

Steven D. Grierson

IN THE EIGHTH JUDICIAL DISTRICT
COURT IN AND FOR THE COUNTY OF CLARK
NEVADA

Electronically Filed
Sep 16 2021 02:59 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

BARRY HARRIS,
PETITIONER

CASE NO: A-20-813935-W

V.

DEPT. XXXII

THE STATE OF NEVADA,
RESPONDENT

MOTION
"NOTICE OF APPEAL"

COME NOW, PETITIONER, BARRY HARRIS, PRO SAY
FILE THIS MOTION OF NOTICE OF
APPEAL FOR CASE NO: A-20-813935-W

RECEIVED

13 2021

CLERK OF THE COURT

TO THE SUPREME COURT OF THE
STATE OF NEVADA. FOR HIS
POSTCONVICTIONS ON 8/26/21 HEARING,

"MAIL ON 9/6/21"

Barry Harris

Docket 83516 Document 2021-26889

P.O. Box 1989
ELY, NEVADA 89301

LAS VEGAS NV 890
8 SEP 2021 PM 3 L
FOREVER / USA

RECEIVED
SEP 13 2021
CLERK OF THE COURT

LEGAL
MAIL



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

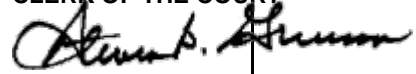
000009-10158

MAIL

LEGAL

SEP 13 2021

ELY STATE PRISON



1 ASTA
2
3
4
5
6

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

10 BARRY HARRIS,

11 Plaintiff(s),

12 vs.

13 WILLIAM GITTERE,

14 Defendant(s),
15

Case No: A-20-813935-W

Dept No: XXXII

16
17 **CASE APPEAL STATEMENT**
18

19 1. Appellant(s): Barry Harris

20 2. Judge: Christy Craig

21 3. Appellant(s): Barry Harris

22 Counsel:

23 Barry Harris #95363
24 P.O. Box 1989
Ely, NV 89301

25 4. Respondent (s): William Gittere

26 Counsel:

27 Steven B. Wolfson, District Attorney
28 200 Lewis Ave.
Las Vegas, NV 89155-2212

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

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

5 6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

6 7. Appellant Represented by Appointed Counsel On Appeal: N/A

7 8. Appellant Granted Leave to Proceed in Forma Pauperis**: Yes, May 8, 2020
8 ***Expires 1 year from date filed* (Expired)
9 Appellant Filed Application to Proceed in Forma Pauperis: No
Date Application(s) filed: N/A

10 9. Date Commenced in District Court: April 21, 2020

11 10. Brief Description of the Nature of the Action: Civil Writ

12 Type of Judgment or Order Being Appealed: Civil Writ of Habeas Corpus

13 11. Previous Appeal: No

14 Supreme Court Docket Number(s): N/A

15 12. Child Custody or Visitation: N/A

16 13. Possibility of Settlement: Unknown

17 Dated This 16 day of September 2021.

18 Steven D. Grierson, Clerk of the Court

19
20
21 /s/ Heather Ungermann

22 Heather Ungermann, Deputy Clerk
23 200 Lewis Ave
24 PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

25 cc: Barry Harris
26
27
28

CASE SUMMARY

CASE NO. A-20-813935-W

Barry Harris, Plaintiff(s)
vs.
William Gittere, Defendant(s)

§
§
§
§
§
§

Location: **Department 32**
Judicial Officer: **Craig, Christy**
Filed on: **04/21/2020**
Case Number History:
Cross-Reference Case **A813935**
Number:
Defendant's Scope ID #: **1946231**

CASE INFORMATION

Related Cases
C-17-326569-1 (Writ Related Case)

Case Type: **Writ of Habeas Corpus**

Case Status: **04/21/2020 Open**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-20-813935-W
Court Department 32
Date Assigned 01/04/2021
Judicial Officer Craig, Christy

PARTY INFORMATION

Plaintiff **Harris, Barry**

Lead Attorneys
Lichtenstein, Allen
Retained
7024332666(W)

Defendant **Gittere, William**







Wolfson, Steven B
Retained
702-455-5320(W)

DATE



EVENTS & ORDERS OF THE COURT

INDEX

EVENTS

04/21/2020	 Motion for Appointment of Attorney [1] <i>Ex Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing</i>
04/21/2020	 Filed Under Seal [2] <i>Financial Certificate</i>
04/21/2020	 Motion for Leave to Proceed in Forma Pauperis [3]
04/21/2020	 Inmate Filed - Petition for Writ of Habeas Corpus [4] <i>Petition for Writ of Habeas Corpus (Postconviction)</i>
05/01/2020	 Application to Proceed in Forma Pauperis [5] <i>Affidavit in Support of Motion to Proceed in Forma Pauperis</i>
05/08/2020	 Order to Proceed In Forma Pauperis [6] <i>Order to Proceed In Forma Pauperis</i>
05/12/2020	

CASE SUMMARY
CASE NO. A-20-813935-W

	 Order for Petition for Writ of Habeas Corpus <i>[7] Order for Petition for Writ of Habeas Corpus</i>
06/17/2020	 Ex Parte Motion Filed By: Plaintiff Harris, Barry <i>[8] Ex Parte Motion for Order to Transport Prisoner</i>
09/04/2020	 Motion Filed By: Plaintiff Harris, Barry <i>[9] Motion to Change Address</i>
09/23/2020	 Motion Filed By: Plaintiff Harris, Barry <i>[10] Motion and Order for Transportation of Inmate for Court Appearance or in the Alternative for Appearance by Telephone or Video Conference</i>
09/23/2020	 Notice of Motion Filed By: Plaintiff Harris, Barry <i>[11] Notice of Motion</i>
09/24/2020	 Subpoena Duces Tecum <i>[12] Subpoena Duces Tecum</i>
10/02/2020	 Response Filed by: Defendant Gittere, William <i>[13] State's Response to Petition for Writ of Habeas Corpus (Postconviction) and Ex Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing</i>
10/14/2020	 Subpoena Duces Tecum Filed by: Plaintiff Harris, Barry <i>[14] Subpoena -Civil Regular / Duces Tecum</i>
10/26/2020	 Motion Filed By: Plaintiff Harris, Barry <i>[15] Motion</i>
11/04/2020	 Subpoena Electronically Issued <i>[17] Subpoena</i>
11/04/2020	 Subpoena Electronically Issued <i>[18] Subpoena</i>
11/24/2020	 Notice of Appearance <i>[19] Notice of Appearance</i>
01/04/2021	Case Reassigned to Department 32 <i>Judicial Reassignment to Judge Christy Craig</i>
02/03/2021	 Change of Address <i>[20] Motion of Change of Address</i>
04/08/2021	 Supplement Filed by: Plaintiff Harris, Barry <i>[21] Supplemental Petition for a Writ of Habeas Corpus</i>

CASE SUMMARY
CASE NO. A-20-813935-W

06/03/2021



Memorandum

Filed By: Plaintiff Harris, Barry
[22] Memorandum to the Court

06/10/2021



Response

[23] State's Response to Supplemental Petition for Writ of Habeas Corpus (Postconviction) and Request for Evidentiary Hearing

06/21/2021



Reply

Filed by: Plaintiff Harris, Barry
[24] Petitioner's Reply to the State's Response to the Petition for a Writ of Habeas Corpus

08/11/2021



Ex Parte Motion

Filed By: Plaintiff Harris, Barry
[25] Ex Parte Motion for Order to Transport Prisoner

09/14/2021



Notice of Appeal

[26] Notice of Appeal

09/16/2021



Case Appeal Statement

Filed By: Plaintiff Harris, Barry
Case Appeal Statement

HEARINGS

11/03/2020



Petition for Writ of Habeas Corpus (12:00 PM) (Judicial Officer: Johnson, Eric)

Granted in Part;

Journal Entry Details:

Court noted the Petition itself is largely insufficient but it was timely filed. The Court further noted Deft. asked for assistance of as he is looking at sentence of 15 years to life, non-successive. COURT ORDRED, petition GRANTED; Clerk to contact Drew Christensen for appointment of counsel and will set a status check for confirmation of counsel upon response. CUSTODY (NDC);

11/24/2020



Confirmation of Counsel (1:45 PM) (Judicial Officer: Johnson, Eric)

Confirmaiton of Counsel: Allen Lichtenstein, Esq.

Confirmed;

Journal Entry Details:

Mr. Lichtenstein CONFIRMED AS COUNSEL and stated that he just received the case and is not that familiar with it at this time. COURT ORDERED, matter SET for a status check to set a briefing schedule. 12/08/20 12:00 PM STATUS CHECK: SET BRIEFING SCHEDULE;

12/08/2020



Status Check (12:00 PM) (Judicial Officer: Johnson, Eric)

Status Check: Set Briefing Schedule

Briefing Schedule Set;

Journal Entry Details:

Allen Lichtenstein, Esq. and Morgan Thomas, Esq. present via Bluejeans video conference. Def. not present. Colloquy regarding briefing schedule. Following colloquy, COURT ORDERED the following Briefing Schedule: Supplemental Brief due by April 8, 2021, Answer/Response due by May 6, 2021, Reply due by June 10, 2020, and matter SET for Argument. NDC 06/24/2021 8:30 AM ARGUMENT;

06/24/2021



Argument (11:00 AM) (Judicial Officer: Craig, Christy)

06/24/2021, 08/26/2021

ARGUMENT: PETITION FOR WRIT OF HABEAS CORPUS

Continued;

CASE SUMMARY

CASE NO. A-20-813935-W

Journal Entry Details:

Petitioner not present, incarcerated in the Nevada Dept. of Corrections. COURT ADVISED, it had read all of the pleadings and it was inclined to set this matter for an evidentiary hearing. Mr. Jones stated he was not served with the Supplemental Brief; therefore, requested the opportunity to file a response. Mr. Lichenstein agreed that service had not originally been effectuated; however, it was served and Mr. Vanboskerck had filed a response, and he filed a reply. Upon Court's inquiry, Mr. Lichenstein stated he did not believe that the Petitioner needed to be present for the continuance setting and requested it be set out sixty days. COURT ORDERED, matter SET for evidentiary hearing on a special setting. 8/26/21 - 12:30 PM - EVIDENTIARY HEARING ... ARGUMENT: PETITION FOR WRIT OF HABEAS CORPUS;

08/26/2021

Evidentiary Hearing (12:30 PM) (Judicial Officer: Craig, Christy)

DISTRICT COURT CIVIL COVER SHEET

County, Nevada

A-20-813935-W

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

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

Plaintiff(s) (name/address/phone): <div style="text-align: center; padding: 5px;">Barry Harris</div>	Defendant(s) (name/address/phone): <div style="text-align: center; padding: 5px;">William Gittere, ESP W</div>
Attorney (name/address/phone):	Attorney (name/address/phone):

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

Civil Case Filing Types

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate <i>(select case type and estate value)</i> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input checked="" type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <div style="margin-left: 150px;"> <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ </div>		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

4/21/20

Date

Prepared by Clerk

Signature of initiating party or representative

See other side for family-related case filings.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

November 03, 2020

A-20-813935-W Barry Harris, Plaintiff(s)
vs.
William Gittere, Defendant(s)

**November 03, 2020 12:00 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Johnson, Eric

COURTROOM: RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Thomson, Megan Attorney

JOURNAL ENTRIES

- Court noted the Petition itself is largely insufficient but it was timely filed. The Court further noted Deft. asked for assistance of as he is looking at sentence of 15 years to life, non-successive. COURT ORDRED, petition GRANTED; Clerk to contact Drew Christensen for appointment of counsel and will set a status check for confirmation of counsel upon response.

CUSTODY (NDC)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

November 24, 2020

A-20-813935-W Barry Harris, Plaintiff(s)
vs.
William Gittere, Defendant(s)

November 24, 2020 1:45 PM Confirmation of Counsel

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Kristen Brown

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Lichtenstein, Allen Attorney
Merback, William J. Attorney

JOURNAL ENTRIES

- Mr. Lichtenstein CONFIRMED AS COUNSEL and stated that he just received the case and is not that familiar with it at this time. COURT ORDERED, matter SET for a status check to set a briefing schedule.

12/08/20 12:00 PM STATUS CHECK: SET BRIEFING SCHEDULE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

December 08, 2020

A-20-813935-W Barry Harris, Plaintiff(s)
vs.
William Gittere, Defendant(s)

December 08, 2020 12:00 AM Status Check

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Ro'Shell Hurtado

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Lichtenstein, Allen Attorney

JOURNAL ENTRIES

- Allen Lichtenstein, Esq. and Morgan Thomas, Esq. present via Bluejeans video conference. Deft. not present.

Colloquy regarding briefing schedule. Following colloquy, COURT ORDERED the following Briefing Schedule: Supplemental Brief due by April 8, 2021, Answer/Response due by May 6, 2021, Reply due by June 10, 2020, and matter SET for Argument.

NDC

06/24/2021 8:30 AM ARGUMENT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

June 24, 2021

A-20-813935-W Barry Harris, Plaintiff(s)
vs.
William Gittere, Defendant(s)

June 24, 2021	11:00 AM	Argument
---------------	----------	----------

HEARD BY: Craig, Christy **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Andrea Natali

RECORDER: Kaihla Berndt

REPORTER:

PARTIES

PRESENT:	Jones, Jr., John T.	Attorney
	Lichtenstein, Allen	Attorney

JOURNAL ENTRIES

- Petitioner not present, incarcerated in the Nevada Dept. of Corrections.

COURT ADVISED, it had read all of the pleadings and it was inclined to set this matter for an evidentiary hearing. Mr. Jones stated he was not served with the Supplemental Brief; therefore, requested the opportunity to file a response. Mr. Lichenstein agreed that service had not originally been effectuated; however, it was served and Mr. Vanboskerck had filed a response, and he filed a reply. Upon Court's inquiry, Mr. Lichenstein stated he did not believe that the Petitioner needed to be present for the continuance setting and requested it be set out sixty days. COURT ORDERED, matter SET for evidentiary hearing on a special setting.

8/26/21 - 12:30 PM - EVIDENTIARY HEARING ... ARGUMENT: PETITION FOR WRIT OF HABEAS CORPUS



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

BARRY HARRIS #95363
P.O. BOX 1989
ELY, NV 89301

DATE: September 16, 2021
CASE: A-20-813935-W

RE CASE: BARRY HARRIS vs. WILLIAM GITTERE

NOTICE OF APPEAL FILED: September 14, 2021

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

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

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

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

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

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

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

Certification of Copy

State of Nevada }
County of Clark } SS:

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

MOTION "NOTICE OF APPEAL"; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

BARRY HARRIS,

Plaintiff(s),

vs.

WILLIAM GITTERE,

Defendant(s),

Case No: A-20-813935-W

Dept No: XXXII

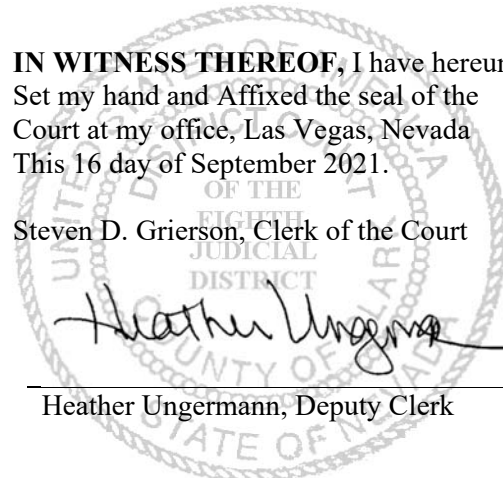
now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 16 day of September 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk





**EIGHTH JUDICIAL DISTRICT COURT
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER
200 LEWIS AVENUE, 3rd FL.
LAS VEGAS, NEVADA 89155-1160
(702) 671-4554

Steven D. Grierson
Clerk of the Court

Anntoinette Naumec-Miller
Court Division Administrator

September 16, 2021

Elizabeth A. Brown
Clerk of the Court
201 South Carson Street, Suite 201
Carson City, Nevada 89701-4702

RE: BARRY HARRIS vs. WILLIAM GITTERE
D.C. CASE: A-20-813935-W

Dear Ms. Brown:

Please find enclosed a Notice of Appeal packet, filed September 16, 2021. Due to extenuating circumstances minutes from the date(s) listed below have not been included:

August 26, 2021

We do not currently have a time frame for when these minutes will be available.

If you have any questions regarding this matter, please contact me at (702) 671-0512.

Sincerely,
STEVEN D. GRIERSON, CLERK OF THE COURT

HEATHER UNGERMANN
Heather Ungermann, Deputy Clerk