

IN THE SUPREME COURT OF THE STATE OF NEVADA

BARRY HARRIS,
Appellant,

v.

THE STATE OF NEVADA,
Respondent.

Electronically Filed
Jun 09 2022 01:50 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No. 83516

RESPONDENT'S APPENDIX

DUSTIN R. MARCELLO, ESQ.
Nevada Bar #010134
Dustin R. Marcello, CHTD.
601 Las Vegas Blvd.
(702) 474-7554

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
Regional Justice Center
200 Lewis Avenue
Post Office Box 552212
Las Vegas, Nevada 89155-2212
(702) 671-2500
State of Nevada

AARON D. FORD
Nevada Attorney General
Nevada Bar # 007704
100 North Carson Street
Carson City, Nevada 89701-4717
(775) 684-1265

Counsel for Appellant

Counsel for Respondent

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CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on 9th day of June, 2022. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON D. FORD
Nevada Attorney General

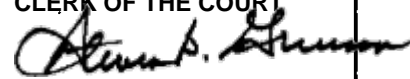
DUSTIN R. MARCELLO, ESQ.
Counsel for Appellant

JONATHAN E. VANBOSKERCK
Chief Deputy District Attorney

/s/ J. Hall

Employee, Clark County
District Attorney's Office

JEV/Suzanne Rorhus/jh



INFM
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
MICHELLE SUDANO
Deputy District Attorney
Nevada Bar #013260
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

I.A. 01/18/18
10:00 AM
D. SHEETS

THE STATE OF NEVADA,
Plaintiff,

CASE NO: C-17-326569-1

-vs-

DEPT NO: XX

BARRY HARRIS, aka,
Barry Rashad Harris, #1946231,
Defendant.

INFORMATION

STATE OF NEVADA }
COUNTY OF CLARK } ss.

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That BARRY HARRIS, aka, Barry Rashad Harris, the Defendant(s) above named, having committed the crimes of **BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony - NRS 205.060 - NOC 50426); FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category A Felony - NRS 200.310, 200.320, 193.165 - NOC 50056); ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201); BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE (Category B Felony - NRS 200.481; 200.485; 33.018 - NOC 57935); BATTERY CONSTITUTING DOMESTIC VIOLENCE - STRANGULATION (Category C Felony - NRS 200.481; 200.485; 33.018 - NOC 54740); BATTERY**

1 **RESULTING IN SUBSTANTIAL BODILY HARM CONSTITUTING DOMESTIC**
2 **VIOLENCE (Category C Felony - NRS 200.481; 200.485; 33.018 - NOC 57937);**
3 **PREVENTING OR DISSUADING WITNESS OR VICTIM FROM REPORTING**
4 **CRIME OR COMMENCING PROSECUTION (Category D Felony - NRS 199.305 -**
5 **NOC 52996); CARRYING CONCEALED FIREARM OR OTHER DEADLY**
6 **WEAPON (Category C Felony - NRS 202.350 (1)(d)(3) - NOC 51459) and OWNERSHIP**
7 **OR POSSESSION OF FIREARM BY PROHIBITED PERSON (Category B Felony -**
8 **NRS 202.360 - NOC 51460),** on or about the 22nd day of August, 2017, within the County of
9 Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made
10 and provided, and against the peace and dignity of the State of Nevada,

11 COUNT 1 – BURGLARY WHILE IN POSSESSION OF A FIREARM

12 did willfully, unlawfully, and feloniously enter, with intent to commit an assault and/or
13 battery, that certain building occupied by NICOLE DOTSON, located at 3850 Mountain Vista,
14 Apartment No. 267, Las Vegas, Clark County, Nevada, said Defendant did possess and/or gain
15 possession of a firearm during the commission of the crime and/or before leaving the structure.

16 COUNT 2 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON
17 RESULTING IN SUBSTANTIAL BODILY HARM

18 did willfully, unlawfully, and feloniously, seize, confine, inveigle, entice, decoy,
19 abduct, conceal, kidnap, or carry away NICOLE DOTSON, a human being, with the intent to
20 hold or detain the said NICOLE DOTSON against her will, and without her consent, for the
21 purpose of committing inflicting substantial bodily harm, to wit: by forcing her into the
22 bathroom and/or preventing her from leaving the apartment and/or bathroom, with use of a
23 deadly weapon, to wit: a firearm, resulting in substantial bodily harm to NICOLE DOTSON.

24 COUNT 3 - ASSAULT WITH A DEADLY WEAPON

25 did willfully, unlawfully, feloniously and intentionally place another person in
26 reasonable apprehension of immediate bodily harm and/or did willfully and unlawfully
27 attempt to use physical force against another person, to wit: NICOLE DOTSON, with use of
28

1 a deadly weapon, to wit: a firearm, by pointing the said firearm at NICOLE DOTSON while
2 threatening to kill her.

3 COUNT 4 - BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING
4 DOMESTIC VIOLENCE

5 did willfully and unlawfully use force or violence against or upon the person of
6 NICOLE DOTSON, a person with whom the Defendant has a dating relationship, with use of
7 a deadly weapon, to wit: a firearm, by shoving said firearm into the mouth of the said NICOLE
8 DOTSON and/or striking her with said firearm.

9 COUNT 5 - BATTERY CONSTITUTING DOMESTIC VIOLENCE - STRANGULATION

10 did willfully, unlawfully, and feloniously use force or violence upon the person of
11 NICOLE DOTSON, a person with whom the Defendant has a dating relationship, by
12 strangulation.

13 COUNT 6 - BATTERY RESULTING IN SUBSTANTIAL BODILY HARM
14 CONSTITUTING DOMESTIC VIOLENCE

15 did willfully and unlawfully use force or violence against or upon the person of his
16 spouse, former spouse, any other person to whom he is related by blood or marriage, a person
17 with whom he has had or is having a dating relationship, a person whom he has a child in
18 common, the minor child of any of those persons or his minor child, to wit: NICOLE
19 DOTSON, by punching and/or hitting and/or kicking the said NICOLE DOTSON about the
20 head and/or body, resulting in substantial bodily harm.

21 COUNT 7 - PREVENTING OR DISSUADING WITNESS OR VICTIM FROM
22 REPORTING CRIME OR COMMENCING PROSECUTION

23 did then and there willfully, unlawfully, and feloniously, by intimidation or threats,
24 prevent or dissuade, or hinder or delay NICOLE DOTSON, from reporting a crime to police
25 and/or commencing prosecution by stating that he would kill her if she called the police and/or
26 stating that he would blow her brains out if she made any noise.

27 COUNT 8 - CARRYING CONCEALED FIREARM OR OTHER DEADLY WEAPON

28 did then and there willfully, intentionally, unlawfully and feloniously carry concealed


upon his person, a firearm or other deadly weapon, to wit: firearm.

COUNT 9 - OWNERSHIP OR POSSESSION OF FIREARM BY PROHIBITED PERSON

did willfully, unlawfully, and feloniously own, or have in his possession and/or under his custody or control, a handgun, to wit: firearm, the Defendant being a convicted felon, having in 2006, been convicted of Battery With Deadly Weapon Resulting in Substantial Bodily Harm, in Case No. C220524, in the Eighth Judicial District Court, Clark County, a felony under the laws of the State of Nevada.

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

BY


MICHELLE SUDANO
Deputy District Attorney
Nevada Bar #013260

Names of witnesses known to the District Attorney's Office at the time of filing this Information are as follows:

<u>NAME</u>	<u>ADDRESS</u>
CAREY, KEVIN D.	LVMPD #8739
CUSTODIAN OF RECORDS	CCDC
CUSTODIAN OF RECORDS	LVMPD COMMUNICATIONS
CUSTODIAN OF RECORDS	LVMPD RECORDS
DOTSON, NICOLE	C/O DISTRICT ATTORNEY'S OFFICE
FERRON, BLAKE MARSHALL	LVMPD #15322
HAMBLY, MICHAEL S.	LVMPD #6614
PATTERSON, DEBRA	District Attorney Process Server
PLOENSE, KELLY	District Attorney Process Server
REVELS, JEROME	District Attorney Investigator
WARNKE, RICHMOND	District Attorney Process Server

17F15265X/td/dvu
LVMPD EV#1708224075
(TK1)

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT
APR 16 2018

BY Linda Skinner
LINDA SKINNER, DEPUTY 4:14pm

1 VER

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4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,

8 Plaintiff,

9 -vs-

10 BARRY HARRIS,

11 Defendant.

CASE NO: C-17-326569-1

DEPT NO: XX

12 VERDICT

13 We, the jury in the above entitled case, find the Defendant BARRY HARRIS, as
14 follows:

15 **COUNT 1** - BURGLARY WHILE IN POSSESSION OF A FIREARM

16 (Please check the appropriate box, select only one)

- 17 ☐ Guilty of Burglary While in Possession of a Firearm
18 ☐ Guilty of Burglary
19 ☒ Not Guilty

20 ///

21 ///

22 ///

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28 C-17-326569-1
VER
Verdict
4738349



1 We, the jury in the above entitled case, find the Defendant BARRY HARRIS, as
2 follows:

3 **COUNT 2** – FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON
4 RESULTING IN SUBSTANTIAL BODILY HARM

5 *(Please check the appropriate box, select only one)*

- 6 ☐ Guilty of First Degree Kidnapping with Use of a Deadly Weapon
7 Resulting in Substantial Bodily Harm
- 8 ☐ Guilty of First Degree Kidnapping with Use of a Deadly Weapon
- 9 ☒ Guilty of First Degree Kidnapping Resulting in Substantial Bodily
10 Harm
- 11 ☐ Guilty of First Degree Kidnapping
- 12 ☐ Guilty of False Imprisonment
- 13 ☐ Not Guilty

14 We, the jury in the above entitled case, find the Defendant BARRY HARRIS, as
15 follows:

16 **COUNT 3** – ASSAULT WITH USE OF A DEADLY WEAPON

17 *(Please check the appropriate box, select only one)*

- 18 ☐ Guilty of Assault with Use of a Deadly Weapon
- 19 ☒ Guilty of Assault
- 20 ☐ Not Guilty

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

1 We, the jury in the above entitled case, find the Defendant BARRY HARRIS, as
2 follows:

3 **COUNT 4** – BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING
4 DOMESTIC VIOLENCE

5 *(Please check the appropriate box, select only one)*

- 6 ☐ Guilty of Battery with Use of a Deadly Weapon Constituting Domestic
7 Violence
8 ☒ Guilty of Battery Constituting Domestic Violence
9 ☐ Not Guilty

10 We, the jury in the above entitled case, find the Defendant BARRY HARRIS, as
11 follows:

12 **COUNT 5** – BATTERY CONSTITUTING DOMESTIC VIOLENCE-STRANGULATION

13 *(Please check the appropriate box, select only one)*

- 14 ☐ Guilty of Battery Constituting Domestic Violence - Strangulation
15 ☒ Not Guilty
16

17 We, the jury in the above entitled case, find the Defendant BARRY HARRIS, as
18 follows:

19 **COUNT 6** – BATTERY RESULTING IN SUBSTANTIAL BODILY HARM
20 CONSTITUTING DOMESTIC VIOLENCE

21 *(Please check the appropriate box, select only one)*

- 22 ☒ Guilty of Battery Resulting in Substantial Bodily Harm Constituting
23 Domestic Violence
24 ☐ Guilty of Battery Constituting Domestic Violence
25 ☐ Not Guilty
26

27 We, the jury in the above entitled case, find the Defendant BARRY HARRIS, as
28 follows:

1 **COUNT 7** - PREVENTING OR DISSUADING WITNESS OR VICTIM FROM
2 REPORTING CRIME OR COMMENCING PROSECUTION

3 *(Please check the appropriate box, select only one)*

- 4 ☐ Guilty of Preventing or Dissuading Witness or Victim from Reporting
5 Crime or Commencing Prosecution
6 ☒ Not Guilty

7
8 We, the jury in the above entitled case, find the Defendant BARRY HARRIS, as
9 follows:

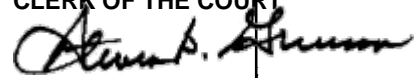
10 **COUNT 8** - CARRYING CONCEALED FIREARM OR OTHER DEADLY WEAPON

11 *(Please check the appropriate box, select only one)*

- 12 ☐ Guilty of Carrying Concealed Firearm or Other Deadly Weapon
13 ☒ Not Guilty

14
15
16 DATED this 16th day of April, 2018

17
18 
19 FOREPERSON



JOC

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

BARRY HARRIS, aka
Barry Rashad Harris
#1946231

Defendant.

CASE NO. C-17-326569-1

DEPT. NO. XX

JUDGMENT OF CONVICTION

(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1 – BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony) in violation of NRS 205.060; COUNT 2 – FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category A Felony) in violation of NRS 200.310, 200.320, 193.165; COUNT 3 – ASSAULT WITH A DEADLY WEAPON (Category B Felony) in violation of NRS 200.471; COUNT 4 – BATTERY WITH USE OF A DEADLY WEAPON CONSTITUTING DOMESTIC VIOLENCE (Category B

1 Felony) in violation of NRS 200.481, 200.485, 33.018; COUNT 5 – BATTERY
2 CONSTITUTING DOMESTIC VIOLENCE - STRANGULATION (Category C Felony) in
3 violation of NRS 200.481C 200.485, 33.018; COUNT 6 – BATTERY RESULTING IN
4 SUBSTANTIAL BODILY HARM CONSTITUTING DOMESTIC VIOLENCE (Category C
5 Felony) in violation of NRS 200.481, 200.485, 33.018; COUNT 7 – PREVENTING OR
6 DISSUADING WITNESS OR VICTIM FROM REPORTING CRIME OR COMMENCING
7 PROSECUTION (Category D Felony) in violation of NRS 199.305; and COUNT 8 –
8 CARRYING CONCEALED FIREARM OR OTHER DEADLY WEAPON (Category C
9 Felony) in violation of NRS 202.350(1)(d)(3); and the matter having been **tried before a jury**
10 and the Defendant having been found guilty of the crimes of COUNT 2 – FIRST DEGREE
11 KIDNAPPING RESULTING IN SUBSTANTIAL BODILY HARM (Category A Felony) in
12 violation of NRS 200.320; COUNT 3 – ASSAULT (Misdemeanor) in violation of NRS
13 200.471; COUNT 4 – BATTERY CONSTITUTING DOMESTIC VIOLENCE (Misdemeanor)
14 in violation of NRS 200.485; and COUNT 6 – BATTERY RESULTING IN SUBSTANTIAL
15 BODILY HARM CONSTITUTING DOMESTIC VIOLENCE (Category C Felony) in violation
16 of NRS 200.481, 200.485, 33.018; thereafter, on the 14th day of August, 2018, the Defendant
17 was present in court for **sentencing** with counsel DAMIAN SHEETS, ESQ., and good cause
18 appearing,
19
20
21
22

23 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in addition
24 to the \$25.00 Administrative Assessment Fee, \$35.00 Domestic Violence Fee plus \$3.00 DNA
25 Collection Fee, the Defendant is SENTENCED to the Nevada Department of Corrections
26 (NDC) as follows: **COUNT 2 - LIFE** with the eligibility of parole after serving a MINIMUM
27
28

1 of FIFTEEN (15) YEARS; **COUNT 3** – SIX (6) MONTHS in the Clark County Detention
2 Center (CCDC); CONCURRENT with COUNT 2; **COUNT 4** - SIX (6) MONTHS in the Clark
3 County Detention Center (CCDC); CONCURRENT with COUNT 3; and **COUNT 6** - a
4 MAXIMUM of SIXTY (60) MONTHS with a MINIMUM parole eligibility of TWENTY-
5 FOUR (24) MONTHS, in the Nevada Department of Corrections (NDC); CONCURRENT with
6 COUNT 2; with THREE HUNDRED FIFTY-ONE (351) DAYS credit for time served. As the
7 \$150.00 DNA Analysis Fee and Genetic Testing have been previously imposed, the Fee and
8 Testing in the current case are WAIVED.
9

10 DATED this 15 day of August, 2018.

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15 ERIC JOHNSON
16 DISTRICT COURT JUDGE
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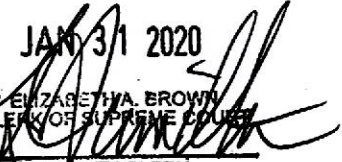
IN THE SUPREME COURT OF THE STATE OF NEVADA

BARRY RASHAD HARRIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 76774
District Court Case No. C326569

FILED

JAN 31 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.

DATE: January 13, 2020

Elizabeth A. Brown, Clerk of Court

By: Monique Mercier
Administrative Assistant

cc (without enclosures):

Hon. Eric Johnson, District Judge
Mayfield, Gruber & Sheets \ Damian Robert Sheets
Clark County District Attorney \ Alexander G. Chen, Chief Deputy District
Attorney

RECEIPT FOR REMITTITUR

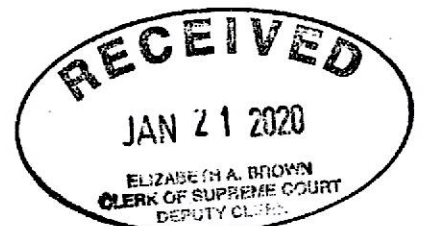
Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on JAN 16 2020.


Deputy District Court Clerk

RECEIVED
APPEALS

JAN 16 2020

CLERK OF THE COURT



IN THE SUPREME COURT OF THE STATE OF NEVADA

BARRY RASHAD HARRIS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 76774
District Court Case No. C326569

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

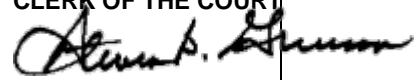
"ORDER the judgment of conviction AFFIRMED."

Judgment, as quoted above, entered this 19th day of December, 2019.

IN WITNESS WHEREOF, I have subscribed
my name and affixed the seal of the Supreme
Court at my Office in Carson City, Nevada this
January 13, 2020.

Elizabeth A. Brown, Supreme Court Clerk

By: Monique Mercier
Administrative Assistant



1 RTRAN

2
3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 BARRY HARRIS,

9 Plaintiff,

10 vs.

11 WILLIAM GITTERE,

12 Defendant.

CASE NO: A-20-813935-W

DEPT. XXXII

13
14 BEFORE THE HONORABLE CHRISTY CRAIG, DISTRICT COURT JUDGE
15 THURSDAY, JUNE 24, 2021

16 **RECORDER'S TRANSCRIPT OF HEARING RE:**
17 **ARGUMENT: PETITION FOR WRIT OF HABEAS CORPUS**

18 APPEARANCES:

19 For the State: JOHN T. JONES, JR., ESQ.
20 Chief Deputy District Attorney

21 For the Defendant: ALLEN K. LICHTENSTEIN, ESQ.

22
23
24
25 RECORDED BY: KAIHLA BERNDT, COURT RECORDER

1 Las Vegas, Nevada; Thursday, June 24, 2021

2
3 [Proceeding commenced at 11:59 a.m.]

4 THE COURT: State of Nevada versus Barry Harris, A813935.
5 This is on page 2. I see Mr. Lichtenstein is on the line. Sir, can you
6 hear me?

7 UNIDENTIFIED SPEAKER: Yes.

8 MR. LICHTENSTEIN: Yes, Your Honor.

9 MR. JONES: And, Your Honor, John Jones covering this
10 matter for our appellate unit.

11 THE COURT: I appreciate that. So -- I'm inclined to set an
12 evidentiary hearing. I reviewed all of the pleadings, and I think that
13 that's the appropriate thing to do. I'm happy to hear arguments from the
14 State, if you think that you need to argue it. But I'm inclined -- I think it's
15 -- I think it's probably important to set an evidentiary hearing.

16 MR. JONES: So, Judge, I just want to be clear though. It
17 appears that a supplemental was filed.

18 THE COURT: Yeah.

19 MR. JONES: And according to our appellate unit, we were not
20 served with that supplemental. We went into the e-filing system to check
21 the service contacts, and nobody has been added, which is -- is not
22 proper service. So we are asking for an opportunity --

23 THE COURT: Sure.

24 MR. JONES: -- to respond to that supplemental.

25 THE COURT: Mr. Lichtenstein.

1 MR. LICHTENSTEIN: Mr. Vanboskerck was served and he --

2 UNIDENTIFIED SPEAKER: Hello. Yeah.

3 THE COURT: Sir, could you hear -- can you hear me?

4 UNIDENTIFIED SPEAKER: Yes. Hello.

5 THE COURT: No.

6 THE COURT RECORDER: That's the other Defendant.

7 THE COURT CLERK: I'm muting him --

8 THE COURT RECORDER: That's the other Defendant.

9 THE COURT CLERK: I'm muting him because that's from the
10 last case, right?

11 THE COURT RECORDER: Yes.

12 THE COURT: Allen, can you hear me?

13 THE COURT RECORDER: He seems to be having some
14 connection issues.

15 MR. LICHTENSTEIN: Yes.

16 THE COURT: Yes. Did hear all that discussion?

17 MR. LICHTENSTEIN: What I heard was that were improperly
18 served. Initially that was true, subsequently Mr. Vanboskerck was
19 served, and in fact, there was a response filed. And I replied to the
20 response. So --

21 THE COURT: I was just getting ready to look. I thought I
22 actually had read that. Stand by.

23 MR. JONES: I thought it was a supplemental that we needed
24 time to respond to. Is this -- are you referring to the --

25 MR. LICHTENSTEIN: No, it was supplemental -- it was the

1 supplemental that was served, and there was the response.

2 MR. JONES: Okay. That's what I needed to know.

3 MR. LICHTENSTEIN: It was served I believe -- the response
4 was served I believe on -- 8th. A reply was filed this past Monday.

5 MR. JONES: Okay.

6 MR. LICHTENSTEIN: I could do with -- it had to do with the --

7 THE COURT: Yeah, the reply was filed on June 21st of 2021.

8 MR. JONES: Okay. So we did get a response filed then?

9 THE COURT: That's -- that's my understanding it was --

10 MR. JONES: Okay. And then, Your Honor is indicating that
11 you're wanting a hearing?

12 THE COURT: I think an evidentiary hearing is appropriate.
13 Stand by. Yeah, the Petitioner filed a reply on June 21st. The State filed
14 a response on June 10th.

15 MR. JONES: Okay. So my notes are little bit behind then.
16 Sorry about, Your Honor.

17 THE COURT: That's okay.

18 MR. JONES: And then are there any particular issues, Your
19 Honor, is wanting us to focus on during the evidentiary hearing or just all
20 the issues raised in the petition?

21 THE COURT: All the issues raised in the petition.

22 Mr. Lichtenstein, how long do you need to prepare, and do
23 you want the client to be present?

24 MR. LICHTENSTEIN: I don't think the client needs to be
25 present.

1 THE COURT: Okay. And how long do you need --
2 MR. LICHTENSTEIN: In terms of the preparation --
3 THE COURT: Yeah.
4 MR. LICHTENSTEIN: -- about sixty days. Part of that is that I
5 will be out of -- for a while.
6 THE COURT: So, we're talking about August sometime?
7 THE COURT CLERK: End of August, yeah.
8 MR. LICHTENSTEIN: Yeah.
9 THE COURT CLERK: So, we can do it on our normal
10 calendar, or you want a special set for this?
11 THE COURT: Let's do it at the end of our normal calendar, so
12 let's go ahead and do a real official 12:30 setting.
13 THE COURT CLERK: Okay. I'll set it like separately, so that
14 we know. So we're looking -- August 26.
15 THE COURT: Mr. Lichtenstein, is August 26 work for you?
16 MR. LICHTENSTEIN: Give me a second to check my
17 calendar.
18 THE COURT: Of course.
19 MR. LICHTENSTEIN: Yes, that is open.
20 THE COURT: You know what, what day is that?
21 THE COURT CLERK: It's a Thursday.
22 THE COURT: So we have the courtroom all afternoon?
23 THE COURT CLERK: We do.
24 THE COURT: Okay. That's good.
25 I was just making sure -- we're courtroom sharing, and I don't

1 want to have cut everybody off.

2 Sir, do you have any idea how many witnesses you might be
3 calling?

4 MR. LICHTENSTEIN: At this particular time I don't.

5 THE COURT: Okay. All right. I --

6 MR. LICHTENSTEIN: Not that -- not very many.

7 THE COURT: All right. So, August 26th at 12:30, you'll be the
8 only people on that calendar. We'll hold the evidentiary hearing, and
9 we'll take it from there.

10 Is there anything else, sir, that we need to address?

11 MR. LICHTENSTEIN: I do not believe so.

12 THE COURT: All right. Thank you, sir. I appreciate it. Good
13 day to you.

14 [Proceeding concluded at 12:05 p.m.]

15 * * * * *

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21 **ATTEST:** I do hereby certify that I have truly and correctly transcribed the
22 audio/video proceedings in the above-entitled case to the best of my ability.

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24 Deloris Scott
25 Court Recorder/Transcriber

1 IRAN

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3 IN THE JUSTICE'S COURT OF LAS VEGAS TOWNSHIP
4 COUNTY OF CLARK, STATE OF NEVADA

5
6 STATE OF NEVADA,
7 Plaintiff,
8 vs.
9 BARRY HARRIS,
10 Defendant.

JC CASE NO. 17F15265X

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12 REPORTER'S TRANSCRIPT

13 OF

14 PROCEEDINGS

15 BEFORE THE HONORABLE MELANIE ANDRESS-TORLIASSON

16 JUSTICE OF THE PEACE

17 THURSDAY, NOVEMBER 30, 2017

18 APPEARANCES:

19
20 For the State: MICHELLE SUDANO
21 Deputy District Attorney
22 For the Defendant: SCOTT RAMSEY
23 Deputy Public Defender

24
25 Reported by: Donna J. McCond, CCR #337

1 LAS VEGAS, NEVADA, NOVEMBER 30, 2017, 9:13 A.M.

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5 THE COURT: Barry Harris.

6 THE DEFENDANT: How are you doing today,
7 your Honor?

8 THE COURT: I'm good. How are you?

9 MR. RAMSEY: The case was stayed pending a
10 writ that went to District Court.

11 THE COURT: Yes.

12 MR. RAMSEY: Judge Smith denied the writ.
13 I've spoken with my client. He has declined to take
14 the case up on a writ to the Supreme Court so we
15 just need to reset the preliminary hearing in 15
16 days.

17 THE DEFENDANT: Excuse me, your Honor, me
18 and my attorney are having a conflict. I asked him
19 to put a motion in —

20 THE COURT: I'm not quite sure how you can
21 have a conflict with this guy.

22 THE DEFENDANT: Me and my attorney —

23 THE COURT: I mean, if you can't get along
24 with him you can't get along with anybody.

25 THE DEFENDANT: Well, I would like to put

1 an oral motion in to dismiss counsel. Can I do
2 that, please?

3 THE COURT: Well —

4 THE DEFENDANT: I feel like —

5 THE COURT: — are you going to hire your
6 own attorney?

7 THE DEFENDANT: Well —

8 THE COURT: See, that's the problem.

9 THE DEFENDANT: — I'm asking can I be
10 appointed another Public Defender?

11 THE COURT: Trust me when I tell you, and
12 I'm going to tell you something and I'm not being a
13 smart aleck, if you can't get along with him I
14 promise you —

15 THE DEFENDANT: I —

16 THE COURT: Just listen to me for 30
17 seconds, please. You are not going to get along
18 with the attorney I appoint, I promise you.

19 THE DEFENDANT: Well —

20 THE COURT: And that's not because I would
21 appoint somebody that you wouldn't get along with,
22 it's because I have one option for who to appoint if
23 you're not represented by the Public Defender's
24 office. And I love her but I promise you that it's
25 not going to be a better relationship.

1 THE DEFENDANT: Okay.

2 MS. BALLOU: Neither would anybody else on
3 the team.

4 THE COURT: I'm not giving it to you.

5 MR. RAMSEY: She's going to be my
6 co-counsel.

7 THE DEFENDANT: Can I get time to hire my
8 own attorney?

9 THE COURT: You can, absolutely. I'm not
10 trying to be difficult, but the reality is I have
11 very limited options with who I can appoint to
12 represent you.

13 MR. RAMSEY: Can I speak with him just
14 briefly? I know time is of concern to him.

15 THE COURT: Yes. You know, my options are
16 the Public Defender or my one conflict counsel. Why
17 don't you try to listen to him?

18 THE DEFENDANT: Yes, I'm —

19 THE COURT: What's the conflict?

20 THE DEFENDANT: The conflict is, your
21 Honor, that I have motions that was put into court.
22 I told him can you please represent my motions.
23 They still in his possession.

24 THE COURT: Let me explain something to
25 you.

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Transcript of Proceedings
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1 THE DEFENDANT: Yes, ma'am.
 2 THE COURT: I'm fairly certain that what
 3 he probably said to you was procedurally at that
 4 point in time he couldn't file those motions because
 5 this case was up in District Court on a writ, and
 6 until that writ gets decided he can't file a motion
 7 in front of me or any other judge —
 8 THE DEFENDANT: Yes.
 9 THE COURT: — until that motion is
 10 decided. Now that that motion is decided you can
 11 confer with him and see if any of those motions have
 12 merit and he can file those motions if he feels it's
 13 appropriate or if he, you know, but you kind of need
 14 to talk to him and listen to him because he does
 15 know what he's doing. But there's a reason that
 16 those motions couldn't be filed at that time. He
 17 did file a writ.
 18 And so what we can do is this, I can
 19 set the prelim now, I can set a status check on
 20 Monday or Tuesday. If you guys maybe have a chance
 21 to talk —
 22 MR. RAMSEY: If I may, we spoke yesterday,
 23 your Honor. I've reviewed his motions. I have a
 24 duty to the Court not to file frivolous motions.
 25 Those motions are not ripe yet. We haven't even had

1 a preliminary hearing. There's been no findings of
 2 fact. He wants to dismiss the charges for lack of
 3 evidence. We're not there yet. And I've already
 4 told him when we have the preliminary hearing I will
 5 make those arguments to dismiss the charges based on
 6 what's said at the preliminary hearing. If your
 7 Honor still finds probable case I can then file a
 8 writ on those. And I've explained all this to him
 9 very slowly several times. He's insisting to file
 10 the —
 11 THE COURT: The reality is if you file a
 12 motion to dismiss now, I have nothing to base it on.
 13 I would have to have a hearing which is basically
 14 what we have at a preliminary hearing.
 15 THE DEFENDANT: I understand that. I just
 16 was just telling him about my due process rights and
 17 I was making sure that we have an understanding
 18 because when we talked yesterday I was letting him
 19 know stuff was wrong in the proceeding because I
 20 been here incarcerated for 90 days.
 21 THE COURT: I understand that. I know
 22 that you've said a few things —
 23 THE DEFENDANT: Excuse me, I was saying
 24 that we got — we shouldn't be having to grant a
 25 warrant, a material witness because the witness

1 didn't show up. Why we gonna be granted a warrant?
 2 THE COURT: Well, I'll explain it to you,
 3 because they served her and she said she would be
 4 here and she wasn't, that's why.
 5 THE DEFENDANT: What about my due process
 6 rights and my Fourteenth Amendment? That's what I'm
 7 saying. That's why I was telling him to
 8 represent —
 9 THE COURT: That's why he filed the writ.
 10 THE DEFENDANT: Right, but the writ —
 11 THE COURT: And the judge in District
 12 Court —
 13 THE DEFENDANT: The writ —
 14 THE COURT: No, no, no. The judge in
 15 District Court made a ruling —
 16 THE DEFENDANT: Yes, ma'am.
 17 THE COURT: — that I made the right
 18 decision. So this is where we are. I can continue
 19 it for you to try to hire a different attorney that
 20 you think will listen to your assessment of the law
 21 rather than theirs, or I can keep the Public
 22 Defender on the case and set the prelim so that at
 23 least you have a hearing set in 15 days and we can
 24 get the process going.
 25 THE DEFENDANT: Can I ask you a quick

1 question?
 2 THE COURT: Sure.
 3 THE DEFENDANT: So if between the time
 4 that we set a status check to see if I hire another
 5 attorney, say if I'm not —
 6 THE COURT: Well, basically what I would
 7 do is this. I would keep them on the case for now,
 8 set the prelim. If you hire an attorney between now
 9 and the prelim they can just come in and confirm,
 10 substitute in. We don't really need to set a status
 11 check, we can just leave the prelim date, leave the
 12 Public Defender. If you hire somebody they can come
 13 and substitute in at anytime between today's date
 14 and the date of the preliminary hearing.
 15 THE DEFENDANT: Yes, ma'am.
 16 THE COURT: Okay.
 17 THE DEFENDANT: So we can set the prelim.
 18 THE COURT: Okay. All right. We'll set
 19 it December 14th at 10:00 a.m.
 20 State.
 21 MS. SUDANO: Your Honor, we had a material
 22 witness warrant for Nicole Dotson.
 23 THE COURT: And I said I would reissue it
 24 if it came back on the writ. So I'll reissue that
 25 now.

1 MS. SUDANO: And, your Honor, we already
2 filed the paperwork and had done everything. Can we
3 just certify the previous paperwork?

4 THE COURT: Yes, absolutely.

5 MS. SUDANO: Thank you.

6 THE COURT: All right. Thank you.

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9 Attest: Full, true, accurate transcript of
10 proceedings.

11 /S/Donna J. McCord
12 DONNA J. MCCORD COR #337
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