each appellant:

25 MARCO ANTONIO TORRES, Defendant/Appellant
26 c/o DANIEL E. MARTINEZ, ESQ.
330 S. Third St., Suite 800
27 Las Vegas, Nevada 89101
Telephone: 702-455-0212
28

1 4. Identify each respondent and the name and address of appellate counsel, if known, for each
2 respondent:

3 THE STATE OF NEVADA, Plaintiff/Respondent
4 NYE COUNTY DISTRICT ATTORNEY'S OFFICE
5 CHRIS ARABIA, ESQ., DISTRICT ATTORNEY
6 KIRK VITTO, ESQ. CHIEF DEPUTY DISTRICT ATTORNEY
1520 East Basin Ave., Suite 107
Pahrump, NV 89060

7 5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to
8 practice law in Nevada and, if so, whether the district court granted that attorney permission to appear
9 under SCR 42:

10 No attorney identified in section 3 or 4 is an unlicensed practitioner in the State of Nevada.
11

12 6. Indicate whether appellant was represented by appointed or retained counsel in the district court:

13 Appellant was represented by court-appointed counsel, DANIEL E. MARTINEZ, ESQ., Nye
14 County Public Defender, at all relevant times in this matter in the Nye County District Court.

15 7. Indicate whether appellant is represented by appointed or retained counsel on appeal:

16 Appellant is represented by court-appointed counsel DANIEL E. MARTINEZ, ESQ., now
17 Chief Deputy Special Public Defender.
18

19 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of
20 the district court order granting such leave:

21 No. Defendant was represented by Nye County Public Defender DANIEL E. MARTINEZ,
22 ESQ. at all relevant times.

23 9. Indicate the date the proceedings commenced in the district court:

24 August 10, 2020
25

26 10. Provide a brief description of the nature of the action and result in the district court, including the
27 type of judgment and order being appealed and the relief granted by the district court:
28

1 This is a criminal Appeal, taken from a written Judgment of Conviction entered the 25th day of
2 June, 2021, adjudicating the Defendant/Appellant MARCO ANTONIO TORRES guilty of
3 Count 1: ***Second Degree Murder***, a Category A felony. Defendant/Appellant pled guilty to the
4 above charge, waiving his right to a jury trial but expressly preserving his right to appeal the
5 denial of his motion to suppress. Defendant/Appellant was sentenced on June 25, 2021.
6
7 Appellant is seeking reversal of the denial of his motion to suppress.

8 11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding
9 in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:

10 To the best of Counsel for Appellant's knowledge, this case has not previously been the subject
11 of an Appeal.

12 12. Indicate whether this appeal involves child custody or visitation:

13 This case does not involve child custody or visitation.

14
15 13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

16 This is not a civil case.

17 RESPECTFULLY SUBMITTED this 6th day of July, 2021.

18
19 *Ronni N. Borini* #14484 OBO
20 DANIEL E. MARTINEZ, ESQ.
21 Nevada Bar # 12035
22 330 S. Third St., Suite 800
23 Las Vegas, Nevada 89101
24 Telephone: 702-455-0212
25 Attorney for Defendant/Appellant
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CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of July, 2021, I, DANIEL E. MARTINEZ, ESQ., served the foregoing CASE APPEAL STATEMENT by depositing a copy in the U.S. Mail, first-class postage prepaid, addressed to the following person(s) at the following address(es):

NYE COUNTY DISTRICT ATTORNEY
Chris R. Arabia, Esq., District Attorney
Kirk D. Vitto, Esq. Chief Deputy District Attorney
1520 East Basin Avenue, Suite 107
Pahrump, Nevada 89060

Rammi N. Brubaker #14484 030
DANIEL E. MARTINEZ, ESQ.

Fifth Judicial District Court - Nye County

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11:51:50

Case Summary

Page 1

Case #: CR20-0092
 Judge: WANKER, KIMBERLY
 Date Filed: 08/10/2020 Department:
 Case Type: Crimes Against Persons (Felony)

Attorney(s)

Plaintiff

STATE OF NEVADA

DISTRICT ATTORNEY'S OFFICE

Defendant

TORRES, MARCO ANTONIO

MARTINEZ, DANIEL

Fees:

Date Assessed:	Fee	Total	Paid	Waived	Outstanding
06/25/2021	ADMIN	\$5.00	\$0.00	\$0.00	\$5.00
06/25/2021	STADMIN	\$20.00	\$0.00	\$0.00	\$20.00
06/25/2021	DNA	\$150.00	\$0.00	\$0.00	\$150.00
06/25/2021	GENETIC	\$3.00	\$0.00	\$0.00	\$3.00

Charge: HABITUAL CRIMINAL - NRS 207.010(1) (A) F/A Count 1

Sent: LIFE WITH THE POSSIBILITY OF PAROLE AFTER 10 YEARS, \$25 ADMIN FEE, \$3 DNA FEE, \$150 DNA, 447 DAYS CTS

Disp/Judgment: Non-Trial: Guilty Date: 06/25/2021
 Plea with Sentence
 (Before Trial)

Hearings:

Date	Time	Hearing	Court Result
08/21/2020	9:00AM	45#ARRAIGNMENT HEARING (GC)	CANC
08/28/2020	9:00AM	25#ARRAIGNMENT HEARING	CANC
09/04/2020	9:00AM	30#ARRAIGNMENT (GC)	
11/30/2020	11:00AM	MOTION TO DISMISS	CANC
12/03/2020	1:30PM	DEFT'S MTN TO CONTINUE TRIAL DATE/WRIT OF HABEAS CORPUS/CALENDAR CALL/ MOTION TO DISMISS	
12/04/2020	9:00AM	30#CALENDAR CALL	CANC
12/04/2020	4:30PM	99#JURY DRAW 180 JURORS FILE TO MELISSA	CANC
12/04/2020	9:00AM	31#PRE TRIAL MOTIONS	CANC
12/04/2020	11:00AM	32#WRIT OF HABEAS CORPUS	CANC
01/13/2021	9:00AM	JURY TRIAL 6 DAYS JAN 13-14, 2021 JAN 19-22, 2021	CANC
01/27/2021	1:30PM	20#PRE TRIAL MOTIONS	
01/27/2021	4:30PM	30#JURY DRAW 180 JURORS	
01/27/2021	1:30PM	20#DEFT'S MTN TO CONTINUE TRIAL DATE	
02/12/2021	9:00AM	CALENDAR CALL	CANC

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03/15/2021	9:00AM	JURY TRIAL MARCH 15-26	CANC
03/25/2021	1:30PM	PRE TRIAL MOTIONS	
03/25/2021	1:30PM	MOTION TO DISMISS/MOTION TO SUPPRESS	
04/02/2021	9:00AM	CALENDAR CALL	CANC
04/02/2021	4:30PM	JURY DRAW OF 180 JURORS	CANC
04/09/2021	9:00AM	05# CALENDAR CALL-TONOPAH/DEFENSE MAY CALL IN	
04/15/2021	8:15AM	STATUS CHECK	
04/29/2021	9:00AM	EVIDENTIARY HEARING/JACKSON V DENNO/PRE TRIAL MOTIONS	
05/10/2021	9:00AM	JURY TRIAL MAY 10-21	CANC
06/18/2021	9:00AM	CALENDAR CALL	CANC
06/18/2021	4:30PM	JURY DRAW 180 JURORS	CANC
06/25/2021	9:00AM	70#SENTENCING	
07/12/2021	9:00AM	JURY TRIAL JULY 12-23	CANC

Filings:

Date	Filing
08/10/2020	CASE FILED 08/10/2020 CASE NUMBER CR20-0092
08/10/2020	PROSECUTOR: DISTRICT ATTORNEY'S OFFICE ASSIGNED
08/10/2020	DEFENSE ATTORNEY: MARTINEZ, DANIEL ASSIGNED
08/10/2020	DOCUMENTS RECEIVED FROM PAHRUMP JUSTICE COURT - Rec'd, Ref Case #CR20-0092: (Second Amended Criminal Complaint; Order; Media Request Allowing Electronic Equipment in the Courtroom; Amended Criminal Complaint; Receipt of Copy; Receipt of Copy; Order to Continue; Receipt of Copy; Receipt of Copy; Order to Continue; Receipt of Copy; Criminal Complaint; Affidavit and Application for Appointment of Counsel; Plaintiff Exhibits #1 - 24 and # 26-39, Medical Records from Cancer Care Center, Health Care Partners and Hope Cancer Case; Defendant Exhibits A and B).
08/10/2020	BINDOVER ORDER (BAIL N/A)
08/10/2020	JUDGE WANKER, KIMBERLY: ASSIGNED
08/17/2020	INFORMATION (FELONY/PERSON)
09/01/2020	TRANSCRIPT OF: PRELIMINARY HEARING****PJC DOCUMENT*****
09/02/2020	MEDIA REQUEST TO ALLOW ELECTRONIC RECORDING EQUIPMENT INTO THE COURTROOM

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Case Summary

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09/04/2020 COURT MINUTES-9/4/20 - JUDGE: KIMBERLY A WANKER
CLERK: TERRI PEMBERTON
REPORTER: TRACY MANNING
BAILLIFF: ERIC SCHLENER
APP: MIKE ALLMON FOR THE STATE
DANIEL MARTINEZ IS PRESENT WITH THE DEFENDANT WHO IS IN CUSTODY VIA
TELECONFERENCE

COURT CALLS THE MATTER AS AN ARRAIGNMENT HEARING. COURT OFFERS ADDITIONAL TIME FOR THE DEFENDANT TO SPEAK TO HIS ATTORNEY. THE DEFENDANT ASKS FOR SOME TIME TO SPEAK TO HIS ATTORNEY. COURT TRAILS THE MATTER TO 11 AM FOR THE DEFENDANT TO SPEAK WITH HIS ATTORNEY. COURT RECALLS THE MATTER. COURT NOTES NO GUILTY PLEA AGREEMENT HAS BEEN SUBMITTED. COURT CANVASS THE DEFENDANT, OUTLINES THE MAXIMUM POSSIBLE SENTENCE. COURT QUESTIONS THE DEFENDANT IF HE HAS ANY MENTAL DISORDERS THAT MAY AFFECT HIM MOVING FORWARD TODAY. THE DEFENDANT STATES HE DOES HAVE MULTIPLE DISORDERS AND HAS TRIED MEDICATIONS BUT THE THEY ARE NOT WORKING. COURT STATES THAT SHE CANNOT MOVE FORWARD IF THERE IS AN ISSUE WITH HIS MENTAL COMPETENCY. DEFENSE ADDRESSES AND STATES THAT HE HAS MET WITH THE DEFEDANT MULTIPLE TIMES AND HAS ZERO CONCERN WITH HIS COMPETENCY. COURT CONTINUES WITH THE CANVASS. COURT ASKS THE CLERK TO FORMALLY READ THE INFORMATION. CLERKS FORMALLY READS THE INFORMATION. DEFENDANT PLEADS NOT GUILTY TO ALL COUNTS. DEFENDANT WAIVES HIS RIGHT TO SPEEDY TRIAL.

TRIAL DATES JAN 13, 14 AND JAN 19-22, CC ON DEC 4

09/08/2020 ORDER SETTING JURY TRIAL(1/13-14/21 - 1/19-22/2021
09/14/2020 EX PARTE MOTION FOR EXTRAORDINARY FEES FOR EXPERT WITNESS COSTS
09/14/2020 EX PARTE MOTION FOR EXTRAORDINARY FEES FOR INVESTIGATIVE COSTS
09/21/2020 ORDER FOR EXTRAORDINARY FEES FOR INVESTIGATIVE COSTS
09/21/2020 ORDER FOR EXTRAORDINARY FEES FOR EXPERT WITNESS COSTS
09/23/2020 MOTION TO DISMISS
09/23/2020 DEFENDANT MARCO ANTONIO TORRES PETITION FOR WRIT OF HABEAS CORPUS
09/25/2020 TRANSCRIPT OF: ARRAIGNMENT(09/04/20)
10/06/2020 RESPONSE TO DEFENDANT'S MOTION TO DISMISS
10/12/2020 REPLY TO STATE'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS
10/12/2020 *****END OF FILE #1*****
10/16/2020 ORDER TO ISSUE WRIT OF HABEAS CORPUS (HEARING 12/04/2020, 11AM)
10/16/2020 WRIT OF HABEAS CORPUS (ISSUED - SHARON WEHRLY, SHERIFF, NYE COUNTY, NEVADA)
10/19/2020 WRIT OF HABEAS CORPUS/ RETURN OF SERVICE (SERVED 10/19/2020)
11/20/2020 RESPONSE TO PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS
11/20/2020 MOTION TO CONTINUE TRIAL DATE/ NOTICE OF MOTION (12/03/2020, 1:30PM)
(SUBMITTED BY DANIEL E. MARTINEZ, ESQ,. FOR DEFENDANT, MARCO ANTONIO TORRES)
11/23/2020 EX PARTE MOTION FOR EXTRAORDINARY FEES FOR EXPERT WITNESS COSTS
11/24/2020 ORDER FOR EXTRAORDINARY FEES FOR EXPERT WITNESS COSTS
12/01/2020 RESPONSE TO DEFENDANT'S MOTION TO CONTINUE TRIAL DATE (SUBMITTED BY DA/
CDDA & DDA FOR STATE)

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Case Summary

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12/01/2020 COURT MINUTES-12/3/20 - JUDGE: KIMBERLY A WANKER
CLERK: TERRI PEMBERTON
REPORTER: CECILIA THOMAS
BAILIFF: ERIC SCHLENER
APP: MIKE ALLMON AND KIRK VITTO FOR THE STATE
DANIEL MARTINEZ IS PRESENT WITH THE DEFENDANT WHO IS IN CUSTODY VIA
TELECONFERENCE RONNI BOSKOVICH IS PRESENT AS SECOND CHAIR

COURT CALLS THE MATTER AS A MOTION TO DISMISS, MOTION TO CONTINUE TRIAL
DATES, CALENDAR CALL, WRIT OF HABEAS CORPUS. COURT REVIEWS THE PROCEDURE OF
A WRIT OF HABEAS CORPUS. COURT QUESTIONS THE STATE REGARDING THE
CONTINUANCE OF THE MOTION TO CONTINUE TRIAL. THE STATE DOES NOT OPPOSE.
DEFENSE STATES HE IS NOT PREPARED TO MOVE FORWARD. COURT SETS TRIAL DATES
MARCH 15-26 2021 AND CALENDAR CALL ON FEBRUARY 12 2021. COURT SETS PRE
TRIAL MOTIONS JANUARY 27 2021 AT 130 PM. COURT REVIEWS THE ISSUES WITH THE
STATUTES. COURT STATES SHE HAS NOT READ THE STATES RESPONSE AND REVIEWS HOW
IMPORTANT THE PROPER RESEARCH IS IN THE CASE TO MAKE A RULING.

12/03/2020 AMENDED ORDER SETTING JURY TRIAL(10 DAYS MARCH 15-26 2021)

12/22/2020 TRANSCRIPT OF MOTION TO CONTINUE TRIAL (HRG 12/03/20)

01/19/2021 MOTION TO CONTINUE TRIAL DATE/ NOTICE OF MOTION (01/27/2021, 1:30PM)
(SUBMITTED BY DANIEL E. MARTINEZ, ESQ., FOR DEFENDANT)

01/27/2021

COURT MINUTES (1/27/2021) - JAVS TIME: 0223

JUDGE: KIMBERLY WANKER;

CLERK: JUANITA TORRES;

BAILIFF: ERIC SCHLENER

REPORTER: SUZANNE ROWE, VIA VIDEO (BLUEJEANS);

APPEAR: DEPUTY DISTRICT ATTORNEY, MICHAEL ALLMON, ON BEHALF OF THE STATE;
ATTORNEYS DANIEL MARTINEZ AND RONNI BOSKOVICH, ON BEHALF OF THE DEFENDANT,
WHO IS PRESENT IN CUSTODY, VIA VIDEO.

COURT CALLS THE MATTERS AS DEFENDANT'S MOTION TO DISMISS, PETITION FOR WRIT
OF HABEAS CORPUS AND MOTION TO CONTINUE TRIAL. COURT ANNOUNCES, ON THE
RECORD, THE PARTIES THAT ARE PRESENT IN THE COURTROOM.

MARTINEZ CONFIRMS HE FILED A REPLY TO THE STATE'S OPPOSITION; HE ARGUES NYE
COUNTY SHERIFF'S DEPUTIES MADE ENTRY WITHOUT A WARRANT, THE STATE CLAIMS
THE EXCEPTION TO PROVIDE AIDE TO A PARTY INSIDE, MARTINEZ ARGUES THERE ARE
NO FACTS TO SUPPORT THE EXCEPTION, DEPUTIES WERE RESPONDING TO A 911
DISCONNECT, THAT TURNED INTO A WELFARE CHECK, DEPUTIES HEARD FOOTSTEPS FROM
INSIDE, THERE WAS NO REASONABLE CAUSE TO TAKE IMMEDIATE ACTION, DEPUTIES
WAITED 1 ½ HOURS BEFORE ENTERING THE HOME; MARTINEZ OUTLINES THE STATES
DISCOVERY, INFORMATION IN THE SEARCH WARRANT WAS MADE AFTER ENTRY INTO THE
HOME; REQUEST DISMISS OR EVIDENTIARY HEARING ON THE MATTER.

COURT INQUIRES WHY THIS IS NOT A MOTION TO SUPPRESS EVIDENCE AND OUTLINES
THE PRELIMINARY TRANSCRIPTS.

MARTINEZ EXPLAINS IT WAS AN UNLAWFUL ENTRANCE, ALL EVIDENCE NEEDS TO BE
SUPPRESS, EXCEPT THE 911 CALL; HE DOES NOT BELIEVE THEY HAD PROBABLE CAUSE
TO DETAIN THE DEFENDANT; HE ADVISES THE COURT HE ALSO FILE A MOTION TO
CONTINUE TRIAL AND WILL BE FILING A MOTION TO SUPPRESS DEFENDANT'S
INTERVIEW.

STATE ARGUES DUE TO THE TOTALITY OF THE CIRCUMSTANCES THE DEPUTIES HAD
P.C., THERE ARE TWO ISSUES, FIRST EMERGENCY AID EXCEPTION APPLIES, SECOND
PROBABLE CAUSE DETERMINATION, DEPUTIES MAY ASSUME IT IS ADMISSIBLE; ALLMON
OUTLINES DEFENDANT'S REBUTTAL, OBJECTING TO WAITING FOR LOCKSMITH AS NOT
BEING SWIFT ENTRY; HE OUTLINES THE INCIDENT, N.C.S.O. KNEW THERE WAS A
SECOND PERSON IN THE HOME, ARGUES A WELFARE CHECK IS AN EMERGENCY; ARGUES A
MOTION TO DISMISS IS INAPPROPRIATE.

MARTINEZ ARGUES EMERGENCY AID, WOULD NOT APPLY; ARGUES DEPUTIES WERE
UNAWARE OF THE TOTALITY WHEN THEY ARRIVED ON SCENE; OUTLINES DIFFERENCE
BETWEEN WAITING FOR A SWAT TEAM, AS TO WAITING FOR A LOCKSMITH, WHY DID
N.C.S.O. WAIT SO LONG; CLAIMS HIS ARGUMENTS ARE APPROPRIATE FOR THE TRIAL
COURT.

COURT STATES THE GENERAL RULES FOR A WARRANT, SO THAT IT DOES NOT VIOLATE
THE 4TH AMENDMENT, FIRST PROBABLE CAUSE, SECOND EXIGENT CIRCUMSTANCE,
OUTLINING THE EMERGENCY AID EXCEPTION; COURT REVIEWS, IN DETAIL, EXHIBIT 4A
FROM THE PRELIMINARY HEARING, N.C.S.O.'S "CALL DETAIL RECORD" AS TO THE
FIRST 911 CALL AND WHEN THE FIRST DEPUTY ARRIVED; COURT INQUIRES IF
POSSIBLE EXIGENT CIRCUMSTANCES OR EMERGENCY AID EXEMPTIONS, EXPIRED; COURT
REVIEWS STEPHANIE RUCKER TESTIMONY REGARDING THE 911 CALL AND LOCATION OF
THE CALL AND DEPUTIES' RESPONSE ONCE ON SCENE, STOPPING AT THE FIRST
TRAILER, BEING TOLD THE PARTIES WERE IN THE TRAILER BEHIND; HOW THE
DEFENDANT IDENTIFIED HIMSELF TO DEPUTIES, COURT QUESTIONS IF THE DEPUTIES
LOST THE EXCEPTION, BY NOT IMMEDIATELY MAKING ENTRY, HOWEVER NO ONE BRIEF
THAT ISSUE; IF THEY HAD TIME TO CALL A SUPERVISOR AND A LOCKSMITH, WHY NOT
A JUDGE FOR A WARRANT; COURT BELIEVES THIS SHOULD HAVE BEEN MOTION TO
SUPPRESS, NOT A MOTION TO DISMISS; REQUEST THE COURT'S ISSUES BE BRIEFED
AND WHAT EVIDENCE NEEDS TO BE SUPPRESS. COURT ADDRESSES THE W.H.C. AS TO
THE HABITUAL ENFORCEMENT, THERE ARE NEW STATUTES THAT MAY AFFECT THE
CHARGES, CHARGE INVASION OF THE HOME ON AN INTERIOR BEDROOM.

MARTINEZ OUTLINES OLD/NEW LAWS REGARDING INVASION OF THE HOME AND THE
INTENT OF A ROOM, CITES NEVADA LAW REGARDING FORCIBLE ENTRY.

STATE ARGUES YOU CAN REVOKE CONSENT/ACCESS TO A ROOM, READS PAGE 13 OF
STATE'S RESPONSE ON THE RECORD.

COURT READS ON THE RECORD, ALFRED V. STATE, FOOTNOTE 2 CITED IN DEFENDANT'S
MOTION, COURT FINDS COUNT III, INVASION OF A HOME STANDS; COURT OUTLINES

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Case Summary

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EACH COUNTY IN THE INFORMATION; CHARGE VII, USE OF NUNCHAKUS BEING A DANGEROUS WEAPON, THERE IS NO TESTIMONY, SLIGHT OR MARGINAL EVIDENCE INJURIES CAUSED BY THE WEAPON.

STATE ARGUES REASONABLE EVIDENCE WERE IMPRINTS OF THE NUNCHAKUS ON THE INJURIES OF THE VICTIM.

COURT READS DETECTIVE FLANCHER'S TESTIMONY, PAGE 159 OF THE PRELIMINARY HEARING TRANSCRIPT.

STATE AGREES FLANCHER IS NOT AN EXPERT, BUT ARGUES A MEDICAL EXAMINER WILL TESTIFY AS TO THE INJURIES AT TRIAL.

COURT IS FINDING SLIGHT OR MARGINAL EVIDENCE HAS NOT BEEN PRESENTED.

STATE ARGUES CIRCUMSTANTIAL EVIDENCE IS SUFFICIENT FOR PROBABLE CAUSE.

MARTINEZ ARGUES THERE IS NO CIRCUMSTANTIAL, NOR DIRECT EVIDENCE THAT NUNCHAKUS WERE USED, THERE WAS NO DNA EVIDENCE ON THE NUNCHAKUS.

COURT FINDS THERE IS NO SLIGHT OR MARGINAL EVIDENCE, CHARGE DISMISSED.

COURT ADDRESSES MOTION TO CONTINUE.

MARTINEZ ADVISES THE COURT THIS IS HIS SECOND MOTION TO CONTINUE, HIS EXPERT'S OPINION WOULD NOT BE AVAILABLE UNTIL FEBRUARY, AND ADDITIONAL TIME IS NEEDED, AS TO HIS MOTION TO SUPPRESS THE DEFENDANT'S INTERVIEW.

STATE HAS NOT WAIVED IT'S RIGHT TO SPEEDY TRIAL, HOWEVER DEFENDANT IS ALLOWED TO PREPARE FOR TRIAL, THE STATE IS NOT FORMALLY OPPOSING THE MOTION TO CONTINUE.

COURT GRANTS MOTION TO CONTINUE, SUPPRESSION ISSUES NEED TO BE FULLY BRIEFED/ADDRESSED.

MARTINEZ REQUEST MAY TRIAL DATES AND REQUEST THE CURRENT MARCH TRIAL DATE FOR HIS MOTION TO SUPPRESS.

COURT DENIES MOTION TO DISMISS AND SETS TRIAL DATES FOR:

JURY TRIAL 05/10/2021 - 05/21/2021,

PRETRIAL MOTIONS MARCH 25 AT 1:30 FOR THE MOTION TO SUPPRESS,

CALENDAR CALL APRIL 2, 2021 AT 09:00,

JURY DRAW APRIL 2, 2021.

DEFENDANT ADDRESS THE COURT, WOULD LIKE TO SPEAK TO MARTINEZ. COURT CONCURS AND CLEARS THE COURTROOM.

01/28/2021 SECOND AMENDED ORDER SETTING JURY TRIAL (MAY 10, 2021 @ 9 AM FOR 10 DAYS)

02/12/2021 DEFENDANT'S SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION TO SUPPRESS

02/26/2021 MOTION TO SUPPRESS DEFENDANT'S STATEMENTS AND REQUEST FOR JACKSON V. DENNO HEARING

03/03/2021 THE STATE'S INSTANT RESPONSE TO DEFENDANT'S SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION TO SUPPRESS

03/10/2021 RESPONSE TO DEFENDANT'S MOTION TO SUPPRESS DEFENDANT'S STATEMENTS AND REQUEST FOR JACKSON V. DENNO HEARING

03/12/2021 REPLY TO STATE'S INSTANT RESPONSE TO DEFENDANT'S SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION TO SUPPRESS

03/18/2021 REQUEST FOR DISCLOSURE

03/22/2021 TRANSCRIPT OF: MOTION TO DISMISS WRIT OF HABEAS CORPUS(1/28/21)

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03/25/2021 COURT MINUTES-3/25/21 - JUDGE: KIMBERLY A WANKER
CLERK: TERRI PEMBERTON
REPORTER: SUZIE ROWE
BAILIFF: JAMELE TAYLOR
APP: MIKE ALLMON FOR THE STATE
DANIEL MARTINEZ IS PRESENT WITH THE DEFENDANT WHO IS IN CUSTODY VIA
TELECONFERENCE
136PM
COURT CALLS THE MATTER AS PRE TRIAL MOTIONS, MOTION TO SUPPRESS AND MOTION
TO DISMISS. COURT IS IN RECEIPT OF DEFENDANT'S SUPPLEMENTAL BRIEF, MOTION
TO SUPPRESS, STATES INSTANT RESPONSE, REPLY TO STATES INSTANT RESPONSE,
MOTION TO DISMISS-SUPPLEMENTAL BRIEFING. COURT WILL BEGIN WITH THE MOTION
TO SUPPRESS AND WILL THEN HEAR THE JACKSON V DENNO HEARING. DEFENSE
ADDRESSES AND STATES HE IS NOT PREPARED FOR THE JACKSON V DENNO HEARING AND
ASKS FOR A CONTINUANCE. THE STATE WAS NOT CLEAR ABOUT TODAY'S HEARING
EITHER AND HAS NO OBJECTION TO CONTINUE THE HEARING. COURT ADMONISHES THE
PARTIES FOR NOT BEING PREPARED. COURT ADDRESSES THE MOTION TO DISMISS AND
INFORMS THE PARTIES THAT THEY DID NOT REFERENCE THE NEVADA SUPREME COURT
DECISION. COURT SO INFORMS THE PARTIES IN DETAIL OF THE NEVADA SUPREME
COURT DECISION. COURT REVIEWS THE INCIDENT IN REGARD PROBABLE CAUSE AND OR
EXIGENT CIRCUMSTANCES FOR ENTRY INTO THE TRAILER. DEFENSE ARGUES THAT THE
NEVADA SUPREME COURT DECISION WAS IN THE INITIAL BRIEF. COURT STATES THAT
THE SHERIFF'S OFFICE DID NOT NEED PROBABLE CAUSE TO ENTER AS THEY DID HAVE
EXIGENT CIRCUMSTANCES. COURT REVIEWS IN DETAIL THE 911 CALL. COURT DENIES
THE MOTION TO SUPPRESS ANY EVIDENCE. COURT MOVES TO THE JACKSON V DENNO
HEARING. DEFENSE IS NOT READY TO MOVE FORWARD WITH THE JACKSON V DENNO
HEARING. COURT RECITES THE SUPREME COURT DECISION REGARDING JACKSON V DENNO
HEARING IN ORDER FOR THE PARTIES TO BE CLEAR ON WHAT TO EXPECT. DEFENSE
ADDRESSES AND HAS AN EXPERT WITNESS FOR TRIAL BUT THE EXPERT WITNESS WILL
NOT BE READY BY THE TRIAL DATES. DEFENSE ALSO STATES THAT HIS CONTRACT FOR
PUBLIC DEFENDER IS UP APRIL 20. DEFENSE ASKS FOR A SIDE BAR. COURT BACK IN
SESSION. DEFENSE NEEDS A FEW WEEKS TO PREPARE FOR THE JACKSON V DENNO
HEARING. ALL PARTIES NEED A FULL DAY FOR THE JACKSON V DENNO HEARING. COURT
SETS THE JACKSON V DENNO HEARING TO APRIL 29. COURT SETS THE CALENDAR CALL
TO APRIL 9 IN TONOPAH DEFENSE MAY CALL IN.

03/30/2021 (DEFENDANT'S) MOTION TO CONTINUE TRIAL DATE (TRIAL 05/10/2021)

04/09/2021 STATE'S OPPOSITION TO DEFENDANT'S THIRD MOTION TO CONTINUE TRIAL DATE

04/09/2021 COURT MINUTES - @ - CR CR20-0092 MARCO ANTONIO TORRES
JUDGE: KIMBERLY A WANKER;
REPORTER: SUZANNE ROWE;
BAILIFF: JOHN CHIDLEY
CLERK: CORI FREIDHOF,
JAVS: 09.01.36
APP: MISS BOSCOVICH, KIRK VITTO & CHRIS ARABIA DDA; OFFICER DAVIS, P&P;
DANIEL MARTINEZ VIA BLUE JEANS WITH THE DEFENDANT PRESENT IN CUSTODY;
DANIEL MARTINEZ IS NOT PREPARED TO GO FORWARD, EXPERT IS CURRENTLY PLANNING
ON GOING TO LAS VEGAS ON APRIL 19TH, WON'T HAVE REPORT READY ON TIME. HE
ADDRESSES THE COURT. COURT ADDRESSES AND WONDERS WHY ANOTHER CONTINUANCE.
FROM JANUARY. THE STATE ADDRESSES THE COURT. THEY ARE READY. THERE IS A
MOTION TO CONTINUE THE TRIAL. THE STATE OPPOSES THEY WILL WAIVE THE 21 DAY
RULE AND WILL GO WITH A 14 DAY FOR THE REPORT. BOTH PARTIES TO SUBPOENA
THEIR WITNESSES AND MEET WITH JUDGE Thursday MORNING 4/15 IN THE MORNING
AND CONFIRM. COURT ADDRESSES THE DEFENDANT AND EXPLAINS WHAT HAPPENED.
STATUS CHECK 4/15 @8:15 TO DETERMINE IF TRIAL CAN BE MOVED TO THE 12-23RD
OF JULY.

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04/14/2021 COURT MINUTES-4/15/21 - JUDGE: KIMBERLY A WANKER
CLERK: TERRI PEMBERTON
REPORTER: SUZIE ROWE
BAILIFF: NONE
APP: KIRK VITTO FOR THE STATE
DANIEL MARTINEZ IS PRESENT WITH THE DEFENDANT WHO IS IN CUSTODY VIA
TELECONFERENCE

COURT CALLS THE MATTER AS A STATUS CHECK ON TRIAL DATES. COURT NOTES THAT AT THE PREVIOUS HEARNG PARTIES DISCUSSED JULY 12-23 TRIAL DATES. COURT QUESTIONS THE PARTIES IF THEY WILL BE READY FOR THE JULY DATES. THE STATE REVIEWS COMMUNICATION BETWEEN THE STATE AND THE WITNESSES REGARDING THE TRIAL DATE CHANGE. THE STATE INFORMS THAT A WITNESS (THE LANDLORD) IS REFUSING TO MAKE AN ORAL AGREEMENT TO APPEAR. COURT SUGGESTS A MATERIAL WARRANT FOR THAT WITNESS. THE STATE INFORMS THAT THE INTAKE OFFICER (WITNESS) WILL BE LEAVING FOR BOOT CAMP AND WILL NOT BE AVAILABLE. DEFENSE STATES THAT THE EXPERT WITNESS WILL BE READY FOR THE JULY DATES AND ANY OTHER WITNESSES. DEFENSE STATES THAT WITNESSES WILL BE PRESENT AT THE JACKSON V DENNO HEARING AND IF NEED BE THE TRANSCRIPTS COULD BE USED AT TRIAL. COURT SETS CC TO 6/18/21 COURT SETS TRIAL DATES TO JULY 12-23.

04/15/2021 THIRD AMENDED ORDER SETTING JURY TRIAL

04/20/2021 INFORMATION(FELONY/PERSON)

04/21/2021 AMENDED INFORMATION(FELONY/PERSON) (CORRECTED CAPTION)

04/29/2021 COURT MINUTES-4/29/21 - JUDGE: KIMBERLY A WANKER
CLERK: TERRI PEMBERTON
REPORTER: SUZIE ROWE
BAILIFF: JAMELE TAYLOR
APP:MIKE ALLMON AND KIRK VITTO FOR THE STATE
DANIEL MARTINEZ IS PRESENT WITH THE DEFENDANT WHO IS IN CUSTODY

COURT CALLS THE MATTER AS A CHANGE OF PLEA. COURT NOTES THE MATTER WAS INITIALLY SET AS A JACKSON V DENNO HEARING. HOWEVER, THE MATTER IS NOW NEGOTIATED. GUILTY PLEA AGREEMENT SUBMITTED TO THE COURT. COURT OUTLINES THE NEGOTIATIONS. DEFENDANT HAS CONCERNS WITH THE PLEA AGREEMENT IN REGARD TO THE EVIDENCE. COURT INFORMS THE DEFENDANT OF THE NEGOTIATIONS, SUPPRESSION AND SENTENCING PROCESS. THE DEFENDANT DOES NOW UNDERSTAND. COURT ONCE AGAIN OUTLINES THE NEGOTIATIONS IN DETAIL FOR CLARIFICATION FOR THE DEFENDANT. DEFENDANT HAS BEEN DIAGNOSED PREVIOUSLY WITH A MENTAL DISABILITY BUT HAS NO ISSUES TODAY. DEFENDANT WAIVES FORMAL READING OF THE INFORMATION. COURT CANVASS THE DEFENDANT, OUTLINES THE GUILTY PLEA AGREEMENT FOR THE RECORD AND THE MAXIMUM POSSIBLE SENTENCE. DEFENDANT SO ACKNOWLEDGES, PLEADS GUILTY AND WAIVES HIS CONSTITUTIONAL RIGHTS TO TRIAL AND APPEAL RIGHTS. THE STATE SETS FORTH THE ELEMENTS ON THE RECORD. DEFENDANT ADDRESSES THE COURT AND ADMITS THE ALLEGATIONS. DEFENDANT DENIES ANY REQUEST FOR CONTINUANCE. COURT FINDS THE GUILTY PLEA AGREEMENT TO BE GIVEN FREELY AND ACCEPTS SAID PLEA. COURT SETS SENTENCING ON JUNE 25 2021 GUILTY PLEA AGREEMENT

04/29/2021

05/03/2021 TRANSCRIPT OF PROCEEDINGS: CALENDAR CALL (4/9/21)

06/07/2021 PRESENTENCE INVESTIGATION REPORT

06/09/2021 TRANSCRIPT OF: CHANGE OF PLEA/ARRAIGNMENT(4/29/21)

06/09/2021 TRANSCRIPT OF: MOTIONS(4/15/21)

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06/25/2021 COURT MINUTES-6/25/21 - JUDGE: KIMBERLY A WANKER
CLERK: TERRI PEMBERTON
REPORTER: SUZIE ROWE
BAILIFF: JAMELE TAYLOR
APP:MIKE ALLMON FOR THE STATE
DANIEL MARTINEZ IS PRESENT WITH THE DEFENDANT WHO IS IN CUSTODY

COURT CALLS THE MATTER AS A SENTENCING HEARING. DEFENSE ADDRESSES AND INFORMS THAT THE DEFENDANT ASKS FOR A CONTINUANCE FOR HIS SENTENCING AS THE DEFENDANT HAS MORE QUESTIONS. THE STATE WAS NOT AWARE THAT THE DEFENDANT WOULD BE ASKING FOR A CONTINUANCE AND INFORMS THAT THERE ARE 2 WITNESSES PRESENT. COURT FEELS THAT IT WOULD BE UNFAIR FOR THE WITNESSES TO COME BACK. COURT MOVES FORWARD WITH WITNESS TESTIMONY. DEFENSE STATES THAT ONE VICTIM IS THE BROTHER OF THE WITNESS WHICH HE DOES NOT OBJECT TO. THE SECOND "WITNESS" IS A "REBUTTAL WITNESS" AND DOESNT FEEL IT SHOULD BE ALLOWED. DEFENSE ASKS FOR A SIDE BAR. COURT BACK IN SESSION. COURT TRAILS THE MATTER. COURT RECALLS THE MATTER. DEFENSE REQUESTS TO CONTINUE THE SENTENCING BUT TO ALLOW THE STATEMENT FROM THE DEFENDANT, THE STATES SPEAKERS AND REBUTTAL WITNESS. COURT QUESTIONS THE DEFENDANT FOR HIS REQUEST FOR CONTINUANCE. DEFENDANT ADDRESSES AND STATES THAT THE INMATE HE WAS HOUSED WITH AND DOES NOT GET ALONG WITH WOULD BE TRANSPORTED WITH HIM AND HE DOES NOT WISH FOR THAT TO HAPPEN. COURT REVIEWS THE 2 OPTION'S OF THE SENTENCING AND INFORMS THE DEFENDANT THAT HE WOULD NOT BE TRANSPORTED WITH SAID DEFENDANT. COURT MOVES FORWARD WITH SENTENCING. DEFENSE STATES THE CTS IS INCORRECT IN THE PSI AND SHOULD BE 447 DAYS CTS. NO OBJECTION FROM THE STATE. COURT OUTLINES CASE HISTORY AND REVIEWS THE NEGOTIATIONS. THE STATE IS FREE TO ARGUE. COURT ADJUDICATES THE DEFENDANT GUILTY. DEFENSE REVIEWS THE FACTS OF THE CASE IN DETAIL. DEFENSE ARGUES FOR 10 TO 25 YEARS WITH PAROLE ELIGIBILITY AFTER 10 YEARS. THE STATE CALLS THE FIRST WITNESS CHRISTOPHER PIPER. CLERK SWEARS IN THE WITNESS CHRISTOPHER PIPER. THE STATE EXAMINES THE WITNESS IN REGARD TO HIS RELATIONSHIP WITH THE DEFENDANT AND VICTIM. THE WITNESS PROVIDES HIS TESTIMONY. DEFENSE OBJECTS TO THE TESTIMONY AS IT DOES NOT PERTAIN TO HOW THE INCIDENT HAS AFFECTED HIM. THE STATE ARGUES AND RECITES A SUPREME COURT CASE. COURT OVER RULES THE OBJECTION. THE WITNESS ASKS FOR THE MAXIMUM POSSIBLE SENTENCE. THE STATE PASSES THE WITNESS. DEFENSE HAS NO QUESTIONS FOR THE WITNESS. COURT QUESTIONS THE WITNESS. THE WITNESS IS RELEASED. COURT TRAILS THE MATTER. COURT RECALLS THE MATTER. THE STATE PROVIDES PICTURES AND VIDEO OF THE NIGHT OF THE INCIDENT. THE STATE ARGUES FOR LIFE IN PRISON WITH THE POSSIBILITY OF PAROLE IN 10 YEARS. DEFENSE REVIEWS THE CONFESSION IN DETAIL AND ARGUES FOR 10/25 YEARS. DEFENDANT APOLOGIZES TO THE WITNESSES, KNOWS HE FAILED THEM AND TAKES RESPONSIBILITY. COURT REVIEWS THE INCIDENT AND RESPONSE OF THE SHERIFF'S OFFICE IN DETAIL. COURT SENTENCES THE DEFENDANT TO LIFE WITH THE POSSIBILITY OF PAROLE IN 10 YEARS. \$25 \$3 AND \$150 447 DAYS CTS

06/25/2021 JUDGMENT OF CONVICTION(FELONY/PERSON)

07/06/2021 NOTICE OF APPEAL (SUBMITTED BY RONNI N. BOSKOVICH, ESQ., OBO DANIEL E. MARTINEZ, ESQ., FOR DEFENDANT, MARCO ANTONIO TORRES)

07/06/2021 CASE APPEAL STATEMENT (SUBMITTED BY RONNI N. BOSKOVICH, ESQ., OBO DANIEL E. MARTINEZ, ESQ., FOR DEFENDANT, MARCO ANTONIO TORRES)

FILED
FIFTH JUDICIAL DISTRICT

Case No. CR20-0092
Dept. 1P

JUN 25 2021

Nye County Clerk
Deputy

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF NYE

THE STATE OF NEVADA,

Plaintiff,

vs.

JUDGMENT OF CONVICTION

MARCO ANTONIO TORRES,

Defendant.

On April 29, 2021, the Defendant above named, appeared before the Court with his counsel, Daniel Martinez, Esq., and entered a plea of guilty to the crime of **Second – Degree Murder**, a violation of NRS 200.010, 200.030, a Category “A” Felony.

On June 25, 2021 the Defendant appeared personally and with his counsel, Daniel Martinez, Esq. for entry of Judgment. No sufficient legal cause was shown by the Defendant as to why judgment should not be pronounced against him. The Court adjudged the Defendant guilty of the crime of **Second – Degree Murder**, a violation of NRS 200.010, 200.030, a Category “A” Felony.

The court sentenced the Defendant to serve Life in Prison in the Nevada Department of Corrections with parole eligibility after a minimum term of 10 years have been served.

Defendant shall pay to the Clerk of the Court a \$25.00 administrative assessment fee.

Defendant shall pay to the Clerk of the Court a \$3.00 DNA administrative fee.

FIFTH JUDICIAL DISTRICT COURT
ESMERALDA AND NYE COUNTIES



FIFTH JUDICIAL DISTRICT COURT
ESMERALDA AND NYE COUNTIES



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Defendant shall pay to the Clerk of the Court a \$150.00 DNA fee.

The Defendant shall receive credit for 447 days presentence incarceration.

DATED this 28th day of June, 2021.

KIMBERLY A. WANKER,
DISTRICT JUDGE

CERTIFICATION OF SERVICE

The undersigned hereby certifies that on the 25th day of June 2021, she mailed (or hand delivered) copies of the foregoing **JUDGMENT OF CONVICTION** to the following:

NYE COUNTY DISTRICT ATTORNEY
PAHRUMP, NV
(HAND DELIVERED)

DANIEL MARTINEZ, ESQ.
PAHRUMP, NV
(HAND DELIVERED)

NEVADA DIVISION OF PAROLE AND PROBATION
PAHRUMP, NV
(HAND DELIVERED)

NYE CO. SHERIFF (DETENTION)
PAHRUMP, NV
(HAND DELIVERED)

Melissa Stepp
MELISSA STEPP, secretary to
DISTRICT COURT JUDGE

FIFTH JUDICIAL DISTRICT COURT
ESMERALDA AND NYE COUNTIES



Fifth Judicial District Court - Nye County
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Case #: CR20-0092
Judge: WANKER, KIMBERLY
Date Filed: 08/10/2020 Department:
Case Type: Crimes Against Persons (Felony)

Plaintiff	Attorney(s)
STATE OF NEVADA	DISTRICT ATTORNEY'S OFFICE
Defendant	
TORRES, MARCO ANTONIO	MARTINEZ, DANIEL

Fees:

Date Assessed:	Fee	Total	Paid	Waived	Outstanding
06/25/2021	ADMIN	\$5.00	\$0.00	\$0.00	\$5.00
06/25/2021	STADMIN	\$20.00	\$0.00	\$0.00	\$20.00
06/25/2021	DNA	\$150.00	\$0.00	\$0.00	\$150.00
06/25/2021	GENETIC	\$3.00	\$0.00	\$0.00	\$3.00

Charge: HABITUAL CRIMINAL - NRS 207.010(1) (A) F/A Count 1
Sent: LIFE WITH THE POSSIBILITY OF PAROLE AFTER 10 YEARS, \$25 ADMIN FEE, \$3 DNA FEE, \$150 DNA, 447 DAYS CTS

Disp/Judgment: Non-Trial: Guilty Date: 06/25/2021
Plea with Sentence
(Before Trial)

Hearings:

Date	Time	Hearing	Court Result
08/21/2020	9:00AM	45#ARRAIGNMENT HEARING (GC)	CANC
08/28/2020	9:00AM	25#ARRAIGNMENT HEARING	CANC
09/04/2020	9:00AM	30#ARRAIGNMENT (GC)	
11/30/2020	11:00AM	MOTION TO DISMISS	CANC
12/03/2020	1:30PM	DEFT'S MTN TO CONTINUE TRIAL DATE/WRIT OF HABEAS CORPUS/CALENDAR CALL/ MOTION TO DISMISS	
12/04/2020	9:00AM	30#CALENDAR CALL	CANC
12/04/2020	4:30PM	99#JURY DRAW 180 JURORS FILE TO MELISSA	CANC
12/04/2020	9:00AM	31#PRE TRIAL MOTIONS	CANC
12/04/2020	11:00AM	32#WRIT OF HABEAS CORPUS	CANC
01/13/2021	9:00AM	JURY TRIAL 6 DAYS JAN 13-14, 2021 JAN 19-22, 2021	CANC
01/27/2021	1:30PM	20#PRE TRIAL MOTIONS	
01/27/2021	4:30PM	30#JURY DRAW 180 JURORS	
01/27/2021	1:30PM	20#DEFT'S MTN TO CONTINUE TRIAL DATE	
02/12/2021	9:00AM	CALENDAR CALL	CANC

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03/15/2021	9:00AM	JURY TRIAL MARCH 15-26	CANC
03/25/2021	1:30PM	PRE TRIAL MOTIONS	
03/25/2021	1:30PM	MOTION TO DISMISS/MOTION TO SUPPRESS	
04/02/2021	9:00AM	CALENDAR CALL	CANC
04/02/2021	4:30PM	JURY DRAW OF 180 JURORS	CANC
04/09/2021	9:00AM	05# CALENDAR CALL-TONOPAH/DEFENSE MAY CALL IN	
04/15/2021	8:15AM	STATUS CHECK	
04/29/2021	9:00AM	EVIDENTIARY HEARING/JACKSON V DENNO/PRE TRIAL MOTIONS	
05/10/2021	9:00AM	JURY TRIAL MAY 10-21	CANC
06/18/2021	9:00AM	CALENDAR CALL	CANC
06/18/2021	4:30PM	JURY DRAW 180 JURORS	CANC
06/25/2021	9:00AM	70#SENTENCING	
07/12/2021	9:00AM	JURY TRIAL JULY 12-23	CANC

Filings:

Date	Filing
08/10/2020	CASE FILED 08/10/2020 CASE NUMBER CR20-0092
08/10/2020	PROSECUTOR: DISTRICT ATTORNEY'S OFFICE ASSIGNED
08/10/2020	DEFENSE ATTORNEY: MARTINEZ, DANIEL ASSIGNED
08/10/2020	DOCUMENTS RECEIVED FROM PAHRUMP JUSTICE COURT - Rec'd, Ref Case #CR20-0092: (Second Amended Criminal Complaint; Order; Media Request Allowing Electronic Equipment in the Courtroom; Amended Criminal Complaint; Receipt of Copy; Receipt of Copy; Order to Continue; Receipt of Copy; Receipt of Copy; Order to Continue; Receipt of Copy; Criminal Complaint; Affidavit and Application for Appointment of Counsel; Plaintiff Exhibits #1 - 24 and # 26-39, Medical Records from Cancer Care Center, Health Care Partners and Hope Cancer Case; Defendant Exhibits A and B).
08/10/2020	BINDOVER ORDER (BAIL N/A)
08/10/2020	JUDGE WANKER, KIMBERLY: ASSIGNED
08/17/2020	INFORMATION (FELONY/PERSON)
09/01/2020	TRANSCRIPT OF: PRELIMINARY HEARING****PJC DOCUMENT*****
09/02/2020	MEDIA REQUEST TO ALLOW ELECTRONIC RECORDING EQUIPMENT INTO THE COURTROOM

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09/04/2020 COURT MINUTES-9/4/20 - JUDGE: KIMBERLY A WANKER
CLERK: TERRI PEMBERTON
REPORTER: TRACY MANNING
BAILIFF: ERIC SCHLENER
APP: MIKE ALLMON FOR THE STATE
DANIEL MARTINEZ IS PRESENT WITH THE DEFENDANT WHO IS IN CUSTODY VIA
TELECONFERENCE

COURT CALLS THE MATTER AS AN ARRAIGNMENT HEARING. COURT OFFERS ADDITIONAL TIME FOR THE DEFENDANT TO SPEAK TO HIS ATTORNEY. THE DEFENDANT ASKS FOR SOME TIME TO SPEAK TO HIS ATTORNEY. COURT TRAILS THE MATTER TO 11 AM FOR THE DEFENDANT TO SPEAK WITH HIS ATTORNEY. COURT RECALLS THE MATTER. COURT NOTES NO GUILTY PLEA AGREEMENT HAS BEEN SUBMITTED. COURT CANVASS THE DEFENDANT, OUTLINES THE MAXIMUM POSSIBLE SENTENCE. COURT QUESTIONS THE DEFENDANT IF HE HAS ANY MENTAL DISORDERS THAT MAY AFFECT HIM MOVING FORWARD TODAY. THE DEFENDANT STATES HE DOES HAVE MULTIPLE DISORDERS AND HAS TRIED MEDICATIONS BUT THE THEY ARE NOT WORKING. COURT STATES THAT SHE CANNOT MOVE FORWARD IF THERE IS AN ISSUE WITH HIS MENTAL COMPETENCY. DEFENSE ADDRESSES AND STATES THAT HE HAS MET WITH THE DEFEDANT MULTIPLE TIMES AND HAS ZERO CONCERN WITH HIS COMPETENCY. COURT CONTINUES WITH THE CANVASS. COURT ASKS THE CLERK TO FORMALLY READ THE INFORMATION. CLERKS FORMALLY READS THE INFORMATION. DEFENDANT PLEADS NOT GUILTY TO ALL COUNTS. DEFENDANT WAIVES HIS RIGHT TO SPEEDY TRIAL.

TRIAL DATES JAN 13, 14 AND JAN 19-22, CC ON DEC 4

09/08/2020 ORDER SETTING JURY TRIAL(1/13-14/21 - 1/19-22/2021
09/14/2020 EX PARTE MOTION FOR EXTRAORDINARY FEES FOR EXPERT WITNESS COSTS
09/14/2020 EX PARTE MOTION FOR EXTRAORDINARY FEES FOR INVESTIGATIVE COSTS
09/21/2020 ORDER FOR EXTRAORDINARY FEES FOR INVESTIGATIVE COSTS
09/21/2020 ORDER FOR EXTRAORDINARY FEES FOR EXPERT WITNESS COSTS
09/23/2020 MOTION TO DISMISS
09/23/2020 DEFENDANT MARCO ANTONIO TORRES PETITION FOR WRIT OF HABEAS CORPUS
09/25/2020 TRANSCRIPT OF: ARRAIGNMENT(09/04/20)
10/06/2020 RESPONSE TO DEFENDANT'S MOTION TO DISMISS
10/12/2020 REPLY TO STATE'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS
10/12/2020 *****END OF FILE #1*****
10/16/2020 ORDER TO ISSUE WRIT OF HABEAS CORPUS (HEARING 12/04/2020, 11AM)
10/16/2020 WRIT OF HABEAS CORPUS (ISSUED - SHARON WEHRLY, SHERIFF, NYE COUNTY, NEVADA)
10/19/2020 WRIT OF HABEAS CORPUS/ RETURN OF SERVICE (SERVED 10/19/2020)
11/20/2020 RESPONSE TO PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS
11/20/2020 MOTION TO CONTINUE TRIAL DATE/ NOTICE OF MOTION (12/03/2020, 1:30PM)
(SUBMITTED BY DANIEL E. MARTINEZ, ESQ,. FOR DEFENDANT, MARCO ANTONIO TORRES)
11/23/2020 EX PARTE MOTION FOR EXTRAORDINARY FEES FOR EXPERT WITNESS COSTS
11/24/2020 ORDER FOR EXTRAORDINARY FEES FOR EXPERT WITNESS COSTS
12/01/2020 RESPONSE TO DEFENDANT'S MOTION TO CONTINUE TRIAL DATE (SUBMITTED BY DA/
CDDA & DDA FOR STATE)

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12/01/2020 COURT MINUTES-12/3/20 - JUDGE: KIMBERLY A WANKER
CLERK: TERRI PEMBERTON
REPORTER: CECILIA THOMAS
BAILIFF: ERIC SCHLENER
APP: MIKE ALLMON AND KIRK VITTO FOR THE STATE
DANIEL MARTINEZ IS PRESENT WITH THE DEFENDANT WHO IS IN CUSTODY VIA
TELECONFERENCE RONNI BOSKOVICH IS PRESENT AS SECOND CHAIR

COURT CALLS THE MATTER AS A MOTION TO DISMISS, MOTION TO CONTINUE TRIAL
DATES, CALENDAR CALL, WRIT OF HABEAS CORPUS. COURT REVIEWS THE PROCEDURE OF
A WRIT OF HABEAS CORPUS. COURT QUESTIONS THE STATE REGARDING THE
CONTINUANCE OF THE MOTION TO CONTINUE TRIAL. THE STATE DOES NOT OPPOSE.
DEFENSE STATES HE IS NOT PREPARED TO MOVE FORWARD. COURT SETS TRIAL DATES
MARCH 15-26 2021 AND CALENDAR CALL ON FEBRUARY 12 2021. COURT SETS PRE
TRIAL MOTIONS JANUARY 27 2021 AT 130 PM. COURT REVIEWS THE ISSUES WITH THE
STATUTES. COURT STATES SHE HAS NOT READ THE STATES RESPONSE AND REVIEWS HOW
IMPORTANT THE PROPER RESEARCH IS IN THE CASE TO MAKE A RULING.

12/03/2020 AMENDED ORDER SETTING JURY TRIAL(10 DAYS MARCH 15-26 2021)

12/22/2020 TRANSCRIPT OF MOTION TO CONTINUE TRIAL (HRG 12/03/20)

01/19/2021 MOTION TO CONTINUE TRIAL DATE/ NOTICE OF MOTION (01/27/2021, 1:30PM)
(SUBMITTED BY DANIEL E. MARTINEZ, ESQ., FOR DEFENDANT)

01/27/2021 COURT MINUTES (1/27/2021) - JAVS TIME: 0223
JUDGE: KIMBERLY WANKER;
CLERK: JUANITA TORRES;
BAILIFF: ERIC SCHLENER
REPORTER: SUZANNE ROWE, VIA VIDEO (BLUEJEANS);
APPEAR: DEPUTY DISTRICT ATTORNEY, MICHAEL ALLMON, ON BEHALF OF THE STATE;
ATTORNEYS DANIEL MARTINEZ AND RONNI BOSKOVICH, ON BEHALF OF THE DEFENDANT,
WHO IS PRESENT IN CUSTODY, VIA VIDEO.
COURT CALLS THE MATTERS AS DEFENDANT'S MOTION TO DISMISS, PETITION FOR WRIT
OF HABEAS CORPUS AND MOTION TO CONTINUE TRIAL. COURT ANNOUNCES, ON THE
RECORD, THE PARTIES THAT ARE PRESENT IN THE COURTROOM.
MARTINEZ CONFIRMS HE FILED A REPLY TO THE STATE'S OPPOSITION; HE ARGUES NYE
COUNTY SHERIFF'S DEPUTIES MADE ENTRY WITHOUT A WARRANT, THE STATE CLAIMS
THE EXCEPTION TO PROVIDE AIDE TO A PARTY INSIDE, MARTINEZ ARGUES THERE ARE
NO FACTS TO SUPPORT THE EXCEPTION, DEPUTIES WERE RESPONDING TO A 911
DISCONNECT, THAT TURNED INTO A WELFARE CHECK, DEPUTIES HEARD FOOTSTEPS FROM
INSIDE, THERE WAS NO REASONABLE CAUSE TO TAKE IMMEDIATE ACTION, DEPUTIES
WAITED 1 ½ HOURS BEFORE ENTERING THE HOME; MARTINEZ OUTLINES THE STATES
DISCOVERY, INFORMATION IN THE SEARCH WARRANT WAS MADE AFTER ENTRY INTO THE
HOME; REQUEST DISMISS OR EVIDENTIARY HEARING ON THE MATTER.
COURT INQUIRES WHY THIS IS NOT A MOTION TO SUPPRESS EVIDENCE AND OUTLINES
THE PRELIMINARY TRANSCRIPTS.
MARTINEZ EXPLAINS IT WAS AN UNLAWFUL ENTRANCE, ALL EVIDENCE NEEDS TO BE
SUPPRESS, EXCEPT THE 911 CALL; HE DOES NOT BELIEVE THEY HAD PROBABLE CAUSE
TO DETAIN THE DEFENDANT; HE ADVISES THE COURT HE ALSO FILE A MOTION TO
CONTINUE TRIAL AND WILL BE FILING A MOTION TO SUPPRESS DEFENDANT'S
INTERVIEW.
STATE ARGUES DUE TO THE TOTALITY OF THE CIRCUMSTANCES THE DEPUTIES HAD
P.C., THERE ARE TWO ISSUES, FIRST EMERGENCY AID EXCEPTION APPLIES, SECOND
PROBABLE CAUSE DETERMINATION, DEPUTIES MAY ASSUME IT IS ADMISSIBLE; ALLMON
OUTLINES DEFENDANT'S REBUTTAL, OBJECTING TO WAITING FOR LOCKSMITH AS NOT
BEING SWIFT ENTRY; HE OUTLINES THE INCIDENT, N.C.S.O. KNEW THERE WAS A
SECOND PERSON IN THE HOME, ARGUES A WELFARE CHECK IS AN EMERGENCY; ARGUES A
MOTION TO DISMISS IS INAPPROPRIATE.
MARTINEZ ARGUES EMERGENCY AID, WOULD NOT APPLY; ARGUES DEPUTIES WERE
UNAWARE OF THE TOTALITY WHEN THEY ARRIVED ON SCENE; OUTLINES DIFFERENCE
BETWEEN WAITING FOR A SWAT TEAM, AS TO WAITING FOR A LOCKSMITH, WHY DID
N.C.S.O. WAIT SO LONG; CLAIMS HIS ARGUMENTS ARE APPROPRIATE FOR THE TRIAL
COURT.
COURT STATES THE GENERAL RULES FOR A WARRANT, SO THAT IT DOES NOT VIOLATE
THE 4TH AMENDMENT, FIRST PROBABLE CAUSE, SECOND EXIGENT CIRCUMSTANCE,
OUTLINING THE EMERGENCY AID EXCEPTION; COURT REVIEWS, IN DETAIL, EXHIBIT 4A
FROM THE PRELIMINARY HEARING, N.C.S.O.'S "CALL DETAIL RECORD" AS TO THE
FIRST 911 CALL AND WHEN THE FIRST DEPUTY ARRIVED; COURT INQUIRES IF
POSSIBLE EXIGENT CIRCUMSTANCES OR EMERGENCY AID EXEMPTIONS, EXPIRED; COURT
REVIEWS STEPHANIE RUCKER TESTIMONY REGARDING THE 911 CALL AND LOCATION OF
THE CALL AND DEPUTIES' RESPONSE ONCE ON SEEN, STOPPING AT THE FIRST
TRAILER, BEING TOLD THE PARTIES WERE IN THE TRAILER BEHIND; HOW THE
DEFENDANT IDENTIFIED HIMSELF TO DEPUTIES, COURT QUESTIONS IF THE DEPUTIES
LOST THE EXCEPTION, BY NOT IMMEDIATELY MAKING ENTRY, HOWEVER NO ONE BRIEF
THAT ISSUE; IF THEY HAD TIME TO CALL A SUPERVISOR AND A LOCKSMITH, WHY NOT
A JUDGE FOR A WARRANT; COURT BELIEVES THIS SHOULD HAVE BEEN MOTION TO
SUPPRESS, NOT A MOTION TO DISMISS; REQUEST THE COURT'S ISSUES BE BRIEFED
AND WHAT EVIDENCE NEEDS TO BE SUPPRESS. COURT ADDRESSES THE W.H.C. AS TO
THE HABITUAL ENFORCEMENT, THERE ARE NEW STATUTES THAT MAY AFFECT THE
CHARGES, CHARGE INVASION OF THE HOME ON AN INTERIOR BEDROOM.
MARTINEZ OUTLINES OLD/NEW LAWS REGARDING INVASION OF THE HOME AND THE
INTENT OF A ROOM, CITES NEVADA LAW REGARDING FORCIBLE ENTRY.
STATE ARGUES YOU CAN REVOKE CONSENT/ACCESS TO A ROOM, READS PAGE 13 OF
STATE'S RESPONSE ON THE RECORD.
COURT READS ON THE RECORD, ALFRED V. STATE, FOOTNOTE 2 CITED IN DEFENDANT'S
MOTION, COURT FINDS COUNT III, INVASION OF A HOME STANDS; COURT OUTLINES

EACH COUNTY IN THE INFORMATION; CHARGE VII, USE OF NUNCHAKUS BEING A DANGEROUS WEAPON, THERE IS NO TESTIMONY, SLIGHT OR MARGINAL EVIDENCE INJURIES CAUSED BY THE WEAPON.

STATE ARGUES REASONABLE EVIDENCE WERE IMPRINTS OF THE NUNCHAKUS ON THE INJURIES OF THE VICTIM.

COURT READS DETECTIVE FLANCHER'S TESTIMONY, PAGE 159 OF THE PRELIMINARY HEARING TRANSCRIPT.

STATE AGREES FLANCHER IS NOT AN EXPERT, BUT ARGUES A MEDICAL EXAMINER WILL TESTIFY AS TO THE INJURIES AT TRIAL.

COURT IS FINDING SLIGHT OR MARGINAL EVIDENCE HAS NOT BEEN PRESENTED.

STATE ARGUES CIRCUMSTANTIAL EVIDENCE IS SUFFICIENT FOR PROBABLE CAUSE.

MARTINEZ ARGUES THERE IS NO CIRCUMSTANTIAL, NOR DIRECT EVIDENCE THAT NUNCHAKUS WERE USED, THERE WAS NO DNA EVIDENCE ON THE NUNCHAKUS.

COURT FINDS THERE IS NO SLIGHT OR MARGINAL EVIDENCE, CHARGE DISMISSED.

COURT ADDRESSES MOTION TO CONTINUE.

MARTINEZ ADVISES THE COURT THIS IS HIS SECOND MOTION TO CONTINUE, HIS EXPERT'S OPINION WOULD NOT BE AVAILABLE UNTIL FEBRUARY, AND ADDITIONAL TIME IS NEEDED, AS TO HIS MOTION TO SUPPRESS THE DEFENDANT'S INTERVIEW.

STATE HAS NOT WAIVED IT'S RIGHT TO SPEEDY TRIAL, HOWEVER DEFENDANT IS ALLOWED TO PREPARE FOR TRIAL, THE STATE IS NOT FORMALLY OPPOSING THE MOTION TO CONTINUE.

COURT GRANTS MOTION TO CONTINUE, SUPPRESSION ISSUES NEED TO BE FULLY BRIEFED/ADDRESSED.

MARTINEZ REQUEST MAY TRIAL DATES AND REQUEST THE CURRENT MARCH TRIAL DATE FOR HIS MOTION TO SUPPRESS.

COURT DENIES MOTION TO DISMISS AND SETS TRIAL DATES FOR:

JURY TRIAL 05/10/2021 - 05/21/2021,

PRETRIAL MOTIONS MARCH 25 AT 1:30 FOR THE MOTION TO SUPPRESS,

CALENDAR CALL APRIL 2, 2021 AT 09:00,

JURY DRAW APRIL 2, 2021.

DEFENDANT ADDRESS THE COURT, WOULD LIKE TO SPEAK TO MARTINEZ. COURT CONCURS AND CLEARS THE COURTROOM.

01/28/2021 SECOND AMENDED ORDER SETTING JURY TRIAL (MAY 10, 2021 @ 9 AM FOR 10 DAYS)

02/12/2021 DEFENDANT'S SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION TO SUPPRESS

02/26/2021 MOTION TO SUPPRESS DEFENDANT'S STATEMENTS AND REQUEST FOR JACKSON V. DENNO HEARING

03/03/2021 THE STATE'S INSTANT RESPONSE TO DEFENDANT'S SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION TO SUPPRESS

03/10/2021 RESPONSE TO DEFENDANT'S MOTION TO SUPPRESS DEFENDANT'S STATEMENTS AND REQUEST FOR JACKSON V. DENNO HEARING

03/12/2021 REPLY TO STATE'S INSTANT RESPONSE TO DEFENDANT'S SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION TO SUPPRESS

03/18/2021 REQUEST FOR DISCLOSURE

03/22/2021 TRANSCRIPT OF: MOTION TO DISMISS WRIT OF HABEAS CORPUS(1/28/21)

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03/25/2021 COURT MINUTES-3/25/21 - JUDGE: KIMBERLY A WANKER
CLERK: TERRI PEMBERTON
REPORTER: SUZIE ROWE
BAILIFF: JAMELE TAYLOR
APP: MIKE ALLMON FOR THE STATE
DANIEL MARTINEZ IS PRESENT WITH THE DEFENDANT WHO IS IN CUSTODY VIA
TELECONFERENCE
136PM
COURT CALLS THE MATTER AS PRE TRIAL MOTIONS, MOTION TO SUPPRESS AND MOTION
TO DISMISS. COURT IS IN RECEIPT OF DEFENDANT'S SUPPLEMENTAL BRIEF, MOTION
TO SUPPRESS, STATES INSTANT RESPONSE, REPLY TO STATES INSTANT RESPONSE,
MOTION TO DISMISS-SUPPLEMENTAL BRIEFING. COURT WILL BEGIN WITH THE MOTION
TO SUPPRESS AND WILL THEN HEAR THE JACKSON V DENNO HEARING. DEFENSE
ADDRESSES AND STATES HE IS NOT PREPARED FOR THE JACKSON V DENNO HEARING AND
ASKS FOR A CONTINUANCE. THE STATE WAS NOT CLEAR ABOUT TODAY'S HEARING
EITHER AND HAS NO OBJECTION TO CONTINUE THE HEARING. COURT ADMONISHES THE
PARTIES FOR NOT BEING PREPARED. COURT ADDRESSES THE MOTION TO DISMISS AND
INFORMS THE PARTIES THAT THEY DID NOT REFERENCE THE NEVADA SUPREME COURT
DECISION. COURT SO INFORMS THE PARTIES IN DETAIL OF THE NEVADA SUPREME
COURT DECISION. COURT REVIEWS THE INCIDENT IN REGARD PROBABLE CAUSE AND OR
EXIGENT CIRCUMSTANCES FOR ENTRY INTO THE TRAILER. DEFENSE ARGUES THAT THE
NEVADA SUPREME COURT DECISION WAS IN THE INITIAL BRIEF. COURT STATES THAT
THE SHERIFF'S OFFICE DID NOT NEED PROBABLE CAUSE TO ENTER AS THEY DID HAVE
EXIGENT CIRCUMSTANCES. COURT REVIEWS IN DETAIL THE 911 CALL. COURT DENIES
THE MOTION TO SUPPRESS ANY EVIDENCE. COURT MOVES TO THE JACKSON V DENNO
HEARING. DEFENSE IS NOT READY TO MOVE FORWARD WITH THE JACKSON V DENNO
HEARING. COURT RECITES THE SUPREME COURT DECISION REGARDING JACKSON V DENNO
HEARING IN ORDER FOR THE PARTIES TO BE CLEAR ON WHAT TO EXPECT. DEFENSE
ADDRESSES AND HAS AN EXPERT WITNESS FOR TRIAL BUT THE EXPERT WITNESS WILL
NOT BE READY BY THE TRIAL DATES. DEFENSE ALSO STATES THAT HIS CONTRACT FOR
PUBLIC DEFENDER IS UP APRIL 20. DEFENSE ASKS FOR A SIDE BAR. COURT BACK IN
SESSION. DEFENSE NEEDS A FEW WEEKS TO PREPARE FOR THE JACKSON V DENNO
HEARING. ALL PARTIES NEED A FULL DAY FOR THE JACKSON V DENNO HEARING. COURT
SETS THE JACKSON V DENNO HEARING TO APRIL 29. COURT SETS THE CALENDAR CALL
TO APRIL 9 IN TONOPAH DEFENSE MAY CALL IN.

03/30/2021 (DEFENDANT'S) MOTION TO CONTINUE TRIAL DATE (TRIAL 05/10/2021)

04/09/2021 STATE'S OPPOSITION TO DEFENDANT'S THIRD MOTION TO CONTINUE TRIAL DATE

04/09/2021 COURT MINUTES - @ - CR CR20-0092 MARCO ANTONIO TORRES
JUDGE: KIMBERLY A WANKER;
REPORTER: SUZANNE ROWE;
BAILIFF: JOHN CHIDLEY
CLERK: CORI FREIDHOF,
JAVS: 09.01.36
APP: MISS BOSCOVICH, KIRK VITTO & CHRIS ARABIA DDA; OFFICER DAVIS, P&P;
DANIEL MARTINEZ VIA BLUE JEANS WITH THE DEFENDANT PRESENT IN CUSTODY;
DANIEL MARTINEZ IS NOT PREPARED TO GO FORWARD, EXPERT IS CURRENTLY PLANNING
ON GOING TO LAS VEGAS ON APRIL 19TH, WON'T HAVE REPORT READY ON TIME. HE
ADDRESSES THE COURT. COURT ADDRESSES AND WONDERS WHY ANOTHER CONTINUANCE.
FROM JANUARY. THE STATE ADDRESSES THE COURT. THEY ARE READY. THERE IS A
MOTION TO CONTINUE THE TRIAL. THE STATE OPPOSES THEY WILL WAIVE THE 21 DAY
RULE AND WILL GO WITH A 14 DAY FOR THE REPORT. BOTH PARTIES TO SUPPLEMENT
THEIR WITNESSES AND MEET WITH JUDGE THURSDAY MORNING 4/15 IN THE MORNING
AND CONFIRM. COURT ADDRESSES THE DEFENDANT AND EXPLAINS WHAT HAPPENED.
STATUS CHECK 4/15 @8:15 TO DETERMINE IF TRIAL CAN BE MOVED TO THE 12-23RD
OF JULY.

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04/14/2021 COURT MINUTES-4/15/21 - JUDGE: KIMBERLY A WANKER
CLERK: TERRI PEMBERTON
REPORTER: SUZIE ROWE
BAILIFF: NONE
APP: KIRK VITTO FOR THE STATE
DANIEL MARTINEZ IS PRESENT WITH THE DEFENDANT WHO IS IN CUSTODY VIA
TELECONFERENCE

COURT CALLS THE MATTER AS A STATUS CHECK ON TRIAL DATES. COURT NOTES THAT AT THE PREVIOUS HEARING PARTIES DISCUSSED JULY 12-23 TRIAL DATES. COURT QUESTIONS THE PARTIES IF THEY WILL BE READY FOR THE JULY DATES. THE STATE REVIEWS COMMUNICATION BETWEEN THE STATE AND THE WITNESSES REGARDING THE TRIAL DATE CHANGE. THE STATE INFORMS THAT A WITNESS (THE LANDLORD) IS REFUSING TO MAKE AN ORAL AGREEMENT TO APPEAR. COURT SUGGESTS A MATERIAL WARRANT FOR THAT WITNESS. THE STATE INFORMS THAT THE INTAKE OFFICER (WITNESS) WILL BE LEAVING FOR BOOT CAMP AND WILL NOT BE AVAILABLE. DEFENSE STATES THAT THE EXPERT WITNESS WILL BE READY FOR THE JULY DATES AND ANY OTHER WITNESSES. DEFENSE STATES THAT WITNESSES WILL BE PRESENT AT THE JACKSON V DENNO HEARING AND IF NEED BE THE TRANSCRIPTS COULD BE USED AT TRIAL. COURT SETS CC TO 6/18/21 COURT SETS TRIAL DATES TO JULY 12-23.

04/15/2021 THIRD AMENDED ORDER SETTING JURY TRIAL

04/20/2021 INFORMATION(FELONY/PERSON)

04/21/2021 AMENDED INFORMATION(FELONY/PERSON) (CORRECTED CAPTION)

04/29/2021 COURT MINUTES-4/29/21 - JUDGE: KIMBERLY A WANKER
CLERK: TERRI PEMBERTON
REPORTER: SUZIE ROWE
BAILIFF: JAMELE TAYLOR
APP:MIKE ALLMON AND KIRK VITTO FOR THE STATE
DANIEL MARTINEZ IS PRESENT WITH THE DEFENDANT WHO IS IN CUSTODY

COURT CALLS THE MATTER AS A CHANGE OF PLEA. COURT NOTES THE MATTER WAS INITIALLY SET AS A JACKSON V DENNO HEARING. HOWEVER, THE MATTER IS NOW NEGOTIATED. GUILTY PLEA AGREEMENT SUBMITTED TO THE COURT. COURT OUTLINES THE NEGOTIATIONS. DEFENDANT HAS CONCERNS WITH THE PLEA AGREEMENT IN REGARD TO THE EVIDENCE. COURT INFORMS THE DEFENDANT OF THE NEGOTIATIONS, SUPPRESSION AND SENTENCING PROCESS. THE DEFENDANT DOES NOW UNDERSTAND. COURT ONCE AGAIN OUTLINES THE NEGOTIATIONS IN DETAIL FOR CLARIFICATION FOR THE DEFENDANT. DEFENDANT HAS BEEN DIAGNOSED PREVIOUSLY WITH A MENTAL DISABILITY BUT HAS NO ISSUES TODAY. DEFENDANT WAIVES FORMAL READING OF THE INFORMATION. COURT CANVASS THE DEFENDANT, OUTLINES THE GUILTY PLEA AGREEMENT FOR THE RECORD AND THE MAXIMUM POSSIBLE SENTENCE. DEFENDANT SO ACKNOWLEDGES, PLEADS GUILTY AND WAIVES HIS CONSTITUTIONAL RIGHTS TO TRIAL AND APPEAL RIGHTS. THE STATE SETS FORTH THE ELEMENTS ON THE RECORD. DEFENDANT ADDRESSES THE COURT AND ADMITS THE ALLEGATIONS. DEFENDANT DENIES ANY REQUEST FOR CONTINUANCE. COURT FINDS THE GUILTY PLEA AGREEMENT TO BE GIVEN FREELY AND ACCEPTS SAID PLEA. COURT SETS SENTENCING ON JUNE 25 2021

04/29/2021 GUILTY PLEA AGREEMENT

05/03/2021 TRANSCRIPT OF PROCEEDINGS: CALENDAR CALL (4/9/21)

06/07/2021 PRESENTENCE INVESTIGATION REPORT

06/09/2021 TRANSCRIPT OF: CHANGE OF PLEA/ARRAIGNMENT(4/29/21)

06/09/2021 TRANSCRIPT OF: MOTIONS(4/15/21)

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06/25/2021 COURT MINUTES-6/25/21 - JUDGE: KIMBERLY A WANKER
CLERK: TERRI PEMBERTON
REPORTER: SUZIE ROWE
BAILIFF: JAMELE TAYLOR
APP:MIKE ALLMON FOR THE STATE
DANIEL MARTINEZ IS PRESENT WITH THE DEFENDANT WHO IS IN CUSTODY

COURT CALLS THE MATTER AS A SENTENCING HEARING. DEFENSE ADDRESSES AND INFORMS THAT THE DEFENDANT ASKS FOR A CONTINUANCE FOR HIS SENTENCING AS THE DEFENDANT HAS MORE QUESTIONS. THE STATE WAS NOT AWARE THAT THE DEFENDANT WOULD BE ASKING FOR A CONTINUANCE AND INFORMS THAT THERE ARE 2 WITNESSES PRESENT. COURT FEELS THAT IT WOULD BE UNFAIR FOR THE WITNESSES TO COME BACK. COURT MOVES FORWARD WITH WITNESS TESTIMONY. DEFENSE STATES THAT ONE VICTIM IS THE BROTHER OF THE WITNESS WHICH HE DOES NOT OBJECT TO. THE SECOND "WITNESS" IS A "REBUTTAL WITNESS" AND DOESNT FEEL IT SHOULD BE ALLOWED. DEFENSE ASKS FOR A SIDE BAR. COURT BACK IN SESSION. COURT TRAILS THE MATTER. COURT RECALLS THE MATTER. DEFENSE REQUESTS TO CONTINUE THE SENTENCING BUT TO ALLOW THE STATEMENT FROM THE DEFENDANT, THE STATES SPEAKERS AND REBUTTAL WITNESS. COURT QUESTIONS THE DEFENDANT FOR HIS REQUEST FOR CONTINUANCE. DEFENDANT ADDRESSES AND STATES THAT THE INMATE HE WAS HOUSED WITH AND DOES NOT GET ALONG WITH WOULD BE TRANSPORTED WITH HIM AND HE DOES NOT WISH FOR THAT TO HAPPEN. COURT REVIEWS THE 2 OPTION'S OF THE SENTENCING AND INFORMS THE DEFENDANT THAT HE WOULD NOT BE TRANSPORTED WITH SAID DEFENDANT. COURT MOVES FORWARD WITH SENTENCING. DEFENSE STATES THE CTS IS INCORRECT IN THE PSI AND SHOULD BE 447 DAYS CTS. NO OBJECTION FROM THE STATE. COURT OUTLINES CASE HISTORY AND REVIEWS THE NEGOTIATIONS. THE STATE IS FREE TO ARGUE. COURT ADJUDICATES THE DEFENDANT GUILTY. DEFENSE REVIEWS THE FACTS OF THE CASE IN DETAIL. DEFENSE ARGUES FOR 10 TO 25 YEARS WITH PAROLE ELIGIBILITY AFTER 10 YEARS. THE STATE CALLS THE FIRST WITNESS CHRISTOPHER PIPER. CLERK SWEARS IN THE WITNESS CHRISTOPHER PIPER. THE STATE EXAMINES THE WITNESS IN REGARD TO HIS RELATIONSHIP WITH THE DEFENDANT AND VICTIM. THE WITNESS PROVIDES HIS TESTIMONY. DEFENSE OBJECTS TO THE TESTIMONY AS IT DOES NOT PERTAIN TO HOW THE INCIDENT HAS AFFECTED HIM. THE STATE ARGUES AND RECITES A SUPREME COURT CASE. COURT OVER RULES THE OBJECTION. THE WITNESS ASKS FOR THE MAXIMUM POSSIBLE SENTENCE. THE STATE PASSES THE WITNESS. DEFENSE HAS NO QUESTIONS FOR THE WITNESS. COURT QUESTIONS THE WITNESS. THE WITNESS IS RELEASED. COURT TRAILS THE MATTER. COURT RECALLS THE MATTER. THE STATE PROVIDES PICTURES AND VIDEO OF THE NIGHT OF THE INCIDENT. THE STATE ARGUES FOR LIFE IN PRISON WITH THE POSSIBILITY OF PAROLE IN 10 YEARS. DEFENSE REVIEWS THE CONFESSION IN DETAIL AND ARGUES FOR 10/25 YEARS. DEFENDANT APOLOGIZES TO THE WITNESSES, KNOWS HE FAILED THEM AND TAKES RESPONSIBILITY. COURT REVIEWS THE INCIDENT AND RESPONSE OF THE SHERIFF'S OFFICE IN DETAIL. COURT SENTENCES THE DEFENDANT TO LIFE WITH THE POSSIBILITY OF PAROLE IN 10 YEARS. \$25 \$3 AND \$150 447 DAYS CTS

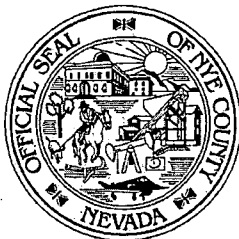
06/25/2021 JUDGMENT OF CONVICTION(FELONY/PERSON)

07/06/2021 NOTICE OF APPEAL (SUBMITTED BY RONNI N. BOSKOVICH, ESQ., OBO DANIEL E. MARTINEZ, ESQ., FOR DEFENDANT, MARCO ANTONIO TORRES)

07/06/2021 CASE APPEAL STATEMENT (SUBMITTED BY RONNI N. BOSKOVICH, ESQ., OBO DANIEL E. MARTINEZ, ESQ., FOR DEFENDANT, MARCO ANTONIO TORRES)

**OFFICE OF THE NYE COUNTY CLERK
SANDRA L. MERLINO**

Tonopah Office
Nye County Courthouse
P.O. Box 1031
101 Radar Road
Tonopah, Nevada 89049
Phone (775) 482-8127
Fax (775) 482-8133



Pahrump Office
Government Complex
1520 East Basin Avenue
Pahrump, Nevada 89060
Phone (775) 751-7040
Fax (775) 751-7047

CERTIFICATION OF COPY

**STATE OF NEVADA
COUNTY OF NYE**

SANDRA L. MERLINO, the duly elected, qualifying and acting Clerk of Nye County, in the State of Nevada, and Ex-Officio Clerk of the Fifth Judicial District Court, does hereby certify that the foregoing is a true, full and correct copy of the original documents in the action entitled:

THE STATE OF NEVADA,

Plaintiff,

vs.

Case No. CR20-0092

MARCO ANTONIO TORRES,

Defendant.

now on file and of record in this office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Fifth Judicial District Court at my office, Pahrump, Nevada, the 13th day of July, 2021.

SANDRA L. MERLINO, NYE COUNTY CLERK

By: 
Sarah A. Westfall, Deputy Clerk

**OFFICE OF THE NYE COUNTY CLERK
SANDRA L. MERLINO**

Tonopah Office
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P.O. Box 1031
101 Radar Road
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Pahrump Office
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1520 East Basin Avenue
Pahrump, Nevada 89060
Phone (775) 751-7040
Fax (775) 751-7047

Tuesday, July 13th, 2021

SENT VIA E-FILE

Supreme Court of Nevada – Clerk's Office
201 South Carson Street, #201
Carson City, Nevada 89701-4702

RE: THE STATE OF NEVADA, Plaintiff,
vs.
MARCO ANTONIO TORRES, Defendant.
District Court Case No. CR20-0092


Dear Clerk of Court:

I am submitting an appeal packet for an appeal received and filed July 6th, 2021, in the above referenced matter. As this is a criminal matter, no fees were collected.

Please feel free to contact me should you have any questions with regard to the foregoing.

Sincerely,

**SANDRA L. MERLINO
NYE COUNTY CLERK**

By 
Sarah A. Westfall
Deputy Clerk, Pahrump

cc: Daniel E. Martinez, Esq.
Nye County District Attorney
Honorable Kimberly A. Wanker