

IN THE SUPREME COURT OF THE STATE OF NEVADA

PARNOLD KEITH ANDERSON,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

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Elizabeth A. Brown
Clerk of Supreme Court

Case No: A-21-827381-W
Related Case C-16-319021-1
Docket No: 82917

RECORD ON APPEAL VOLUME 2

ATTORNEY FOR APPELLANT
ARNOLD ANDERSON #85509,
PROPER PERSON
P.O. BOX 208
INDIAN SPRINGS, NV 89070

ATTORNEY FOR RESPONDENT
STEVEN B. WOLFSON,
DISTRICT ATTORNEY
200 LEWIS AVE.
LAS VEGAS, NV 89155-2212

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A-21-827381-W

Arnold Anderson, Plaintiff(s)

vs.

Jerry Howell, Warden SDCC, Defendant(s)

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1 Ground 20 Rhonda Robinsons Contradicting testimony

2 is a perjury violation and a 14th amendment violation
3 of due process and equal protection of the laws 6th

4 Amendment violation Right to confront witness

5 Rhonda Robinson was questioned by detective mendoza she
6 was asked what do the suspect look like she stated he was

7 chubby see TTA46 page 1144. see inmate booking photo TTA1 page

8 inmate booking photo. I dont match description she gave

9 to officers. she was asked how long have you known the suspect

10 she stated 2 or 3 months. see TTA45 page 1119 line 4 see Terry Bolden

11 statement 2 or 3 weeks TTA43 page 516 Thats a big difference

12 in time. I deny knowing both terry bolden and Rhonda Robinson

13 when she was asked what were you doing before the fight she

14 stated I was sitting in the car TTA45 page 1125. when asked did you

15 ever get out of the car she responded no see TTA45 page 1125 Now

16 she changes her story. when asked again see TTA45 page 1126

17 so you were out of the car? yes sir. she just stated she was not

18 out of there car - when asked how did you see the alleged fight

19 she stated the following contradictions. I was in the car covered

20 see TTA46 page 1170 line 8. The next answer was you agree you were

21 hiding in the car. see TTA46 page 1169 line 20-21 she said yes. The next

22 question is how is it that you can see an alleged shooting

23 hiding in the car. The next answer is, I was looking out the back

24 window see TTA46 page 1171 line 10. The purpose of pointing this

25 out is to show her contradicting testimony. I deny her testimony

26 The biased picture the state put on the screen of

27 me see TTA45 page 1136 line 4

1 Then asked her to identify me. I objected to this photo for lack of foundation
2 No one testified who took this photo or where it came from.
3 See TTAA 5 page 1137 line 19 the court should of denied it. I said its
4 prejudicial the state replied. See TTAA 5 page 1137 line 21 I dont have a re-
5 sponse to that.
6 The Judge prevented me from questioning this witness.
7 See TTAA 6 page 1184 I asked the question did she ever pay Terry boldens
8 debts and that she's paid his debts before. The Judge wasnt having it,
9 this prevented the jury from knowing relevant information, I deny all allegations.
10 Rhonda Robinson description of the suspects car
11 see TTAA 5 page 1132 states exhibit 29 show the car do not match
12 the description she gave black rims See TTAA 5 page 1136 line 6.
13 When asked have you ever been inside this camaro she stated yes
14 see TTAA 6 page 1147 line 17 ON this same can you describe the inside
15 of the car. TTAA 6 page 1147 line 19 NO
16 See TTAA 6 page 1148 I dont think I told him anything about the
17 inside. See TTAA 6 page 1148 she had to read her statement that she
18 gave was everything IN the inside is black leather. see TTAA 6 page 1148
19 line 24 I proved she was lying by showing her pictures of the inside
20 of the car. See TTAA 6 page 1149 line 18 Now once you see these
21 photos do they match the description you gave the officer
22 See TTAA 6 page 1149 line 22 her answer was NO.
23 Rhonda Robinson was Not credible ON the witness stand,
24 the jury should of disregarded her testimony as Not reliable.

1 The witness was rude and CONFUSING
2 During questioning Rhonda Robinson was argumentative
3 See TTAA6 page 1150 line 9. You didn't shoot Terry
4 the line 8 + the court - Argue line 14 oh my Gosh
5 line 15 I stated I didn't shoot Terry. line 18 the
6 court stop or you're not going to question her any further.
7 I had to object to the state leading this witness see TTAA
8 page 1139 line 24 the trial court agreed see TTAA5 page 1140
9 line 1-2 You are getting leading Mr. Schwartz. this leading
10 influenced the jury.

11 Argument

12 Rhonda Robinson testimony during trial was inconsistent of multiple
13 lies see TTAA6 page 1191 line 7-10. You admit to lying which is a
14 untrue statement. The jury had a instruction to disregard a witness
15 that is unbelievable they failed to obey it. she started contradictions
16 about the suspect car and description, the prosecutor did not
17 correct her inconsistencies. if this would of been corrected I would not
18 be guilty.

Points and Authority

19 It is the function of the jury to assess the weight of the evidence
20 and determine the credibility of witnesses see Leaver v State 91 Nev
21 724-726 P2d. 438-39 in Wallach v State 106 Nev 470 796 P2d 224
22 the Nevada supreme court reversed his conviction ~~and~~ because
23 the witness gave conflicting testimony. In my case the court told
24 this witness don't respond see TTAA6 page 1157 line 19 the right to confront
25 was violated when the judge told her not to respond. see Napue v
26 Illinois 360 US 264 the supreme court reversed this case for uncorrected
27 false testimony. I suffered a unjust verdict. The remedy I seek
28 is to have this court grant a new trial for a 6th and 14th amendment

1 violation.

2 GROUND 21 a violation of equal protection of
3 the laws 14th amendment. The court failed to
4 inquire about my mental health before allowing me
5 to represent myself.

6 When I elected to represent myself the court
7 failed to inquire about mental health history or
8 inquire about the guidelines or rule 253.

9 The first attempt to give me a canvass for proper was sect
10 AA 2 page 287 line 20 - The court would it be better if I give
11 you a chance to think about it and come back in a week?

12 Defendant line 22 NO I want to finish talking about it
13 today. The court line 23 well no were not. I'm just so you
14 ~~want~~ want to you can't even answer any of my questions.

15 see TTAA 2 page 327 lines 5-7 the court I just want to make
16 clear so you understand that just because you are representing
17 yourself doesn't mean you're going to be able to do stuff frizzell
18 did not do you understand that?

19 see TTAA 2 page 338 line 12-13 the court this isn't entertaining
20 this is boring.

21 see TTAA 2 page 352 you don't know any other defense besides
22 I didn't do it. The court line 10 you understand that an attorney

23 can research the law for similar cases and present possible
24 defenses. If I say I'm not guilty there are no other
25 defense. It sounds like the court was trying to convince me
26 of another way to defend myself. The trial court said she would deny

27 me an attorney see TTAA 2 page 353 line 8 if you say you
28 want an attorney, I'll say we're going to keep going sect 4 too late.

65 OF 132

1 This entire canvass consisted of everything but
2 rule 253. She asked questions of do you know how to
3 subpoena someone what school did I go to instead
4 of questions about mental health.
5 I had to inform the court about mental health issues.
6 See TTAAG page 1159 line 24 I don't think I'm mentally
7 fit to continue. The court you're what. the court failed
8 to enquire about mental health. See TTAAG page 1301 line 12
9 defendant I tried to jump off the top tier last night
10 to kill myself. Defendant I'm depressed and my
11 medicine is not working the trazodone I take for
12 depression is not working. I stated I don't think
13 I'm competent to finish. The court should of inquired
14 about mental health during pro-per canvass but did not.
15 See TTAAG page 1303 line 13 I said I had Psychological
16 issues. The court interesting you would even say that.
17 The court failed to order a mental health evaluation.
18 See TTAAG page 1305 line 14-18 the court I'm going to
19 continue until tomorrow and give you a chance to
20 pull yourself together, were going to keep going
21 forward and we can do it with or without you.
22 I can't self diagnose myself only mental health can.
23 I informed the court about being on suicide watch
24 Thursday August 31, 2017 see TTAAG page 1316 line 14-25
25 because of my state of mind ole's going to keep me on suicide
26 watch I told her I'm not able to study for trial or have
27 any legal material on suicide watch. This information
28 was from me to tell the court.

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1 The court said see TTA46 page 1317 I told her I don't
2 understand what I was going through and that's what
3 caused the depression. The court's response OK do you
4 want to let him know what which witness
5 you're calling today? The court failed to order
6 a mental health evaluation.

7 Argument

8 The court failed to order a mental health evaluation
9 the defendant was forced to trial on suicide watch.
10 This was extremely prejudicial, the court failed to inquire
11 about mental health before or after the canvass, it was
12 prejudicial error to force me through trial on suicide
13 watch with limited material.

14 Points And Authority

15 I suffered a mental health breakdown and was not in a culpable
16 frame of mind. This violates the 14th amendment due process
17 and equal protection of the laws to force me to trial on suicide
18 watch. Pursuant to rule 253 guidelines of proper in a criminal
19 proceeding the district court should make a inquiry to (3) defendants
20 health whether defendant is taking any medication
21 or is under the influence of any alcohol or other drugs. (3)(c)
22 defendants mental health history. If the court would of been
23 aware of my mental health history I would not have been able to
24 represent myself. The outcome would of been different if I had
25 a lawyer. The remedy I seek is to have this court reverse this
26 judgement of conviction due to the court's failure to inquire about
27 my mental health history, on the authority of the 14th amendment
28 violation of equal protection of the laws the remedy I seek is a new trial.

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1 Ground 22 Jury instructions were misleading

2 IT violated the 14th amendment due process and

3 equal protection of the laws. And A violation of the

4 6th amendment right to a fair trial.

5 During trial the trial court presented its own jury instructions

6 I objected to them and the trial court presented misleading

7 jury instructions any way. see ITAA 7 page 1559 line 16

8 Defendant I object to that one because its misleading

9 to a jury attempt murder if its not showing what the

10 statute of attempt is then what murder is.

11 The court ignored me and my objection

12 see ITAA 7 page 1539 line 24 any objection knowing now

13 they'll be instructed on what attempt is and then attempt murder

14 the jury was never instructed on the murder instruction, the

15 instruction read as Attempt murder is the performance of

16 an act or acts which tend but fail to kill a human being

17 when such acts are done with express malice namely

18 namely with the deliberate intention to unlawfully kill

19 thus in order to find the defendant guilty of attempt

20 murder you must find that the defendant had a specific

21 intent to kill. This was misleading there is no such thing

22 as attempt malice. The court erred and failed to instruct

23 the jury on the content of the charging document.

24 1. Attempt an act done to commit a crime and tending

25 but failing to accomplish it.

26 2. NRS. 200.010. Murder is the unlawful killing of a human being

27 with express malice or implied; caused by a controlled substance

28 NRS. 200.030. first degree murder which perpetrated

1 by means of poison lying in wait, torture, premeditated
2 killing, the allegations in this case don't match the
3 statute the jury was misled. The act of attempt murder an instruction
4 on implied malice in relation of the crime of attempt murder
5 is misleading to a jury, to be charged with attempt murder
6 that is not by statute, there is no such thing as attempt
7 murder in the first degree and third degree, one cannot
8 attempt to kill with implied malice because there is no
9 such criminal offense of an attempt to achieve an
10 unintended result. see TTAA 7 page 1559 line 13 I objected
11 to the attempt murder instruction # 9

12 The next instruction I objected to was # 22 see TTAA 7 page 1563
13 line 13 I objected, it states your verdict must be unanimous
14 this misled the jury to thinking if the vote is 10-2 either
15 way it don't matter this misapplied the law to confuse them.

16 The next instruction I objected to was # 14 see TTAA 7 page 1565
17 line 13 I objected to the battery this charge is not a part
18 of the criminal complaint. If the jury was properly
19 instructed they would of returned a verdict of not
20 guilty on all charges, the jury was misled which equals
21 a miscarriage of justice

22 Argument

23 IN order for a defendant to have a fair trial it would start
24 with having fair jury instructions that doesn't mislead
25 the jury to a unjust verdict, that have the ~~defendants~~ defendants
26 rights of due process violated and deprive him of
27 of a 6th amendment right to a fair trial, these rights
28 were violated, the only remedy is to grant a new trial.

POINTS And Authority

The 14th amendment states no one will be denied due process of. The 6th amendment states defendants will receive a fair trial. I was deprived a fair trial with misleading jury instructions see Melvin McRaney v State of Nevada 110 Nev 250 871 P2d 922. the supreme court reversed his judgement of conviction because the trial court did not instruct the jury on accidental homicide. That was misleading to the jury. In this case against Arnold Anderson they should not been instructed on saying the verdict must be UNANIMOUS or a misleading attempt murder instruction. Pursuant to NRS. 48.035 states the jury will not be misled or confused on grounds of prejudice or confusion this jury was misled it violates due process see Keys v State 104 Nev 736, 766 he was wrongfully convicted of attempt murder with an instruction of implied malice with intent to kill, the Nevada supreme court reversed for misleading the jury. See Louise Ray Tavares v State of Nevada 117 Nev 725 30 P3d 1128 his conviction was reversed and remanded because the trial court failed to give a specific instruction the prosecutor had the burden of requesting an instruction. The trial court presented its own instructions disregarding my objections. The Nevada supreme court has emphasized that there is no such criminal offense as an attempt to achieve an un intended result the supreme court also reasoned that an attempt nature is a failure to accomplish ~~what one intended to do~~ what one intended to do because the natural and probable consequence doctrine permits a defendant to be convicted of a specific intent crime where he or she did not possess the statutory intent required for the offense

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1 See Sonu Sharma v State of Nevada 118 Nev 648
2 the Nevada statute requires proof of a specific intent
3 to commit the alleged crime, the Nevada supreme court
4 reversed his conviction because of misleading jury
5 instructions for attempt murder. Attempt under Nevada law is
6 an act done but failing to commit nev statute 193.330
7 murder is the unlawful killing of a human being
8 implied malice is insufficient to support a conviction - NRS. 200.010
9 murder the unlawful killing poison lying in wait torture. The
10 jury instructions did not have these elements. The record
11 is absent of a medical report to support any injuries, or
12 expert testimony, an instruction to mislead the jury
13 was prejudicial that led to an unlawful conviction
14 if the jury was instructed on the NRS. of 200.010 &
15 200.030 the verdict would be not guilty I deny
16 all allegations I suffered due process for these
17 misleading instructions. The only remedy to cure
18 this is to grant a new trial and reverse the
19 judgement of conviction on the authority of
20 the 6th amendment right to a fair trial and
21 the authority of the 14th amendment equal
22 protection of the laws and Sonu Sharma v State
23 118 Nev 648 a new trial must be granted.
24 I deny any involvement in Terry boldens allegations, the
25 jury was not properly instructed.

1 Ground 23 14TH Amendment violation of Due process

2 Anderson-Jae Anderson never subpoenaed

3 The state prosecutors stated this witness would come to
4 court when this was not the case because the state

5 did not have communication with Anderson-Jae Anderson.

6 The record will reflect the following.

7 No communication

8 see ITAA 5 page 1061 line 5 the court you can't find
9 her.

10 The states response see ITAA 5 page 1061 line 6-7 No we
11 can't there's been a warrant for her she absconded probation.

12 The court ask the following see ITAA 5 page 1065 line 5-7
13 Do you have a material witness warrant? No we don't.

14 see ITAA 5 page 1069 line 7 the court you have no
15 indication that she will appear line 9 not that I'm
16 aware of.

17 The state see ITAA 5 page 1069 line 11 in fact we
18 haven't been able to serve her a subpoena as of yet.

19 To prove this was never a witness see ITAA 5 page 1068
20 a few months ago she absconded probation, this

21 was 8-29-17 a few months ago would be
22 June or may months before trial.

23 Argument

24 Anderson-Jae Anderson was never in contact with
25 the state and was not a witness the state

26 knew she absconded probation and did not

27 have contact with her at all or what so ever

28 to present this to the court that she's a witness is a lie.

POINTS AND AUTHORITY

1
2 And perjury. NRS. 174.345 states a subpoena may be served by a peace
3 officer NRS. 289.027. service of a subpoena must be made by delivery
4 a copy to the named person. This alleged witness was never served
5 a subpoena. see NRS. 199.120 a person taken a lawful oath or made
6 affirmation in a judicial proceeding or in any other matter
7 where by law who willfully makes an unqualified statement
8 that which the person does not know to be true. This is perjury.
9 When the state prosecutor Binu Palal stated this
10 Arndae Dae Anderson is a witness, a person he has not had
11 contact with. A person who absconded probation months
12 before trial and was never served a subpoena. The state
13 prosecutor violated due process and equal protection of the
14 laws. This falacy may have created bias to the trial
15 court. to make the trial court think this person was
16 a witness and was not. see Blufford Hayes v Jill Brown
17 9th Circuit 399 F3d 972. This case was reversed because
18 the state prosecutor presented false evidence to the
19 court and jury. The only remedy is to reverse this
20 judgement of conviction for creating bias with
21 the trial court of a faux witness. I ask this
22 court to reverse this judgement of conviction
23 and grant a new trial for a violation of
24 the 6th amendment right to a fair trial, and
25 a violation of the 14th amendment. violation
26 of due process and equal protection of the
27 laws. I suffered a prejudicial trial.
28

1 Ground 24 6th amendment violation of
 2 The speedy trial act. Violated
 3 A defendant in a criminal proceeding has a constitutional
 4 right to have a fair and speedy trial guaranteed by
 5 the United States Constitution. The accused shall enjoy
 6 the right to a speedy trial by an impartial jury of
 7 the state and district where in the crime shall been committed.
 8 Support to prove speedy trial right has been violated
 9 on October 31, 2016 the defendant appeared in district court
 10 see TTAA1 page 107 line 17 the court You have a right to
 11 a speedy trial within 60 days are you invoking that right?
 12 My response see TTAA1 page 107 line 19 I'm invoking my right
 13 to a speedy trial.
 14 Counsel behaved as if he file a writ of habeas corpus the
 15 right to a speedy trial is vacated. Not so. Kenneth Frizzell
 16 filed a writ to sabotage defendant's right to a speedy trial
 17 the writ was late and does not count.
 18 I see TTAA1 page 131 line 17 the writ should be filed by
 19 then, the court Yeah you got 21 day - line 20 NO NO NO - Yeah
 20 I was a little late, it took a little bit for it to get done
 21 Kenneth Frizzell, Counsel had 21 days from my first
 22 district court appearance see TTAA1 page 107, October 31, 2016
 23 to November 21, 2016 to have said writ done, however it
 24 was filed 17 days late December 8, 2016 see TTAA1 page 133
 25 it was heard December 22, 2016. see TTAA1 page 104
 26 counsel's argument was about a co conspirator who may
 27 have or not killed a cow. The trial court should of
 28 disregarded the writ as late.

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1 Sec TTA 1 page 148 Frizzel informed the court

2 I got a call from Arnold Andersen yesterday that

3 he doesn't want to waive his speedy trial right.

4 2. Sec TTA 1 page 149 Arnold Andersen stated on line 8-9

5 I'm ready to go to trial and I do not waive my right

6 to a speedy trial. I made it real clear I do not waive

7 my right. 3. Sec TTA 1 page 150 line 22 I made the

8 record to vacate the writ to keep my right to a speedy trial.

9 Sec TTA 1 page 151 line 18 I stated I don't want the

10 writ heard to further reflect I'm invoking my right to a

11 speedy trial. With all this above the trial court

12 refused to listen she knew the writ was late.

13 Argument

14 The speedy trial act 18 USC 3161 places the burden directly

15 on the district court to conduct whatever factual

16 inquiry is necessary to determine for itself if the

17 parties desire a continuance so whether the reasons

18 for granting such are sufficient to outweigh the best

19 interest of the public and the defendants. The defendants

20 right of a fair trial was violated this is a sixth

21 amendment violation, a late writ being heard is the

22 same as no writ being heard, the court failed to

23 inquire to me if I wanted to continue the trial

24 date. The reflection of the record I don't want

25 the writ heard and to vacate it say alot.

26 Points And Authority

27 Pursuant to NRS. 34.700 time for filing waiver

28 and consent of the accused date of trial

1 except, as otherwise provided in subsection (3) A pretrial petition
2 for a writ of habeas corpus based on alleged lack of probable
3 cause or otherwise challenging the courts right or jurisdiction
4 to proceed to the trial of a criminal charge may not be
5 considered unless (A) the petition and all supporting documents
6 are filed 21 days after the first appearance in district court
7 or (B) the petition contains a statement that the accused
8 waives the 60 day limitation for bringing an accused to
9 trial or (2) if the petition is not decided within 15 days
10 before the date set for trial consents that the court may
11 without notice or hearing continue the trial indefinitely or
12 to a date designed by the court. In this case Arnold Anderson
13 did not sign a consent stating to file the writ. Further
14 the writ was to be heard 15 days before the trial date
15 which was December 29, 2016 not December 23, 2016. This entire
16 process violated due process and NRS. 34.700 pursuant to
17 NRS. 178.556 UNNECESSARY delay if a defendant whose trial
18 has not been postponed upon the defendants application is
19 brought to trial within 60 days after the arraignment
20 on the complaint for an offense triable the trial court should
21 dismiss the charges. The right to a speedy trial belongs not
22 only to the defendant but to society as well 18 USC 3161(h)(7)(A)
23 recognized that the public has an interest in speedy trials
24 independent of defendants interest Congress designed
25 the speedy trial act 18 USC 3161 in part to protect
26 the public interest in the speedy
27
28

1 Administration of Justice and it imposed the sanction
2 of dismissal under 3162 to compel courts and prosecutors
3 to work in furtherance of that goal. The 6th amendment
4 guarantees in all criminal prosecutions the accused
5 shall enjoy the right to a speedy and public trial
6 by an impartial jury see Julien v. United States
7 125 F3d 1997. The district court violated the speedy trial
8 act the 9th circuit reversed this case because the
9 district court had an obligation to make factual
10 inquiries as to whether to delay the trial or not. IN
11 my case the trial court did not inquire even though
12 I made it clear to vacate the writ since it was
13 late and I invoked my right to a speedy trial.
14 Trial date was initiated see TTA4 page 167 line 17
15 the first district court appearance, October 31, 2016. my
16 trial was not heard until 8-27-2017 eight months
17 later see first day of trial TTA4 page 775 trial day 1.
18 I suffered unnecessary delays for trial my 6th
19 amendment right to a speedy trial was violated
20 when trial was 8 months later on the authority
21 of ~~the~~ speedy trial act 6th amendment I suffered.
22 The only remedy is to reverse this judgement
23 of conviction for a new trial.
24
25
26
27
28

1 Ground 25 14th amendment violation of equal
2 protection of the laws. Violation of due process
3 The state presented false evidence by Laura Brooke Cornell
4 ON August 23, 2016 Brooke Cornell a crime scene analyst stated
5 she arrived at a crime scene to collect evidence of a shooting,
6 she stated she collected items absent any test of ballistics or
7 ~~scientific~~ testing, to connect it to any alleged shooting, of August 23,
8 2016. see TTA46 page 1334 line 17 when asked about the shooting
9 she stated a man was in critical condition, we did not know
10 if he was going to make it. I objected she's not a doctor to offer
11 this testimony with out a medical expert is the same as false
12 testimony. she stated that to appeal to the passions of the jury.
13 see TTA46 page 1336 lines 1-6 she stated she collected 3 shell
14 casings and there was blood leading from the driveway up the
15 stairs. see TTA46 page 1350 line 12-13 ON cross examination,
16 I asked her "your function was to collect evidence" she stated ON
17 correct ON line 13.
18 None of the items she collected were tested
19 see TTA46 page 1351 line 2-4 I asked "you didn't analyze any
20 of the evidence you collected?" see TTA46 page 1351 line 4 NO
21 the lab does that.
22 The state allowed her to testify that this is evidence of a
23 shooting and evidence to a crime with out lab testing
24 results, she stated nothing was tested. she should not
25 testify to untested items.
26 see TTA46 page 1340 line 4 the state asked you mentioned
27 blood ON these vehicles see TTA46 page 1340 line 7
28 that's correct

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1 even though it was not tested.
2 see TIAA page 1341 line 20 the state ask was there
3 any pieces of evidence notated on these stairs?
4 Her response TIAA page 1341 line 22 there were drops
5 of blood going up the stairs.
6 see TIAA page 1342 lines 5 the state ask about exhibit 14
7 Just a close up of blood line 7 Yes
8 She presents fallacy to the jury by saying a shirt with
9 multiple holes in it a particular hole is a bullet hole
10 see TIAA page 1352 line 1 shirt have multiple holes and
11 tears in it state's exhibit 48 line 2 correct line 3 so
12 based on your experience how can you say that that's
13 a bullet hole versus all the other holes in the shirt?
14 She stated this fallacy with out gun shot residue or
15 any testing this misled the jury.
16 see TIAA page 1352 line 9 the same shirt most of it
17 look like tears from cutting from the em to, cutting
18 the shirt off.
19 To further mislead the jury she offers this testimony
20 see TIAA page 1353 this witness is questioned about her
21 testimony of this untested blood trail appears okay and
22 the trail of blood in the area where you were at, what
23 appears to be blood you can't say how long it's been
24 there.
25 see TIAA page 1353 line 6 no we can't say how long it's
26 been there we had witness say it wasn't there
27 prior so that's - but there's no way to chemically
28 say whether it was there 30 minutes one hour two days.

1 see TTAAG page 1353 line 10 So other witnesses in the area
2 probably walked around and took a look at what the
3 steps looked like and was like hey that blood wasn't
4 there yesterday it's there today is that what you're saying?
5 her response TTAAG page 1353 line 14 I'm saying
6 the witness told the detectives that's what the detective
7 told us.
8 She offered hearsay which is inadmissible because
9 no one testified to this when asked about these witnesses
10 she said. see TTAAG page 1356 line 6 I'm what witness...
11 I don't know - the state did not correct this false testimony
12 more hearsay - see TTAAG page 1353 line 17 I don't know either
13 the detective said witnesses said this - This hearsay was
14 reckless and perjured the trial. The court should^e stepped it, but did
15 not. This was prejudicial to influence the jury.
16 see TTAAG page 1351 line 2 you didn't analyze the evidence
17 see TTAAG page 1351 line 4 NO the forensic lab does that.
18 the state and trial court allowed her to testify to
19 hearsay and about evidence without it being tested.
20 how can it be evidence if it's not connected
21 to a crime? OR tested?

22 Argument

23 The state failed to correct this testimony which was
24 false evidence to influence the jury, this is
25 a violation of the 6th amendment right to a fair
26 trial and a violation of the 14th amendment due process
27 I suffered a unjust verdict because of this influencing
28 the jury to believe the stuff she collected is connected

1 TO A crime, when nothing was tested.
2 POINTS AND AUTHORITY
3 pursuant to NRS 48.035 exclusion of relevant evidence on grounds
4 of prejudice, confusion or waste of time. This is not admissible
5 evidence if its probative value is substantially outweighed
6 by the danger of unfair prejudice or confusion of the issues or of
7 misleading the jury. The jury was misled with this evidence
8 shell casings were not fingerprinted. A prosecutor has a duty to
9 assure defendants receive fair trials a guarantee of the 6th
10 amendment. This violation occurred because the state failed
11 to test any of its exhibits, which is a violation of due process
12 they acted in bad faith and I suffered undue prejudice
13 the items collected could be exculpatory the blood if tested
14 could of led to the identity of a suspect, or even if the shell
15 casings were lifted for prints it would lead to the identity to a
16 suspect, to present this to a jury as evidence violates due process
17 see Napue v Illinois 360 US 264 see Bago v State 95 Nev
18 911 a prosecuting presenting false evidence pollutes the right to
19 a fair trial. The United States supreme court stated a violation
20 of due process the only remedy is to reverse as they did in
21 Napue v Illinois. I suffered a guilty verdict because of this
22 due process violation when the state misrepresented evidence see
23 Mahan v State 104 Nev 13 752 P2d, the Nevada supreme court
24 reversed his case because the state prosecutor misrepresented
25 evidence at trial. The remedy I seek is for this court
26 to reverse this judgement of conviction and grant
27 a new trial on the authority of Mahan v State supra
28 and the 14th amendment due process violation

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1 Ground 26 6th amendment violation right to a fair trial and
2 a violation of the 14th amendment equal protection of the laws
3 These Jurors should of been exused.
4 During the selection of the jury panel the trial court allowed the
5 following jurors to participate in Arnold Andersons trial, these jurors
6 were either on drugs or had a criminal record or had a family
7 member arrested or had a felony, these jurors were biased
8 some were victims of crimes. The record will reflect
9 the following.
10 Juror #651 miguel urarte became Juror #4 stated the following
11 see TTA4 page 857 line 25 I speak english a little bit see TTA
12 4 page 858 line 1 I dont understand everything. This was prejudicial
13 because the court did not appoint a interpreter. If he dont understand
14 english he probably had a poor understanding of the entire trial.
15 Juror 645 Vanessa turley became Juror #6 see TTA4 page 840 line 4
16 are any of you acquainted with the deputies assigned to prosecute this
17 case? she stated No. she lied then admitted she was familiar with.
18 Bryan Schwartz see TTA5 page 955 line 24-25 she states I
19 want to amend my answer from earlier Juror #6 I do believe
20 that a gentleman from the prosecution side did subpoena me
21 for a person that I saw in the emergency room about six
22 months ago. The state admits he was familiar with this
23 Juror see TTA5 page 974 line 12 the court were you the one
24 who subpoenaed that Juror? Schwartz answers, I think so
25 now that she said that. This Juror should of been
26 exused for cause.
27 Juror convicted of a crime see TTA5 page 957 line 3
28

1 The court have you or anyone close to you such as a family member
2 ever been accused of a crime? See TTAAS page 957 line 7 I myself
3 was convicted of a dui Juror # 6 Vanessa Turley See TTAAS page 951
4 line 18 Vanessa Turley you are going to become Juror # 6 the court
5 selected her after 502 was excused. The trial court asked JA GWIN
6 Escobar who became Juror # 7 have you ever served as a Juror
7 see TTAAS page 970 line 7-8 his response 3 times. The court
8 asked this same Juror have you ever served as a Juror this Juror
9 stated NO mam see TTAAS page 970 line 7-8 TTAAS page 971 line 13
10 this Juror was adamant about his poor understanding and his
11 poor ability to understand english, his poor ability to understand
12 english was prejudicial because he probably did not understand
13 what took place during trial. If the court would of appointed
14 a interpreter the outcome could of been different.

15 The next Juror with issues

16 Glenna Amos who became Juror # 3 stated the following
17 enmity see TTAAS page 929 line 24-25 when my car was
18 stolen I had a grandson that passed away and we had a
19 pillow that we used to keep in the car see TTAAS page 930 line 8
20 you know it was like that made me feel really bad. The court
21 two different incidents when your house was broken into
22 Yes Glenna Amos is still mad about her grandson pillow
23 See TTAAS page 934 line 11.

1 I was still kind of upset about my grandsons pillow.
 2 This proves enmity she should of been excused for cause.
 3 see TTA 4 page 848 line 23 Glenna Amos the only
 4 thing that I was worried about is this - speaking
 5 about her oxygen machine - I have to bring with me.
 6 She was a elderly female who stated how hard it is to
 7 bring her oxygen machine with her while suffering arthritis
 8 see TTA 4 page 849 line 3 and would that be a problem
 9 the court not to me. is it a problem for you? ms. Amos
 10 sometimes because my arthritis bothers me where I
 11 can't lift this into my car again talking about her
 12 difficulties with her oxygen machine. line 12 I tried
 13 to call to see if I could get dismissed ms. Amos tried
 14 to excuse herself she did not want to serve on the jury
 15 the court would not let her explain see TTA 4 page 550 line 2-3
 16 No I don't think.
 17 The court thank you and I appreciate you being here
 18 thank you very much - after telling the court of her health issues
 19 the court said see TTA 4 page 273 line 4-7 you're going
 20 to be Juror # 3. This was extremely prejudicial.
 21 The next Juror issue.
 22 Deborah Mascote became # 10. see TTA 5 page 935 line 23. the
 23 company I worked for was robbed I was called as a
 24 witness so obviously she was a victim of robbery or
 25 she was a witness to one. I was on trial for robbery.
 26 how biased.
 27 see TTA 5 page 942 line 20-21 Sally Sweden Juror # 5
 28 I was arrested for domestic violence.

1 see TTAAS page 980 line 11 so you sat through a whole
 2 trial and didn't get to do anything? Juror # 5 yes.
 3 see TTAAS page 980 line 11 how did that make you feel?
 4 her response on line 15 Crappy line 17 that sucked.
 5 Violent Juror
 6 see TTAAS page 943 line 2 you were arrested for
 7 battery du? TTAAS page 943 line 5 yes line 7 I had probation
 8 emity is shown-
 9 see TTAAS page 990 line 4-5 would you have resentment
 10 against officers in this case? TTAAS page 990 line 7 Yeah
 11 she had to state she could keep it separate, it seem like she
 12 did not understand the question Schwartz asked it twice.
 13 The next Juror issue
 14 see TTAAS page 982 line 1 Jose Marcelo is Juror # 1
 15 I had a stolen credit card, see TTAAS page 981 line 21
 16 Schwartz did you mention that earlier? I apologize
 17 if I didn't catch that, this Juror should of been excused.
 18 he further stated about being on drugs - see TTAAS page 985 line 14-16
 19 I was high I was stoned that's why I did it, yes yes yes
 20 that's the reason I did it yes.
 21 The same Juror speaking of not understanding english.
 22 see TTAAS page 971 line 5 just my english sometimes
 23 I don't understand like I say before.
 24 Instead of the court assigning a interpreter - see TTAAS page 971
 25 I think you're doing great.
 26 Black Juror lost in the voir dire
 27 see TTAAS page 848 line 11-17 Chatania McGowan
 28 the court if you are on this jury you need to be here.

1 The court failed to make a record of excusing her. Juror son
2 is about to be a metro officer see TTAA 4 page 891 line 15-16
3 TTAA 4 page 891 line 23 he's going to be hired as a police officer
4 Juror showing enmity see TTAA 8 page 1648 line 19 I informed
5 the court a juror was shrugging his shoulders during my
6 closing argument see TTAA 8 page 1648 line 23 this juror was
7 biased and should of been replaced. The trial court didnt do
8 any thing about it.

9 Argument

10 This jury panel had 70% impartiality some had criminal records
11 a DUI, on probation or had been a victim of crimes or
12 committed one these jurors should of been excused for cause.

13 points And Authority

14 The 6th amendment guarantees the right to a fair trial with a jury
15 thats impartial this jury was not. 70% of them had issues and
16 should of been excused for cause. Glenna Amos was still mad about her
17 grandson pillow she could of retaliated against me for it. NRS. 16.050
18 states challenges for cause, having served as a juror or been a
19 witness on a previous trial, Deborah Mascote was a witness to her
20 company being robbed. The statue states existence of state of mind
21 evincing enmity, the juror who shrugged his shoulders proves enmity,
22 another juror states he was stoned and had a fake credit card. Glenna Amos
23 said she was still mad TTAA 5 page 934 line 11-12 these jurors should of been
24 excused. If I had jurors who did not have a criminal record or was a
25 victim of a crime the outcome would of been different. I suffered a UN
26 just verdict. The only remedy is to reverse this judgement of conviction and
27 grant a new trial on the authority of the 14th amendment violation of
28 of equal protection of the laws AND violation of the 6th amendment. Violation of impartial jury.

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1 Ground 27 A violation of the 4th amendment unlawful search and
2 seizure

3 on september 5, 2016 officer J. Duke misled the court with his falacious
4 affidavit for a search warrant, he stated being duly sworn that
5 there is probable cause to believe that certain property will be found
6 at the premises in a dark colored 2000 camaro located at ewing
7 brothers 1200 W. A street Las Vegas NV 89101 see ITAA 2 page 395 he further
8 stated any unknown make model caliber 45 pistol miscellaneous pieces of
9 ammunition magazines clips holsters cleaning kits parts expanded casings
10 paper work any paper work storage disposition over any firearm or any of the
11 aboved listed items, any unknown make model cellular phone and particles
12 of personal property which would tend to establish the identity of
13 person in control of said premises which items of property could
14 consist in part of and include but not limited to papers documents
15 and effects which tend to show possession dominion and control
16 over said premises including but not limited to keys cancelled mail
17 envelopes rental agreements and receipts utility and telephone bills
18 perscription bottles vehicle registration vehicle repairs and gas
19 receipt items which tend to show evidence of motive and/or the
20 identity of the perpetrator such as photo graphs and undeveloped film
21 insurance policies and letters and addresses and telephone records
22 diaries governmental notices whether such items are written
23 typed or stored on a computer disc objects which bear a persons
24 name phone number or address. The property here in before
25 described constitutes evidence which tends to demonstrate
26 that the criminal offense of attemp murder, Robbery, battery
27 causing substantial bodily harm has been committed. This
28 was a complete deception to get a warrant.

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1 See TTAA 2 page 394

2 See TTAA 2 page 408 He stated the 45 may be located
3 inside of the vehicle, he had no idea if a gun was in
4 the car, it was not.

5 See TTAA 2 page 396 he said in support to affidavit
6 the only thing he offered was repeated allegations from
7 the police report which is misleading to get a warrant He had
8 no idea if these items were in the vehicle.

9 See TTAA 2 page 411 he stated he believe items will be located
10 this is not factual knowledge the trial court should of had
11 a Franks hearing. She denied the motion without questioning
12 the officer. The officer was not subpoenaed to testify

13 Argument

14 The 4th amendment requires a hearing be held at the defendants
15 request to challenge the truthfulness of the statements
16 made in the affidavit, and search warrant this false
17 search must be void with the arrest to the extent as if
18 probable cause was lacking on the face of the defendants
19 where at the hearing the defendant will show a preponderance
20 of evidence of perjury with false material set to one
21 side the contents is insufficient to establish probable cause
22 if probable cause in the warrant don't exist neither
23 do the arrest. Officer J. Duke only roll in this case was

24 See TTAA 1 page 11 - on September 5, 2016 seen car stopped it.
25 J. Duke misled the court to get a search warrant to
26 unlawfully seize my vehicle. This violated the 4th
27 amendment, to take a police report to a judge to get
28 a warrant with lack of probable cause is insufficient.

Points And Authority

1
2 The 4th amendment is clear items to be seized and
3 searched must be known. To seize a defendants car in a
4 criminal proceeding subject to the ex parte issuance of a
5 search warrant must make a preliminary showing if with
6 a false statement knowingly and intentionally with reckless
7 disregard for the truth was included in a false statement
8 for probable cause the court must reverse see Franks v Delaware
9 438 US 154 where officers lied in the affidavit and the citizen
10 was a victim of a bad search fruits of the poisonous tree
11 the supreme court decided due process is violated if these
12 hearings are not held to see what officers put in their affidavit
13 to get the search warrant. The trial court did not inquire to J. J. J.
14 personally to question him about his falsity. The Franks hearing
15 was denied see TTAA3 page 652. officers used a haul receipt
16 found in the vehicle this was a violation of the 4th amendment
17 see Mapp v Ohio 367 US 564 evidence obtained by a search
18 and seizure in violation of the 4th amendment is in
19 admissible in state court as it is in federal court all
20 evidence obtained in a 4th amendment violation is by
21 virtue of the due process clause of the 14th amendment
22 guaranteeing the right to privacy. The haul receipt states
23 exhibit 39 was a violation of the 4th amendment to be used
24 at trial. In Mapp v Ohio the U.S. supreme court reversed
25 his conviction because the officer unlawfully seized
26 explicit material and used it in a state criminal trial.
27 this haul receipt in my case is from an illegal search.
28 The 4th amendment requires a hearing at the defendants request

1 The court denied the motion. N.E.S. 199.120 states a person
2 having taken a lawful oath or affirmation in a judicial
3 proceeding where by law subsection 1 states willfully
4 makes a unqualified statement of that which the person
5 does not know to be true see ITA 7 page 139/ line 15-16
6 J. Duke where was the investigating officer No Then how
7 would he know a gun or material may be inside the car and
8 he appeared for a warrant with a recitation of allegations
9 in the police report to ask for a search warrant
10 which were allegations, his reckless disregard for
11 the truth violated the 4th amendment. I suffered
12 a unlawful conviction because of his lack of probable
13 cause to get a search warrant. See William Beck v Ohio
14 379 US 89 the supreme court reversed his conviction
15 because of the 4th amendment violation also see Katz V
16 US 389 US 317 this case was reversed for unlawful seizure
17 see Franks v Delaware 438 US 154 officers lied in affidavit
18 to get a warrant. In Arnold Anderson's case due process
19 was violated 14th amendment, on the authority of
20 the 4th amendment right to unlawful seizure of
21 the car and its contents the only remedy is
22 to reverse this judgement of conviction and
23 grant a new trial on the authority of the 4th
24 amendment violation unlawful search and seizure
25
26
27
28

1 Grand 28 violation of the 6th amendment Right to a fair trial.
2 Multiple objections made during trial.
3 During trial I objected to the following issues which violated
4 a right to a fair trial. See TTA 5 page 1088 line 9 I objected to the
5 state saying I shot Terry Bolden, I did not I pled Not guilty. The
6 state made these prejudicial remarks that influenced the jury. I objected
7 to TTA 5 page 1089 line 17 when the state lied and said this female
8 handed me a firearm. These unproven statements misled the jury.
9 I objected to exonerating pain see TTA 5 page 1102 this witness
10 is not a doctor, the court should not of allowed this false evidence
11 it's hearsay. I objected to TTA 5 page 1103 line 3-7 state allowed
12 witness to say met at 711 I objected to this false hearsay this
13 misled the jury. see TTA 5 page 1120 line 6-12 I objected to the state
14 leading this witness to say hung out, I objected to the leading
15 its misleading to the jury. I objected to see TTA 5 page 1126 line 24
16 to the witness say run over. TTA 5 page 1127 line 1 this false information
17 misled and influenced the jury. see TTA 5 page 1130 line 15 I objected
18 to the hearsay witness stated hearsay when she said I heard some
19 one say 200 dollars this was misleading to the jury. I objected to the
20 in court identification TTA 5 page 1130 line 24 the photo line up
21 was unconstitutional see TTA 5 page 1133 line 11-14 I objected
22 to leading it swayed and misled the jury see TTA 5 page 1136 line 15-19
23 I objected to the picture NO one testified who took this
24 picture states exhibit #61 see TTA 5 page 1137 line 8
25 I objected to states lack of foundation the state agreed
26 No foundation. TTA 5 page 1137 line 19 I said it's prejudicial
27 The state said I don't have a response see TTA 5 page 1137
28 line 21 everything I objected to violated a fair trial.

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1 See TTAAS page 1138 line 13-24 I objected to this false testimony
2 saying Rhonda Robinson testified at the preliminary hearing she did not this
3 was a lie see TTAAS page 1137 line 8 the prejudicial picture is hearsay
4 I objected to it, the court should of denied the picture this was unlawful
5 to show the jury this picture to mislead the jury, see TTAAS page 1178
6 line 7-15 I objected to the photo array I'm the only light skin black
7 male see TTAAS page 1179 line 24 I objected to the in court identification
8 it was unconstitutional see TTAAS page 1198 line 16-19 I objected to
9 leading the state was influencing the jury with fallacy see TTAAS page
10 1199 line 9-19 I objected to leading the state told the witness Terry Bolden
11 to answer yes or no I don't want to get into details. This influenced
12 the jury he did not want them to know Terry Bolden told the police he owe
13 money for drugs and never mentioned anything about owing money for
14 a hotel room I deny both allegations. This story misled the jury see TTAAS page 1204
15 line 7-10 I objected to states exhibit 46 for lack of foundation see TTAAS page
16 1205 line 18-21 I objected to the state leading you were in pain this
17 influenced the jury see TTAAS page 1209 line 18-19 I objected to Terry Bolden
18 showing a scar - no doctor to prove date of scar or how it got there see
19 TTAAS page 1211 line 2-5 I objected to photo no foundation see TTAAS page
20 1212 line 3-17 I objected to this witness saying seen car see TTAAS page
21 1214 line 20-23 I objected to no foundation exhibit 68 see TTAAS page
22 1215 line 1 I objected to officer showed a picture see TTAAS page 1238
23 line 16-21 I objected to states exhibit 62 lack of foundation see TTAAS
24 page 1241 line 20-22 I objected to saw car this was misleading and
25 suggestive earnest larios testified to a 30 year difference in cars
26 TTAAS page 1241 See TTAAS page 1260 line 8-13 I objected to jail phone call
27 and prosecutor lies of hearsay I said I object court allowed it anyway see TTAAS page 1261
28 line 20 the court knew the investigators story was a lie and would be prejudicial the

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1 record states everything that comes in is prejudicial that phone call causes me great
2 concern I think you run the risk of it being the prejudicial value being substantial
3 outweighed by the probative value. I objected the court knew it was prejudicial and
4 allowed it anyway. sec TTA6 page 1334 line 17-21. I objected to a witness saying a
5 mark had been shot we didn't know if he's going to make it or not. This influenced the
6 passions of the jury by saying don't know if it's a possible homicide sec TTA6 page 1342
7 line 5-19 witness saying blood I objected the child was never tested sec TTA7 page
8 1330 Did you analyze items you collected? No it's the laboratory job. This influenced the jury
9 false evidence. sec TTA6 page 1346 line 14-17 I objected to photos exhibit 47 48. No date sec
10 TTA6 page 1347 line 22-24 I objected to bloody shirt not tested this is presenting
11 false evidence to the jury sec TTA6 page 1349 line 7-10 I objected to witness
12 behaving as a expert and is not sec TTA6 page 1363 line 7-22 I objected to lack
13 of foundation for all pictures sec TTA6 page 1367 line 8-21 I objected to the
14 photo of the bullet witness Caitlyn King stated someone gave her this bullet Jacob
15 Werner testified to the exact same bullet sec TTA5 page 1108 line 19 exhibit 58 sec
16 TTA5 page 1109 line 23-25 is that what was handed to you (Werner) Yes I
17 I objected to Caitlyn King story sec TTA6 page 1368 line 4 it's impossible for
18 Jacob Werner and Caitlyn King to receive the same bullet at the same time. sec TT
19 AA 7 page 1374 line 3-9 I objected to this witness saying blood it wasn't tested
20 sec TTA7 page 1386 line 2-5 I objected to states exhibit 69 lack of foundation
21 sec TTA7 page 1390 line 17-22 I objected to the witness saying someone
22 else behavior this person was not on trial, it influenced the jury to think
23 their behavior was criminal sec TTA7 page 1413 line 17-25 I objected to hearsay
24 it's inadmissible no prior testimony given it was a lie and prejudicial sec TT
25 AA 7 page 1415 line 1-9 I objected to the hearsay Marco Ruffabough stated my
26 alibi was false he lied. The record does not reflect such his statement was
27 a lie. the trial court should of prevented this lie from him. There is no
28 such evidence to support his false testimony. I deny all involvement

11 See TTA7 page 1444 lines 14-20 I objected to the phone call being played it
12 was not authenticated. These were prejudicial issues to pollute the trial. It negatively
13 influenced the jury.

4 Argument

5 In order to preserve appeal issues proper objections must be made
6 the objections listed above were prejudicial and violated a right to a fair trial
7 if these prejudicial objections were not in front of the jury a different
8 outcome would be on the verdict form. This prejudice violated the 6th amend
9 ment right to a fair trial. Allowing marro testimony and phone were prejudicial
10

Points And Authority

11 The state used misleading information to influence the jury to give a
12 unjust verdict. To allow marro rafalovich testimony to influence the
13 jury with a lie violates due process when he stated hearsay of my
14 alibi was questionable and not good. The prosecutor influenced the jury
15 to bring a wrongful conviction it was not legitimate see Berger v United States
16 295 US 78 the supreme court reversed his wrongful conviction because the
17 prosecutor presented lies to a jury. The state in Anneke Anderson's case presented
18 lies by marro rafalovich ~~caution~~ King, Jacob Werner the two stated a nurse gave
19 them a bullet no nurse testified to such see TTA6 page 1366 line 16 this was handed
20 to me by a surgical nurse see TTA5 page 1109 Jacob Werner a nurse handed me this.
21 the state knew this was a lie and stated TTA6 page 1367 line 20 this has
22 been previously admitted by another witness. The state knew caution King was
23 lying. The supreme court reversed Napue v Illinois 360 US 264 because the state
24 knowingly presented lies to a jury. The court violated due process when she allowed
25 hearsay testimony from marro rafalovich which was a lie. Arguing to NK 551065
26 hearsay is inadmissible unless the defendant had a prior opportunity to
27 cross examine the witness I did not. Even though it's a lie the trial court
28 shouldn't of allowed marro to testify.

1 pursuant to Rule 804 the exception to hearsay is if there's former
2 testimony. In this case it's not, because it's a lie. The 6th amendment
3 right to confront a witness was violated, with the hearsay lie made
4 testified see Crawford v Washington 541 US 36 the United States Supreme
5 court reversed his conviction because the defendant did not have a ^{previous} prior
6 opportunity to cross examine his witness. The state violated his 6th
7 amendment right to confront a witness against hearsay which violates
8 equal protection of the laws. The 14th amendment states no one shall be
9 deprived liberty or justice without equal protection of the laws. I was
10 denied this due process, when the trial court played a telephone call
11 without proper authentication see NRS 52.075 ² it states the self
12 identification must show the person being called this was not proven.
13 The pictures the state admitted violates NRS 52.245 it was unfair
14 prejudice because no one authenticated the pictures. I objected to
15 this violates the right to a fair trial guaranteed by the 6th amendment
16 when the court allowed every objection to proceed. This also violated
17 the 14th amendment due process and equal protection of the laws
18 the trial court should of intervened with every objection that
19 was made. I suffered a prejudicial trial the only remedy
20 is to reverse this judgement of conviction and grant
21 a new trial on the authority of the 6th amendment
22 right to a fair trial violation and the 14th amendment
23 violation of due process and equal protection of the laws.
24 see Napue v Illinois 360 US 264 see Berger v US 295 US 78
25 This court must reverse.

1 Ground 29. A violation of Due process and equal protection of the
2 laws 14th Amendment prosecutorial misconduct. BY Bryan Schwartz
3 During the trial of Arnold Anderson Bryan Schwartz violated my due
4 process rights by giving misleading jury instructions and presenting
5 lies to the jury. The prosecutor made misstatements of witness
6 testimony which were lies. The record will reflect the pollution of trial.
7 See TTAAS page 1102 I objected to him saying excruciating pain this officer
8 is not a doctor. This influenced the jury. See TTAAS page 1103 line 7 I objected
9 to hearsay this witness is telling a hearsay story I deny. This lie influenced
10 the jury. See TTAAS page 1120 line 10-12 I objected to leading this misled the
11 jury to lead the witness to what he want the jury to believe. This fallacy
12 misled the jury. See TTAAS page 1121 line 19 I objected to leading again
13 because the state is saying things instead of asking questions this fallacy
14 misled the jury. See TTAAS page 1146 I objected to Rhonda Robinson statement
15 someone tried to run over, she cant speak on those allegations. I deny a.)
16 involvement see TTAAS page 1130 line 15 I objected to hearsay I objected
17 to Schwartz stating AJ the defendant thats not my name. see TTAAS
18 page 1130 line 21-25 this lie to the jury this is the suspect AJ the
19 defendant. I denied being called AJ. This polluted the jury to refer
20 to me as the suspect and AJ. I objected to the photo array it was
21 suggestive see TTAAS page 1131 lines 1-11. The state continues to
22 lead this witness into the testimony of the states see TTAAS page
23 1133 line 14 I objected to leading the state said same car. I
24 questioned this witness about the car she said the following
25 Rhonda Robinson was asked do these photos match
26 the car you described? She said NO see TTAAS page
27 1149 line 22

1 During trial Schwartz walked over to the witness stand to show
 2 Rhonda Robinson a picture I objected to state exhibit 61 No one
 3 testified to where the picture came from. See TTAAS page 1136 line 19-25
 4 See TTAAS page 1137 line 5 the court all he has to do is lay a foundation
 5 this picture magically appeared. It was not authentic or authenticated
 6 I stated it's prejudicial see TTAAS page 1137 line 21 the state said he
 7 don't have a response see TTAAS page 1135 line 13-24 the state leads this
 8 witness into a lie by saying you testified previously on October 23, line 16
 9 she stated yes sir. I objected on line 19 that she never testified at the
 10 preliminary hearing. This jury was influenced by her lying see TTAAS page 1139
 11 line 24 I objected to the state leading this witness again to mislead the jury.
 12 See TTAAS page 1140 line 1 the state continues to lead this witness
 13 everything he say she agree with him finally the court states I mean
 14 you are leading TTAAS page 1140 line 3
 15 Once Rhonda Robinson was confronted about the car she described did not
 16 match the exhibits she go into a erratic behavior TTAAS page 1152 line 23-25
 17 then on TTAAS page 1153 line 7 she start to say I feared Carmine life
 18 this rehashed testimony influenced the jury I asked this court to stop this
 19 witness from going on and on TTAAS page 1153 line 5 these allegations
 20 influenced the jury. All of her statement was false.
 21 The trial get out of control
 22 This witness became hostile see TTAAS page 1154 line 2-22 I asked
 23 do she remember telling the police that she knew Terry to be in debt
 24 with people and she's paid his debts before which mean anybody
 25 could have a conflict with the alleged victim if he's known
 26 for owing people money. The trial court should of stopped
 27 the witness testimony.
 28 See TTAAS page 11625 line 15-16 the state says how do we know

1 he tried to kill him because he pointed a gun, these false allegations
 2 influenced the jury see TTA46 page 1185 line 2 the police report states she
 3 paid his debts before see TTA46 page 1185 line 1 she stated the suspect was
 4 chubby see TTA46 page 1185 line 25 I asked for a mistrial I don't match
 5 her description see TTA46 page 1205 line 21 I objected to the state saying
 6 you were in pain this appealed to the passions of the jury I objected to
 7 photos TTA46 page 1211 line 5 I objected to the state saying you seen the
 8 car after the hospital TTA46 page 1212 line 3 I objected to states exhibit 68
 9 TTA46 page 1214 line 1 line 23 I objected to the in court in the photo line up
 10 was unconstitutional TTA46 page 1215 line 1
 11 Terry bolden changes story see TTA46 page 1221 line 11 did you tell Valenzuela
 12 you met some one because you were going to sell dope not because you
 13 were homeless see TTA46 page 1221 line 17 see police report TTA43 page
 14 514-517 he never mentioned he was homeless I deny both allegations.
 15 Terry bolden description do not match his voluntary statement see TTA43
 16 page 519 hair short suspect is 5'7. I am 6'7 and bald headed
 17 the description of a suspect is not the same as the people in the
 18 line up: Terry bolden is questioned about the car TTA46 page 1229 line 7
 19 he said car is a camry or camaro. The court prevented me from cross
 20 examining him about being in debt with people it would show more
 21 suspects. I am not one of them. TTA46 page 1231 line 6 After numerous
 22 times prosecutor Schwartz was told to stop leading he did it anyway
 23 I objected see TTA47 page 1451 line 4-5 even the court said you are
 24 leading this influenced the jury. Officer Valenzuela already had a
 25 suspect in mind before Terry bolden was shown the line up see TTA43
 26 page 512 if I were to show you... then changes the subject 8-29-16
 27 the unconstitutional lineup was 8-29-16 I objected to hearsay TTA4
 28 7 page 1413 line 23-25 hearsay violation polluted the trial

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1 The state lied to the jury by saying the investigator said he did it
2 see ITAA 8 page 23 line 1 this lie influenced the jury the false
3 statement marco gave was shots fired. I objected to this false
4 hearsay see ITAA 7 page 144 line 6 this misled the jury and tainted the
5 trial. The state lied again and said Terry bolden's BROWNS were on
6 the ground. see ITAA 8 page 25 line 21 to present this lie to the
7 jury no facts in evidence this was a blatant lie.

8 Late motion the state filed a motion during trial it left me no time
9 to respond. The state wanted to exclude ~~any~~ other pictures this motion should
10 of been denied. All of these facts mentioned violates due process

11 Argument

12 The court must reverse this conviction it's unlawful for the state to
13 present lies to a jury, it's prosecutorial misconduct. It violated the
14 14th amendment.

15 points And Authority

16 The trial court prevent the jury from knowing terry bolden is a drug addict
17 and did not want his first story he told officers to surface that he over
18 money for dope not a hotel room. The state presented a lie, I deny both
19 stories. This still violates due process. see Neil Wallace v state 106 nev 470
20 796 p2d 224. The Nevada Supreme court reversed his conviction because
21 the alleged victim gave inconsistent stories. The state in this case
22 failed to correct terry bolden's statement it violates due process. It was
23 misleading to the jury to influence them. The prosecutor presented lies
24 to the jury saying bolden's brain was on the ground a prosecutor is to
25 refrain from improper techniques to obtain a conviction, Not Bryan
26 Schwartz he lied to the jury to get a unlawful conviction
27 see Berger v United States 295 U.S 78 the supreme court reversed
28 his conviction for the state because it misled the jury.

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1 Schwartz presented lies in his closing argument presented lies by saying
 2 TTA 8 Page 1620 line 25 Terry said No lie he did not he said short hair.
 3 TTA 8 page 1628 line 7 the state said you heard it from his daughter
 4 that I committed this crime he lied. I could not respond. See Wahne v State
 5 104 Nev 131 the Nevada supreme court reversed for improper remarks by the state
 6 to inject lies into trial. Violates due process. See Napue v Illinois 360 U.S. 264
 7 the United States supreme court reversed for the due process violation.
 8 the state presented lies marco said Anderson did it was a lie. The right to
 9 confront was violated. There is no previous testimony of such. This is
 10 prosecutorial misconduct to present lies to a jury. The state is not allowed
 11 to inject his personal opinion. Schwartz stated TTA 8 page 1620 lines 17-18
 12 let's think about this for a moment the first time he see them is in court
 13 the court reversed this judgment of conviction see State v Murray 113 Nev
 14 11, 930, P2d 121 see Rogers v. U.S. 231 F3d 498 see Aesop v State 102 Nev
 15 316 the learner lie was inadmissible when he said Borden's brains are in
 16 the ground NRS. 51.065 to present a lie was unconstitutional. The state offered
 17 false evidence see Blufford v Hayes 9th circuit 399 F3d 972 to mislead
 18 a jury violates NRS. 48.035 lies are jury that prejudiced the defendant
 19 the state filed a motion during trial NRS. 179.125 states motions filed not less
 20 than 10 days it should be filed. IT left me no time to respond. The state also
 21 misled the jury by saying allegations he tried to kill him because he aimed
 22 a gun. I deny all allegation the state failed to properly instruct the jury.
 23 on NRS. 193.030 NRS 200.010, NRS. 200.030. Based on all of these errors
 24 I suffered a unlawful conviction. The only remedy is to grant a new
 25 trial for the due process violations of the lies the state presented
 26 to get a unlawful conviction Brains on the ground and his daughter
 27 said he did call false. I ask this court to reverse this judgment
 28 of conviction on the authority of the 14th amendment violations

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1 Ground 30 Violation of due process 14th amendment prosecutorial
2 misconduct BY BINU PALAI. 6th amendment violation Right to a
3 fair trial.
4 During trial BINU Palai violated due process during trial. I objected
5 to the misconduct this prosecutor presented fallacy to the jury.
6 The state lied to the jury and said MR. Anderson shot Terry Bolden IN
7 his opening statement I objected see ITAA 5 page 1088 line 9 this was
8 prejudicial, the state said this female handed MR. Anderson the fire arm
9 I objected see ITAA 5 page 1089 line 14 there wasn't a foundation for this
10 hearsay picture and this lie was the state presented to the jury was
11 prejudicial and misled the jury. These statements were not proven
12 at trial because it's a lie.
13 The Doubtful Jury
14 If these jurors would of known Terry Bolden's multiple stories the
15 outcome would be different.
16 See ITAA 6 page 1198 line 12 How did you meet AJ? I deny being this suspect
17 see ITAA 6 page 1198 line 19 I objected to leading Terry Bolden first
18 story was he met the person to sell dope see ITAA 3 page 516 this
19 next story is he met a person because he was homeless see ITAA
20 6 page 1199 line 14 the state ask were there strings attached?
21 line 17 the court said say yes or no ITAA 6 page 1199 I don't
22 want to get into details. This was said to mislead the jury
23 to think Terry Bolden was allegedly injured over a hotel
24 payment instead of Narcotics that he owe money
25 for. I deny both allegations, the state used the
26 other story to get sympathy from the jury.
27
28

1 The prosecutor prosecuting multiple inconsistencies in injuries
 2 The police report states it was confirmed that Terry Bolden
 3 had been shot once in his stomach see ITAA1 page 2 the next
 4 story the state allege he was shot 3 times see ITAA5 page 1086 line 15-16
 5 During trial the wounds of Terry Bolden increase to five see
 6 ITAA6 page 1202 line 14 Terry Bolden states yes he actually shot
 7 me five times. No doctor testified to any injury.
 8 Issue addressed about multiple stories of wounds
 9 I addressed the court about credibility of wounds because the police
 10 report said once Bino Patel said 3 times Terry Bolden said 5
 11 times. The trial court said so what. See ITAA2 page 371 the trial
 12 court said so what if someone said multiple times and someone said
 13 once. No one knows. This was prejudicial to prosecute multiple stories
 14 I objected to photo see ITAA6 page 1204 line 10 No foundation.
 15 I objected to the state saying he was pain ITAA6 page 1204 line 18-21.
 16 I objected to Terry Bolden showing a scar ITAA6 page 1209 line 19
 17 there wasn't any doctor testimony to say how the scar got there
 18 or date of injury. This was prejudicial. I objected to
 19 no proof by medical about scar ITAA6 page 1210 line 27-4
 20 I objected to ITAA6 page 1211 lines. No foundation to exhibit 49 & 59.
 21 I objected to ITAA6 page 1214 line 22 No foundation in court 1 of I
 22 objected ITAA6 page 1215 it was suggestive. I objected to ITAA6 page 1217
 23 the person he speak of is not on trial. It was inadmissible hearsay. See ITAA6
 24 page 1260 line 8 I objected to the inadmissible hearsay phone call
 25 and statement by the prosecutors investigator. It's prejudicial.
 26 The court knew it was prejudicial to allow the investigator to
 27 come and lie at trial. See ITAA6 page 1261 line 20 the
 28 court I mean everything that comes in is prejudicial

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1 TTAA6 page 1261 line 23 the court the prejudicial value being
 2 outweighed by the probative value line 25 the state said
 3 let me do this. He knew it was extremely prejudicial to
 4 allow the phone call and the false hearsay by his investigator.
 5 False evidence the witness states this is a blood stain
 6 I objected TTAA6 page 1342 line 21 the stain was not tested.
 7 I objected to TTAA6 page 1334 line 21 Brooke Cornell stating
 8 he was in critical condition possible homicide, to state terrible
 9 condition this was said to appeal to the passions of the jury
 10 she's not a doctor. Facts not in evidence say it's blood TTAA6 page 1347
 11 line 24. This was prejudicial to offer testimony to mislead the jury.
 12 Two people 1 Bullet Farce. During trial two people lied and said
 13 a nurse gave them the same bullet on different occasions. see TT
 14 AA6 page 1367 line 15 I objected to the bullet no foundation of
 15 who gave it. The nurse was not present to testify. Caitlyn King said she
 16 gave her this bullet. TTAA6 page 1366 line 16-18 the state knew this was
 17 a lie he stated TTAA6 page 1367 line 19 this was already
 18 admitted under another witness Jacob Werner. see TTAA5 page 1109
 19 line 21-25 Jacob Werner this was handed to you by medical? Yes
 20 what is this? exhibit 53. The bullet within a container.
 21 once Caitlyn King was asked about the bullet again she told
 22 a different story see TTAA7 page 1378 line 12-13 once she gave
 23 it to you did she tell you where it came from? No she did not.
 24 Caitlyn King stated a surgical nurse gave her a bullet see TTAA6 page
 25 1366 line 16-18 two different stories. The state misled the jury
 26 to think these two witnesses received a bullet, this was
 27 a lie and the nurse in question was not present to
 28 testify to the story.

1 That hearsay violated the right to a fair trial to knowingly
 2 present a lie to the jury.
 3 The next lie presented to the jury
 4 The state prosecutor BINU Palal said Marco Rafalovich said
 5 I shot somebody this was a complete lie. see ITAA 8 page
 6 1645 line 13 that was false to mislead the jury.
 7 Marco Rafalovich false testimony was shots fired
 8 by her father see ITAA 7 page 144 line 7 (I deny his lie.)
 9 Marco was questioned about this lie (I deny) I asked
 10 was the statement recorded or written down he said NO
 11 see ITAA 7 page 1442 line 15-18 this false testimony
 12 influenced the jury. IF these were not presented to the jury
 13 the verdict would of been not guilty.
 14 Argument
 15 The prosecutors misconduct was extremely prejudicial
 16 when BINU Palal presented lies to the jury to obtain a
 17 guilty verdict. see Blufford Hayes v. Jill Brown 9th
 18 Circuit 399 F.3d. 972. This case was reversed because
 19 the prosecutor presented lies to the jury. Marco Rafalovich
 20 presented false testimony which is a lie and violates
 21 rules of evidence and the confrontation clause 6th amendment
 22 this alleged witness the state speak of was never served
 23 a subpoena and absconded probation months before
 24 trial. see ITAA 5 page 1066. The court ask do you have a
 25 material witness warrant NO we dont (state) see ITAA
 26 5 page 1065 line 7. To offer testimony as evidence and
 27 say Marco is stating which she said violates the
 28 confrontation clause and violates hearsay rules

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1 rule 904. It must be a prior testimony on record. There
2 is not. The state presented a lie to the jury to say I
3 shot Terry Warden was a lie. It violates due process
4 see Napue v Illinois 360 US 264 The court reversed this
5 case because the prosecutor presented lies to the jury. It
6 violated due process. The state knew Terry Warden story was
7 questionable at first he stated he owe money for drugs then
8 the story changed to he owe money for a hotel room. I
9 deny involvement in any story, the state did not correct his
10 version of events. The state prosecuted me under a lie, see
11 Wallach v State 106 Nev 470 where the victim changed
12 her story that at first her clothes were taken off then she
13 changed her story to her clothes had been ripped off, the
14 court reversed his convictions. In my case the state presented
15 pictures I objected to the phone call I objected to. This was
16 unlawful tactics and should be reversed see Berger v US 795 US 781
17 the prosecutor injected his opinion in trial, the court reversed his
18 conviction. In my case the prosecutor lied and stated Marco
19 said I shot the victim was a lie. see Mesoph v State 102 Nev 316
20 the court reversed his conviction because the state injected his opinion.
21 see Crawford v Washington 541 US 36 the court reversed his conviction
22 because he did not have a previous opportunity to cross examine a
23 witness. In my case it's Marco Rafalovich statement the lie he
24 told the jury. Due to all of these violations by the prosecutor
25 I suffered a guilty verdict from the lies the state
26 allowed during trial. The only remedy is to reverse this
27 conviction on the authority of the 14th amendment
28 due process violation and Napue and grant a new trial

1 Ground 31 ABUSE OF DISCRETION A VIOLATION OF THE

2 14th amendment equal protection of the laws

3 The trial court abused its discretion during trial while
4 holding court hearings.

5 It offends my sense of fairness the trial court stated see TTA 2 page

6 331. see TTA 2 page 326 line 24 You file a alibi motion

7 and I determine it doesn't meet statutory requirements I will

8 strike it. see TTA 2 page 327 line 1 and you will not be able to

9 call that person as a witness.

10 The court discouraging remarks

11 see TTA 2 page 327 line 22 You don't get to do a bunch

12 of stuff if I let you represent yourself.

13 Trickery TO Deceive me

14 see TTA 2 page 351 line 1 the court You didn't do it is your

15 defense right. I did not do it. You know there could be other

16 defenses that might be appropriate to bring up right?

17 There's no other defense but I didn't do it when I pled

18 Not guilty.

19 Limine motion

20 The state filed a motion in limine during trial see TTA 4

21 page 763 I did not have any time to respond the court heard

22 the motion the minute it was filed in open court.

23 The trial court tricked me out of the witness stand

24 see TTA 2 page 350 line 6-7 the court I mean they may be able

25 to bring in some felons beyond ten years. NES 50.095 say

26 otherwise.

27 The court could not stand to watch videos of evidence

28 see TTA 4 page 800 line 18 I will not watch 40 minutes of video

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1 because you can't give it up. This was crucial evidence
 2 needed for trial. I didn't have the leisure to watch
 3 the videos. I don't have a dvd player.
 4 prejudicial picture
 5 see TTAAS page 1136 line 4 the states exhibit 61 I objected
 6 to the photo for lack of foundation and prejudicial
 7 value. the state walked over to the witness stand
 8 showed the witness a picture before it was published. No
 9 one testified as to where this picture came from.
 10 see TTAAS page 1137 line 19 I stated it's prejudicial
 11 see TTAAS page 1137 line 21 the state responded I don't
 12 have a response to that. The court abused it's discretion
 13 by allowing this photo without any authentication of
 14 who took the picture.
 15 The jury was not supposed to know I was in jail.
 16 see TTAAS page 1207 line 11 I stated I've been in jail
 17 a whole year because of you lying on me. The trial court
 18 should of gave a mistrial. see TTAAS page 1211 line 5 I objected
 19 to states exhibits 49, 54.
 20 prejudicial juror
 21 see TTAAS page 870 line 23 I said I object to juror # 5
 22 April Griffin. The court what's your objection? I stated
 23 see TTAAS page 871 her husband is a police. The court saw what
 24 Rhonda Robinson heard phone call prior to trial
 25 see TTAAS page 1140 line 21 you listened to this phone call
 26 prior to trial see TTAAS page 1140 line 23 yes I did.
 27 see TTAAS page 1141 the phone call was made ~~then~~ played
 28 during trial before it was authenticated, she was able

1 To prepare which was prejudicial to rehearse testimony. The 911

2 operator was not present to testify.

3 Hostile witness

4 See TTA 6 page 1153 line 3. If you can stop the witness

5 she became extremely hostile on the stand when she was

6 confronted the judge should have a mistrial.

7 The jury was contaminated

8 During voir dire I made a mistake by saying I'm accused of

9 charges in another courtroom see TTA 5 page 1021 line 19-21

10 after the jury heard this that same panel should of been excused

11 but was not see TTA 5 page 1022 line 6 were going to take a short

12 recess

13 The following took place see TTA 5 page 1023 line 3-8 the court

14 I think that's prejudicial to you but I'm telling you you open

15 this door you're going to have to walk through it and you

16 can't get a mistrial or get a new panel after you contaminate

17 them. You want to tell this jury you have prior bad acts and

18 prior arrest - I stated that's not what I was getting at

19 The court you just told them

20 Defendant I said accused

21 The court, it doesn't take a Einstein to figure out you had

22 other charges pending. This court knew of the contamination

23 and knew of the remedy which was to select a new panel,

24 but did not this was prejudicial and the trial court

25 abused its discretion by forcing me to trial with a

26 contaminated jury panel

27

28

Argument

The trial court knew of the jury panel possibility of being a risk of being biased that were, the verdict came back guilty because they were pre-biased. They should of been replaced. I suffered a unjust verdict

points And Authority

The right to a fair trial was violated when the trial court did not correct the panel of jurors. The 6th amendment states a trial by a impartial jury. The court misled me when it stated the state could use felones older than 10 years, however NRS 52.253 states evidence of a conviction is admissible under this section if a period of more than 10 years has elapsed. (2)(b). The date of release of the witness from confinement. This case must be reversed because states exhibit 4951 was not authenticated. A picture not being authenticated is the same as presenting false evidence, a violation of due process. The 14th amendment another violation of due process, the state filed a motion in limine during trial, I was deprived the right to respond, NRS 174.124 (2)(a) states all motions subject to provisions of subsection (1) must be made in writing not less than 10 days notice to the opposite party. The state filed this motion during trial. The trial court denied me due process and I suffered a 14th amendment due process violation. A right to a fair trial was violated with all of the mentioned above. Failure to allow me the video access misleading me about taking the witness stand. The only remedy is to reverse this judgement of conviction and grant a new trial for the violations of the 6th and 14th amendment violations.

1 GROUND 32 The Trial court violated Judicial

2 Code of Conduct CANONS -14th Amendment due

3 process and equal protection of the laws

4 During trial the trial court violated its judicial duties, the

5 record will reflect.

6 CANON 1 Rule 1.1 Compliance with the law, a Judge shall

7 comply with the law including the code of Judicial conduct.

8 The trial court did not comply with the law when Arnold Anderson

9 was sentenced. The record reflects

10 See TTAA 2 page 360 line 16-18 You have to go to trial on both

11 charges and you could be convicted of both, Now I would not

12 sentence you on both. This court knew the charges are attempt

13 murder and Battery causing substantial harm, were duplicate

14 allegations. The court knew legislative intent that one is not

15 to receive multiple punishments for the same offense.

16 See TTAA 8 page 1805 line 17-23 multiple punishments for same

17 allegations. The court sentence was 8 to 20 years consecutive

18 to another 8 to 20 years that was count 1. Count 3 was

19 4 to 10 years Battery with weapon causing substantial bodily

20 harm consecutive to the attempt murder charge count 1.

21 The trial court violated CANON 2

22 RULE 2.3 Bias and Prejudice and harassment, A Judge

23 shall perform the duties of judicial office including

24 administrative duties without bias or prejudice.

25 See TTAA 2 page 343 line 10 the court like I said I'm

26 going to bring you along kicking and screaming if I

27 have to do you understand that? Defendant. What do

28 you mean? The court it mean I'm not going to stop

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1 The court even if you say oh, I got to research, I'm going
 2 to say NO I told you.
 3 TTAA 2 page 343 line 18 the court were going to go forward
 4 whether you like it or not, TTAA 2 page 343 line 24
 5 The court- You also understand you're not going to be able to
 6 bring a bunch of law books in here.
 7 To inform a proper defendant you can't bring in legal
 8 material is prejudicial.
 9 None Prejudice
 10 See TTAA 3 page 642 line 22 the defendant, I haven't
 11 received any opposition from the state about the motions
 12 on file. The court's response I don't need an opposition from
 13 the state to rule on these, TTAA 3 page 642 line 24-25
 14 Bias statement made during canvass
 15 See TTAA 2 page 320 line 3-4 It's not in your best interest
 16 See TTAA 2 page 327 line 7-8 do you understand how bad a
 17 decision that could be for you you understand?
 18 The next canon violation Deorum and communication
 19 with jurors canon 2 rule 2.8(c) A judge shall not
 20 commend or criticize jurors for their verdict other
 21 than in a court order or a opinion in a proceeding.
 22 See TTAA 8 page 1647 line 14-15 the court I want to
 23 thank you very much for your willingness to serve.
 24 See TTAA 8 page 1647 line 16 thank you again very much
 25 again if I don't see you ms. Mateo thank you very much
 26 See TTAA 8 page 1653 line 10-12 at this time ladies
 27 and gentlemen I'm going to discharge you from your service
 28 as jurors before I do excuse you I want to extend my gratitude

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1 and thanks to you once again. You worked very hard to
2 come to a verdict. I want to extend my thanks to you
3 for your willingness to do that.

4 See TIAA 3 page 1654 line 5-14

5 You're going to be discharged, I will come back here
6 and PERSONALLY thank you. I thank you very very much
7 for your willingness to be here, for your patience throughout
8 this process and for your very clear hard work in reaching
9 this verdict today. Thank you very much. The trial court was
10 wrong for congratulating jurors and thanking them repeatedly.

11 Another Decorum Violation

12 See TIAA 2 page 371 line 3 So what if some said he was
13 shot once, so what if some one said he was shot multiple
14 times, so what. I received this decorum instead of the
15 trial court addressing the inconsistency in injuries.

16 The next canon violation is canon 2

17 Rule 2.10 Judicial Statements on pending and impending cases

18 ⑤ A judge shall not in connection with cases, controversies or
19 issues that are likely to come before the court make pledges, promises
20 or commitments that are inconsistent with impartial performance
21 of the adjudicative duties. This canon was violated when the trial

22 court stated, see TIAA 2 page 357 line 5 I'm glad you're facing
23 habitual treatment. see TIAA 2 page 358 line 18 you will also
24 be facing life with the possibility.

25 The court made a threat

26 See TIAA 2 page 359 line 12 the court if you are convicted
27 of one felony you are facing life without parole or life
28 with the possibility of parole or a term of 25 years

1 see TTA42 page 359 line 5 the state if he's convicted of
2 multiple your honor, the state would potentially ask you to run
3 multiple sentences consecutive.
4 The court see TTA42 page 359 line 8 that's true I mean
5 that is true. see TTA44 page 788 line 14 17 the court you
6 understand your facing habitual treatment if convicted
7 which mean you are facing life with out the possibility
8 of parole. see TTA44 page 748 line 23 the court if you go
9 to trial your maximum exposure is life with out parole.
10 all of these threats were made with out even having
11 a adjudication of habitual criminal.

12 Argument

13 This judicial conduct violates judicial code of
14 conduct. I ask that this court reverse this judgement
15 of conviction for stating extreme bias

16 points and Authority

17 The right to a fair trial was violated by way of
18 the 6th amendment. The right to due process and
19 equal protection of the laws were violated with
20 threats of life and misleading me into not taking
21 the witness stand, to threaten me with if
22 convicted of one felony is life shows this trial
23 court was bias, on the authority of the 6th
24 amendment and 14th amendment, the remedy
25 I seek is for this court to reverse this judgement
26 of conviction and grant a new trial. I
27 suffered due process violations, and equal
28 protection of the laws I request a new trial

1 Ground 33 6th Amendment violation RIGHT TO adequate
2 Counsel. Sandra Stewart was ineffective on Direct Appeal.
3 Sandra Stewart was assigned to do the direct appeal on
4 December 7, 2017. She filed the direct appeal and failed
5 to bring up the issues I wanted to raise in my appeal. She
6 was ineffective appeal counsel! She lied in the appeal
7 and said I was talking to my daughter, I denied it
8 and she lied. Her letters indicate don't write long
9 letters only make the letters 1 page. She failed to
10 communicate with me about my appeal.
11 Sandra Stewart was ineffective on direct Appeal.
12 1. on 9-19 her petition for rehearing say I was talking
13 to my daughter she lied see exhibit A Sandra Stewart's
14 letter she knew I said I was not talking to my daughter
15 in the jail phone call see TTAAS page 1063 line 18 the court
16 tell us who you called. line 21 who was it, I stated a friend
17 line 20 it wasn't her. I did not say Arndae Jay Anderson.
18 see TTAAS page 1062 line 23 I stated I didn't say anything
19 in reference to Arndae Jay Anderson. Name at all.
20 2. IN the petition for rehearing dated 9-19-19 she states
21 I don't challenge preponderance, ON page 5, I challenge
22 every issue in this case, see exhibit B she states on page
23 4 of her letter don't write long letters make one issue or two
24 and write it on one piece of paper, how could I write
25 a defense on ONE sheet of paper? this is ineffective she
26 never talked strategy to me at all ever.
27 3. on her petition for rehearing dated 11-27-19 she made the
28 error saying Anderson's girlfriend said shooter

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1 The appeal court would assume this error was evidence and rule otherwise
2 Sandra Stewart lied in her petition for rehearing when she stated
3 on 11-27-19 page 5 that Anderson's daughter said he was the shooter there
4 is no testimony of this lie. Sandra Stewart lied to sabotage my appeal. The only
5 recorded statement of ArndaeJae Anderson states I was in California
6 at the time of this alleged shooting. see exhibit C. Sandra Stewart failed to
7 be effective on direct appeal she failed see the Nevada Supreme Court
8 order dated September 5, 2019 she failed to challenge the admissibility of
9 Marco Rafalovich statements to the evidentiary statutes, she failed to
10 address the charges of attempt murder and battery causing substantial
11 bodily harm as double jeopardy in her 11-27-19 petition for rehearing motion
12 she failed to address the Nevada Supreme Court order dated 2-20-20 denying
13 rehearing. The writ said victims plural as if multiple victims. the record
14 reflect there is ONLY one alleged victim. she failed to attend oral
15 argument on 2-20-19 she had another attorney attend one who is not
16 familiar with this appeal. she failed to bring up Caitlyn King's false
17 evidence as testimony, she failed to bring up the unconstitutional
18 line up. she failed to bring up Laura Brooke Cornell false evidence as
19 testimony. she failed to address Jacob Werner saying a nurse gave
20 him a bullet the same testimony as Caitlyn King said the same nurse
21 gave her the same bullet. she failed to address the preliminary
22 hearing lack of probable cause, she failed to address no arrest
23 warrant, she failed to address unlawful detention she failed to
24 address unlawful search or the search warrant issues. If Sandra
25 would of challenged these issues I would of
26 got a reversal
27
28

- 1 10. She failed to address Rhonda Robinson's incredible testimony.
- 2 14. She failed to bring up Terry Bolden's incredible testimony his
- 3 two different stories, 15. She failed to attack suspect description
- 4 16. She failed to attack Speedy trial right the record show I did
- 5 not waive it. See TTX page 149.
- 6 17. She failed to address all ineffectiveness of Ken Frizzel.
- 7 18. She failed to bring up all discovery issues.
- 8 19. She failed to address Michael Khawke testimony he's not a specialist
- 9 20. She failed to bring up me being prosecuted by two prosecutors.
- 10 21. She failed to address judicial conduct of trial court
- 11 22. She failed to address abuse of discretion issue.
- 12 23. She failed to address marcora felanch testimony as inadmissible
- 13 evidence. 24. She failed to address Jury issues.
- 14 24. Failed to address misleading jury instructions.
- 15 25. Failed to address Vanessa Turley juror #6 met the da schwart
- 16 before. 26. She failed to address the clerk saying I was guilty
- 17 of the charges, this was a lie the clerk told the jury I pled not guilty
- 18 27. She failed to address the juror who wrote dick in his
- 19 notebook. 28. She failed to address juror questions being ignored.
- 20 29. She failed to bring up any objections I made.
- 21 30. She failed to address insufficient evidence to support verdict
- 22 31. She failed to address prosecutorial misconduct by Brian Pala I
- 23 32. She failed to address prosecutorial misconduct by Bryan Schwartz
- 24 33. She failed to address someone else is convicted of the allegations
- 25 34. She failed to address me being on suicide watch during trial.
- 26 If she would of addressed any of these issues to the appeal courts
- 27 and acted as an advocate for Arnold Andersen the outcome
- 28 would be different.

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Argument

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POINTS AND AUTHORITY

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Sandra Stewart denied me access to the court by lying when she said my girlfriend said I was the shooter this was a lie. She lied when she said I was talking to my daughter the record show I never said that. She made it impossible to talk trial strategy when she said write 1 or 2 issues on 1 sheet of paper why would a lawyer tell your client something like this? she did this appeal with what she thought was the bare minimum and failed to go to the highest level of appeal. Her failure to address the confrontation clause to the United States Supreme Court was ineffective, and left this appeal in a dangerous nature the court was misled with her lies, she sabotaged my appeal. The Nevada Supreme Court said there are no laws on the confrontation clause in Nevada, why didn't she go to the next level of appeal if she would of not lied I would of received a reversal she failed to bring up my issues.

The sixth amendment states one is to have effective counsel, Sandra Stewart lied to the court which led to a denial of justice see Brown v Chaves 424 F.2d 1166 the defendant was denied effective counsel the court reversed his conviction. This appeal counsel was ineffective a conflict existed when she told me to bring up 1 or 2 issues on 1 sheet of paper and don't write long letters. Her worst actions made it impossible to talk about appeal issues she denied me justice see Clark v State 108 Nev 692 this counsel was ineffective the court reversed for the 6th amendment violation. I suffered denials on my appeal the 6th amendment was violated. The only remedy is to reverse this conviction for a new trial on the authority of the 6th amendment.

1/78 of 132

1. right to adequate counsel.
 2. Ground 34 Violation of Due process Gilberto Valenzuela
 3. offering false evidence. 14th amendment violation
 4. During trial Gilberto Valenzuela offered false evidence as
 5. testimony. If he didn't do so the outcome would be not guilty.
 6. See TTA 7 page 1470 line 25 He said I assigned detectives to
 7. interview some victims the only alleged victim is Terry Holden
 8. These small details can wrongfully influence the jury. See TTA 7 page
 9. 1472 line 11 State what did he look like at the time? Valenzuela
 10. stated he was groggish in pain. I objected line 15 this was a seed by
 11. the state to mislead the jury. TTA 7 page 1472 line 16-19 the state
 12. I actually agree your honor I'll stipulate to the striking of the
 13. record. This was misleading to have Valenzuela say he was in pain
 14. the trial court did not tell the jury to disregard that testimony, they
 15. cannot unhear what they already heard.
 16. See TTA 7 page 1469 line 14-16 And you said the blood splatter went
 17. some place, Valenzuela upstairs. This officer is testifying to stuff
 18. not in evidence, this blood was never tested.
 19. Hearsay by Valenzuela
 20. See TTA 7 page 1488 line 15 the state did Terry or Rhonda
 21. approach you regarding a female? Valenzuela yes they did.
 22. See TTA 7 page 1488 line 18 based on that did you take any action
 23. See TTA 7 page 1488 line 19 yes a person who handed me Anderson
 24. a firearm during the incident. I objected to this as hearsay see
 25. TTA 7 page 1488 line 23-25 this statement violated hearsay
 26. and the state allowed the jury to hear hearsay the female is
 27. not on trial. This is the state allowed the jury to hear
 28. was prejudicial and not proven.

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1 Phone call improper AND prejudicial
2 Gilberto valenzuela testified to a Jail call it was prejudicial
3 and not authenticated. Now the jury knows I was in Jail.
4 See TTA7 page 1491 line 8 was that a phone call made
5 by the defendant?
6 See TTA7 page 1491 line 10 yes it was
7 See TTA7 page 1491 line 11 I objected
8 See TTA7 page 1491 line 19 Is every call made by an
9 inmate associated with that particular inmate line 21 yes
10 I am sure the jury knows inmate mean one whose
11 incarcerated, and I'm in Jail. The jury should not know
12 I am in Jail now the presumption of innocence is gone.
13 The Prejudicial Photo Array
14 In any investigation a officer is to do a double blind
15 photo array to where the officer doing the photo array
16 does not know the identity of the suspect, valenzuela
17 did ~~the~~ unconstitutional photo array himself.
18 See TTA7 page 1494 line 10-14 defendant ask can you explain
19 what a double blind photo array consist of? See TTA7 page 1494
20 line 14 valenzuela is when you get a detective that's
21 not associated with the case to conduct a six pack.
22 Yes the investigating officer
23 See TTA7 page 1494 line 7 You the investigating officer?
24 See TTA7 page 1494 line 9 yes he stated he did the
25 photo array and the officer is not to know the identity
26 of the suspect he did the photo array. See TTA7 page 1495 line
27 5 I chose to do the one I did. This proves it was
28 unconstitutional and biased.

1 with pictures of black males that were not the same skin color
2 or of men who was bald, no one had short hair. There's a big
3 difference in short hair or bald.
4 Valenzuela did not find any evidence to link anyone to a crime
5 when the camaro was searched
6 see ITAA 7 page 1582 line 13 did you find a firearm? No I did
7 not line 14
8 Terry Bolden stated two different cars Camry or Camaro see ITAA 3 page
9 518
10 Arnold Andersons car do not match the description see ITAA 7 page 1582
11 line 19 when you viewed the camaro does it look a hundred percent black
12 Detective Valenzuela No. This was obviously the wrong car. I objected
13 to the state leading Valenzuela see ITAA 8 page 1599 line 18 you didn't
14 impound the car so that a higher probability of getting the registered
15 owner? ITAA 8 page 1599 line 25 I objected to leading. This influenced
16 the jury.
17 This officer blatantly lied in front of the jury Valenzuela was
18 asked how long do you have to write a police report? he stated on
19 attempt murder there isn't one see ITAA 7 page 1587 line 2 This
20 misled the jury, the requirement for a B felony is 4 years. The next
21 lie Valenzuela told the jury was the police report was
22 written the same day. see ITAA 7 page 1587 line 10 this was
23 a lie. The police report was written over a 14 day period
24 see ITAA 1 page 8 and 11 page 8 has the date of 8-23-16
25 page 9 say 9-5-16. he lied again his arrest report, he said
26 I was arrested at 321 N. 14th street see ITAA 1 page 8 arrest location
27 see ITAA 7 page 1592 line 23-25 did you arrest me on 8-23-16
28

1 NO.

2 This false testimony was prejudicial.

3

Argument

4 This officer testified falsely his lies were prejudicial to help
5 the state get a unlawful conviction. Presenting false evidence
6 as testimony violates due process and equal protection of the laws.
7 If he did not present lies to the jury the verdict would be not guilty.

8

Points And Authority

9 These lies misled the jury, the photo lineup was unconstitutional
10 and suggestive. see People v Rolison 141 N.W. 2d 318 533 N.Y. this case

11 lacked fact finding to identify a suspect. officer valenzuela offered
12 testimony Terry bolden was in pain, he's not a doctor this was inadmissible
13 hearsay to get testimony of pain, see State v Purcell 110 Nev 1399

14 the victim testified only to allegations of misconduct, the Nevada supreme
15 court reversed his case for lack of evidence, insufficient evidence to
16 support a conviction. see Martha Felix v State of Nevada 109 Nev 151 849

17 82d. the Nevada supreme court reversed his conviction for improper
18 admitting testimony about sexual abuse. it was misleading to the jury, the

19 same in this case for the state to allow valenzuela to say
20 someone allegedly gave me a firearm. A false statement. valenzuela

21 should of not testified about the phone call see NES 52.075 a call is verified
22 by the number supplied by the phone company. Valenzuela do not work for

23 the phone company. These prejudicial factors violated my right to a 6th
24 fair trial and due process 14th amendment. I suffered undue
25 prejudice. The only remedy available is to reverse this
26 judgement of conviction and grant a new trial for a
27 6th amendment fair trial violation and reverse on the

28 authority of the 14th amendment equal protection of the law violation

~~121~~ 121 O f 132

1 Ground 35 A violation of due process and equal protection
2 of the laws 14th amendment. Evidence is sufficient to support
3 verdict

4 During trial the state failed to support any element of any charge.
5 On the criminal complaint. Insufficient evidence to support
6 guilty verdict. The state called Terry Bolden a convicted felon and
7 CSA agents who said they collected evidence. the items cannot be called
8 evidence if the items were not tested. This is insufficient to support
9 the verdict.

10 Terry Bolden's first story is he owe someone money for drugs see ITAA
11 3 page 516 The next story is he owe money for a hotel room see ITAA page
12 56.

13 Questionable injuries

14 The first injury is it's confirmed Terry Bolden was shot once in
15 the stomach. see ITAA page 2 on August 23, 2016.

16 The next injury The state say 3 injuries head leg stomach see IT
17 A 8 page 1624 line 25

18 The third list of injuries go to 5. injuries

19 Terry Bolden states 3 times in leg head and stomach see ITAA 6 page
20 1205 line 15

21 These injuries we brought to the trial courts attention. The trial court
22 said so what see ITAA 2 page 371 line 3 so what if someone said
23 he was shot once and someone said multiple times so what

24 In the event any of the injuries were true a doctor or medical
25 expert could of testified to such. The state did not call any medical staff.
26 to trial. This is insufficient. I deny all allegations, of all injuries.

27 Terry Bolden was asked how many times he's been in the suspect
28 car he stated 2 or 3 times see ITAA 6 page 1230 line 13-15

1 he was asked how many seats are in the car he said it's a 2 seater
2 see TTAAG page 1230 line 9-10 he was shown defense exhibit B
3 the car in question is a 4 seater see TTAAG page 1239 he was not
4 in the camaro seized.
5 Rhonda Robinson's conflicting testimony is insufficient
6 she was asked about the alleged shooting and gave conflicting testimony
7 see TTAAG page 1125 line 8 the state ask step by step so you're in the car with
8 terry do you get out of the car or do you stay in the car? Rhonda I stayed in
9 the car next story see TTAAG page 1126 line 3 I got back in the car see TTAAG
10 page 1126 line 10 I was looking over my shoulder, she admits to lying see TTAAG page
11 1141 line 4-7 when asked about do you know where the suspect hung out
12 she said no then said I'm lying I'm lying TTAAG page 1181 lines 8 admits
13 it's a untrue statement how can she be credible when she admits to lying?
14 next story she states she agree she was hiding in the car see TTAAG page
15 1169 line 20 next story she states she was in the car covered see TTAAG page 1170
16 line 8 she stated she was hiding in car then looking over shoulder how could
17 she be credible to testify to a alleged shooting, contradiction in car she
18 described do the pictures match the description of car you gave police
19 NO see TTAAG page 1149 line 18-22 see TTAAG page 1150 she then stated
20 you didn't shoot terry.

21 CAITLYN King testimony is sufficient to support verdict
22 she was asked did you analyze any of the stuff you collected NO I did
23 not that would be our laboratory responsibility see TTAAG page 1370
24 line 1-2 none of the items she collected were tested for trace evidence
25 dna, finger prints, skin cells. The state showed pictures of a bullet
26 and shell casings, how could this be considered evidence if it wasn't
27 tested? No one from a lab testified about what was collected.
28

1 Laura Brooke Cornell collected items that were not tested And offered
2 false evidence see TIAA 6 page 1353 line 25 And you haven't analyzed any
3 of the stuff you collected? No we don't do that see TIAA 6 page 1354 line 2 she
4 she offered that this is a trail of blood with out testing. This is
5 insufficient evidence.

Ernest Carlos

6
7 his statement is insufficient evidence, he stated a 30 year gap in
8 the description of the suspects car see TIAA 6 page 1240 line 24-25
9 Is it fair to say you seen a car 70's 80's 90's see TIAA 6 page 1241 line 1
10 Yes. This is insufficient evidence to support the verdict.

Two People 1 bullet insufficient evidence

11
12 this is false testimony by Caitlyn King. stated a nurse gave her
13 1 bullet see TIAA 6 page 1366 states exhibit 58. she stated it came
14 from trauma. she lied on the witness stand, I asked her did the nurse
15 say where the bullet came from? No see TIAA 7 page 1378 line 1. This
16 is insufficient evidence as much as it is a lie.

Jacob Werner Testify To the same bullet

17
18 Jacob Werner see TIAA 6 page 1367 line 20 states exhibit 49 can you tell
19 me what this is? I objected the state said it's previously admitted under
20 witness Jacob Werner. The state knowingly presented this lie to the jury
21 Now Jacob Werner said he received the bullet from a nurse see TIAA 5 page
22 1108 line 4 he stated yes this was given to me by medical see TIAA 5
23 page 1109 line 21-25 Schwartz stated lets start with exhibit 58-59-60
24 what is that? A plastic container, Schwartz and is that what
25 was given to you by medical? Yes. Caitlyn King and Jacob Werner
26 both swore under oath to tell the whole truth and nothing
27 but the truth, one of them or both of them are lying
28 about receiving 1 bullet.

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1 It's impossible for two people to receive 1 bullet at the same time. The
2 state did not call this alleged nurse to verify either story. It's hearsay

3 Argument

4 The state called caitlyn King who did not test any item she collected
5 the state called Laura Brooke cornell who testified none of the items
6 she collected were tested in a laboratory. The state failed to call any
7 medical staff to testify to any injury to terry bolden's alleged
8 story. The staff failed to prove any elements of attempt murder
9 the state failed to prove any elements of battery causing
10 substantial bodily harm. The state knowingly presented lies to
11 the jury when King stated she received the same bullet as Jacob
12 Werner. NOT because it was a picture of two bullets it was
13 the same bullet 1 picture. This violated due process. I suffered a unjust trial

14 Points And Authority

15 Both witnesses caitlyn King and Jacob Werner testified to a lie about
16 receiving 1 bullet. The state prosecutor knowingly presented lies to the jury
17 the state said the bullet was already admitted by another witness This page
18 1367 lines 8-20. This is insufficient evidence see napue v illinois 360 US 264
19 the state presented lies to the jury the US supreme court reversed his
20 conviction stating presenting lies to a jury violates due process see
21 state v purcell 110 Nev 1389 the states only alleged victim testified
22 to sexual misconduct with out evidence, the Nevada supreme court
23 reversed his conviction because the state failed to present evidence
24 the Nevada supreme court granted a new trial. Pursuant to NRS
25 199.200 at statement of what one knows does not know
26 to be true is false. This is perjury also see Blufford V Jill
27 Brown 9th circuit 399 F.3d 972

1 The state violated due process by presenting false evidence
2 to the jury. the state violated due process the 9th circuit Revers
3 his conviction deliberate deception to obtain a conviction
4 by presenting false evidence violates due process reversal is
5 virtually automatic. The state presented testimony of blood as
6 evidence that was not tested. The state allowed two people
7 to say I received one bullet to deceive the jury. If the
8 state did not present this false evidence I would of
9 been found Not guilty. I suffered a violation of the
10 14 amendment due process and equal protection of the laws
11 and the right to a fair trial. The only remedy is
12 to reverse this judgement of conviction on the
13 authority of the 14th amendment violation and
14 Napue v Illinois 360 US 264 and grant a new
15 trial, the state failed to present physical evidence
16 or a doctor, or a medical report to prove any
17 injury I deny all allegations of these allegations
18 of Terry Bolden being shot, the testimony at
19 trial by the states witnesses is insufficient
20 to support a conviction. I ask this court to
21 reverse and grant a new trial on the authority
22 of Napue supra and the 14th amendment violation
23 of due process and equal protection of the laws.
24 The only remedy is to reverse this judgement
25 of conviction and grant a new trial for
26 these constitutional violations.

27
28

1 Ground 36 violation of 14th amendment

2 equal protection of the laws. The state presented
3 Marco Rafalovich statement which is inadmissible
4 evidence

5 During trial the state allowed marco rafalovich to
6 say a statement which is inadmissible and a lie
7 see ITAA 7 page 1414 line 7 he stated Anderson & ae

8 Anderson told him her father went down town
9 to meet some one and shots were fired, he was
10 asked was this statement recorded No it was not
11 see ITAA 7 page 1422 line 15-16.

12 This was a lie and should be inadmissible,
13 I objected to this story see ITAA 6 page 1260 line 12.

14 The trial court knew this falacious statement
15 should be inadmissible. see ITAA 6 page 1261 lines 20-25

16 I mean every thing that comes in is prejudicial, I think
17 you run the risk of the probative value being substantial
18 outweighed by the probative value. The trial court

19 knew this was wrong. see exhibit C her statement see I was in California

20 Argument

21 The trial court was aware that this was prejudicial

22 to allow this hearsay lie from Marco Rafalovich

23 to influence the jury. If he did not present this

24 lie, the jury would of found me not guilty.

25

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Points And Authority

marco Ruffalo's false statement violates federal and state rule of evidence 804. The state presented this lie to the jury it violates due process and is inadmissible there isn't a recording of this statement because it's a lie. see exhibit C, her statement states I was in California at the time of this alleged shooting. A state prosecutor must not present lies to a jury, see Napue v Illinois 360 US 264 this case was reversed for an inadmissible lie that violated due process. I suffered an unlawful conviction due to this inadmissible lie. The only remedy is to reverse this judgment of conviction and grant a new trial on the authority of a 14th amendment violation and Napue v Illinois *supra*. I ask this court to grant a new trial for this 14th amendment violation of due process and equal protection of the laws.

CONCLUSION

I ask this honorable court to reverse this judgement of conviction and grant a new trial due to constitutional violations. I suffered a unlawful conviction on the following grounds Ground 1 inadmissible evidence of marco Rafalovich hearsay and inadmissible evidence, a violation of the 6th amendment confrontation clause. Ground 2 6th amendment violation of inadequate counsel (Ken Frizzell). Ground 3 redundant conviction a violation of the 12th and 14th amendment. Ground 4 suspect already convicted 12th amendment violation. Ground 5 false evidence due process violation 14th amendment equal protection of the laws. Ground 6 14th amendment violation of equal protection of the laws. Ground 7 lack of probable cause at the preliminary hearing 14th amendment violation; equal protection of the laws. Ground 8 unlawful detention a violation of the 4th amendment. Ground 9 Jacob Werner presented false evidence a violation of the 14th amendment due process. Ground 10 A violation of the 4th amendment No arrest warrant. Ground 11 untimely writ a violation of the 14th amendment due process. Ground 12 A 6th amendment violation of the right to a fair trial the clerk lied to the jury and said defendant is guilty. Ground 13 A 6th and 14th amendment violation Micheal Khanke presented false evidence to the jury. Ground 14 two prosecutors should be one. violates due process 14th amendment. violation of the 6th amendment right to a fair trial Ground 15 Juror questions ignored 6th amendment violation right to a fair trial. and a 14th amendment violation due process and equal protection of the laws. Ground 16 A 6th amendment violation of the right to a impartial jury, this juror wrote Dick in his notes a violation of equal protection of the laws.

- 1 Ground 17 14th amendment due process violation discovery issues
2 violated. Ground 18 5th amendment violation racial profiling & 14th
3 amendment due process and equal protection of the laws. Ground 19
4 conflict in car description 14th amendment due process violation
5 Ground 20 14th amendment violation due process and 6th amendment
6 right to confront witness. Ground 21 14th amendment violation equal
7 protection of the laws. court failed to address mental health issues
8 Ground 22 misleading jury instruction & 6th & 14th amendment fair
9 trial and equal protection of the laws. Ground 23 Due process
10 violation 14th amendment witness not subpoenaed. Ground 24
11 6th amendment violation of speedy trial. Ground 25 14th amendment
12 due process violation false evidence by lawrence brooks cornell
13 Ground 26 violation of 6th amendment fair trial violations jurors
14 should of been excused. 14th amendment equal protection of the laws
15 Ground 27 violation of the 4th amendment unlawful search
16 and seizure. Ground 28 6th amendment fair trial violation
17 objections made during trial. Ground 29 Prosecutorial misconduct
18 by Bryan Schwartz a due process violation of the 14th amendment
19 Ground 30 prosecutorial misconduct by bryon pal violation of
20 due process 14th amendment. Ground 31 Abuse of discretion a
21 violation of 14th amendment due process and equal protection
22 the laws. Ground 32 Judicial code of conduct a violation of
23 canons 14th amendment equal protection of the laws. Ground 33
24 ineffective counsel Sandra Stewart violation of the 6th
25 amendment adequate counsel. Ground 34 Gilberto Valenzuela
26 offering false evidence violation of 14th amendment
27 due process. Ground 35 insufficient evidence to support
28 verdict due process of laws 14th amendment. Ground 36

1 violation of the 14th amendment equal protection of the laws
2 inadmissible evidence. Based on all of these constitutional
3 violations I ask this honorable court to reverse
4 this judgement of conviction and grant a new trial
5 if these violations didn't occur I would be found not
6 guilty, therefore I ask for a reversal of the
7 judgement of conviction and grant a new trial,

8 *Wale Anderson*

9 Date 12-9-20.

10 I declare under penalty of perjury that the above
11 is true and correct to the best of my knowledge.

12 *Wale Anderson*

13 12-9-20

1 All Exhibits ARE Included

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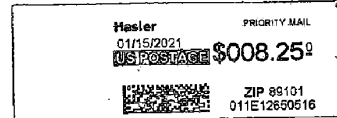
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131 of 132

ARNOLD ANDERSON
85509
P.O. BOX 208
INDIAN SPRINGS NV
89070



RECEIVED
JAN 19 2021
CLERK OF THE COURT

3RD FLOOR
CLERK OF THE COURT
200 LEWIS AVE
LAS VEGAS NV
89155

Alvin S. Shuman
CLERK OF THE COURT

ARNOLD ANDERSON ID NO. 85509

SOUTHERN DESERT CORRECTIONAL CTN.
20825-COLD CREEK RD.
P.O. BOX 208
INDIAN SPRINGS, NV 89070

DISTRICT COURT
CLARK COUNTY, NEVADA

ARNOLD ANDERSON
PLAINTIFF

v.

JERRY HOWELL WARDEN SDCC
DEFENDANTS

C-16-319621-1
CASE NO.: A-21827381 W

DEPT. NO.: 12

DOCKET:

NOTICE OF MOTION
HEARING REQUIRED

MOTION FOR TELEPHONIC
HEARING.

COMES NOW, PETITIONER ARNOLD ANDERSON, herein above respectfully
moves this Honorable Court for an TELEPHONIC HEARING TO
be set march 11, 2021 at 12:30 pm

This Motion is made and based upon the accompanying Memorandum of Points and
Authorities,

DATED: this 28 day of JANUARY, 2021

BY: ARNOLD ANDERSON

Alvin S. Shuman #85509
Defendant In Proper Personam RECEIVED

FEB - 4 2021

CLERK OF THE COURT

ADDITIONAL FACTS OF THE CASE:

PETITIONER FILED A MOTION FOR A WRIT OF HABEAS
CORPUS THAT WILL BE HEARD MARCH 11, 2021
AT 12:30pm.

ARGUMENT

PETITIONER IS IN SOUTHERN DESERT CORRECTIONAL
CENTER LOCATED ABOUT 30 MILES FROM
THE EIGHT JUDICIAL DISTRICT COURT
IT IS UNLIKELY THE PRISON WILL
TRANSPORT THE PETITIONER. PETITIONER
ASK THAT THE CLERK OF THE COURT
SET A TELEPHONIC HEARING BY CONTACTING
THE PRISON VIA TELEPHONE SO PETITIONER
CAN ARGUE THE WRIT BEFORE THE COURT.

CONCLUSION

PETITIONER ASK THAT THE CLERK OF THE
COURT CALL SOUTHERN DESERT CORRECTIONAL
CENTER AT 725-216-6500 ON MARCH 11, 2021
AT 12:30pm FOR A TELEPHONE CONFERENCE.

all done

1-28-21

CERTIFICATE OF SERVICE BY MAILING

I, ARNOLD ANDERSON, hereby certify, pursuant to NRCP 5(b), that on this 28
day of JANUARY, 20 21, I mailed a true and correct copy of the foregoing, "MOTION
FOR TELEPHONIC HEARING"

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

CLERK OF THE COURT
200 LEWIS AVE 3rd FLOOR
UNLV 89155

TERRY HOWELL
P.O. Box 208
Indian Springs, NV.
89070.

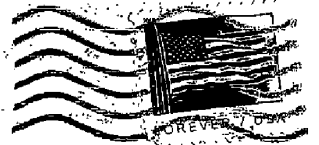
CC:FILE

DATED: this 28 day of JANUARY, 20 21.

ARNOLD ANDERSON
adler # 85509
/In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

ARNOLD ANDERSON
85509
P.O. BOX 209
INDIAN SPRINGS NV
89070

LAS VEGAS NV. 890
1 FEB 2021 PM 4 L



RECEIVED

FEB - 4 2021

CLERK OF THE COURT

CLERK OF THE COURT
200 LEWIS AVE
LAS VEGAS NV
89155

89101-630000



Electronically Filed
02/17/2021

Howard Shinn
CLERK OF THE COURT

1 ARNOLD Anderson
2 85509 / In Propria Personam
3 Post Office Box 208 S.D.C.C.
4 Indian Springs, Nevada 89018

5 **DISTRICT COURT**
6 **CLARK COUNTY, NEVADA**

7 Arnold Anderson
8 PETITIONER

9 Jerry Howell warden at SDCC
10 Defendant(s)

A-21-827381-W
Case No. G-16-319021-1

Dept No. 12

Docket _____

HEARING REQUIRED

13 **NOTICE OF MOTION**

14 **YOU WILL PLEASE TAKE NOTICE, that A Motion For a Telephonic**

15 hearing

16 will come on for hearing before the above-entitled Court on the 11 day of march, 2021,

17 at the hour of 12 o'clock 30¹ M. In Department 12, of said Court.

18
19
20 CC:FILE

21
22 DATED: this 28 day of January, 2021.

23
24 BY: Arnold Anderson # 85509
25 /In Propria Personam

26
27 **RECEIVED**
28 **RECEIVED**
FEB 04 2021
CLERK OF THE COURT
CLERK OF THE COURT

Heather B. Shinn
CLERK OF THE COURT

27

DISTRICT COURT

CLARK COUNTY, NEVADA

ARNOLD ANDERSON
petitioner

CASE# C-16-319021-1

A-21-827381-W

Jerry Howell SDCC Warden

DEPT# 12

Defendant(s)

NOTICE OF MOTION

HEARING REQUIRED

MOTION FOR EVIDENTIARY HEARING

Comes now the petitioner Arnold Anderson in proper person asking this honorable court for a evidentiary hearing. Points and authorities attached.

BACKGROUND

THE DEFENDANT WAS UNLAWFULLY CONVICTED BY JURY TRIAL SEPTEMBER 1, 2017. DEFENDANT WAS APPOINTED APPEAL COUNSEL SANDRA STEWART TO FILE THE DIRECT APPEAL WHICH WAS DENIED. THIS COURT HAS JURISDICTION TO REVIEW THE POST CONVICTION HABEAS CORPUS. DEFENDANT IS ENTITLED TO RELIEF AND REQUEST A EVIDENTIARY HEARING.

REASON FOR EVIDENTIARY HEARING.

THE DEFENDANT WAS UNLAWFULLY CONVICTED OF DUPLICATE CHARGES FROM ALLEGATIONS STATED IN THE CRIMINAL COMPLAINT COUNT 1 ATTEMPT MURDER BY SHOOTING AT OR INTO THE BODY OF TERRY BOLDEN. COUNT 3. BATTERY WITH A DEADLY WEAPON BY SHOOTING AT

RECEIVED

FEB 08 2021

CLERK OF THE COURT

1 OR INTO THE BODY OF TERRY BOLDEN. COUNT 1 & 3
2 ARE WORDED IN THE SAME EXACT WORDS.
3 DEFENDANT PLED NOT GUILTY TO ALL
4 CHARGES SEPTEMBER 7, 2016 AND OCTOBER
5 31, 2016.

6 REASONS FOR EVIDENTIARY HEARING

7 LEGISLATIVE INTENT IS NOT FOR DEFENDANTS
8 TO RECEIVE MULTIPLE PUNISHMENTS FOR
9 THE SAME ALLEGATIONS, AND SANDRA
10 STEWART MADE FALSE ALLEGATIONS
11 DURING THE APPEAL BY SAYING DEFENDANT
12 WAS TALKING TO HIS DAUGHTER EVEN THOUGH
13 DEFENDANT DENIED IT AT TRIAL IT AAS PAGE
14 1063. LINE 19 "IT WASNT HER" FURTHER
15 COUNSEL STATED IN A LETTER DO NOT
16 WRITE LONG LETTERS WRITE 1 PAGE, THESE
17 WORDS ALONE PROVE APPEAL COUNSEL
18 WAS INEFFECTIVE.

19 ARGUMENT

20 APPEAL COUNSEL WAS INEFFECTIVE AND
21 MISLED THE NEVADA SUPREME COURT AND
22 WAS FALLACIOUS & CONVEYED WORDS THAT
23 WERE NOT APART OF THE TRANSCRIPT.
24 COUNSEL IS TO BE A ADVOCATE FOR THE
25 CLIENT. SHE WAS NOT

POINTS AND AUTHORITY

1 HABEAS RELIEF IS IF A STATES COURT DECISION
2 WAS CONTRARY OR INVOLVED A UNREASONABLE
3 APPLICATION OF ESTABLISHED LAW PETITIONER
4 IS ENTITLED TO RELIEF AND EVIDENTIARY
5 HEARING IF HE CAN PROVE FACTS THAT ENTITLED
6 HIM TO RELIEF. THE PROVEN FACTS ARE
7 DEFENDANT IS CONVICTED FOR MULTIPLE
8 PUNISHMENTS THAT ARE IDENTICAL IN THE
9 CRIMINAL COMPLAINT. COUNT 1 AND 3 ARE
10 WORDED THE SAME COUNT 1 ATTEMPT MURDER
11 OF TERRY BOLDEN BY SHOOTING AT OR INTO
12 THE BODY. COUNT 3. BATTERY WITH WEAPON
13 CAUSING SUBSTANTIAL BODILY HARM BY
14 SHOOTING AT OR INTO THE BODY OF TERRY
15 BOLDEN. LEGISLATIVE INTENT IS THAT DEFENDANTS
16 NOT RECEIVE MULTIPLE PUNISHMENTS FOR
17 THE SAME OFFENSE. I DENY ANY AND
18 ALL INVOLVEMENT OF THESE COUNTS. SEE
19 SKIBA V STATE 114 NEV 612 SEE HARRY BLOCKBURGER
20 V UNITED STATES 289 US 299 THE COURT REVERSED
21 THE CONVICTION BECAUSE THEY WERE REDUNDANT
22 ONE CHARGE MUST HAVE THE ELEMENT THE
23 OTHER HAS NOT. THE ISSUE OF SANDRA STEWART
24 BEING INEFFECTIVE SEE STRICKLAND V WASHINGTON
25 SUPRA. EVIDENTIARY HEARING IS WARRANTED
26 SEE TILCOCK V STATE 538 F3d 1138 HIS CONVICTION
27 WAS REVERSED BECAUSE HE DID NOT RECEIVE A
28

1 EVIDENTIARY HEARING. SEE WILLIAMS V TAYLOR
2 529 US 420 THIS CASE WAS REMANDED FOR SUCH
3 AN EVIDENTIARY HEARING WOULD BE REASONABLE
4 IN THIS CASE, FOR DEFENDANT TO PROVE EVERY
5 ELEMENT HE ASSERT.

6 CONCLUSION

7 I ASK THIS COURT TO GRANT THIS MOTION
8 FOR A EVIDENTIARY HEARING. THE FOREGOING IS TRUE
9 AND CORRECT TO THE BEST OF MY KNOWLEDGE. 2-1-21

10 *ald Andersen* PRO SE.

11
12 PROOF OF SERVICE

13 ON FEBRUARY 1, 2021 I ARNOLD ANDERSON MAILED
14 A COPY OF THIS MOTION FOR A EVIDENTIARY
15 HEARING TO THE FOLLOWING. BY PLACING IT
16 IN THE MAIL.

17 CLERK OF THE COURT 3RD FLOOR
18 200 LEWIS AVE
19 LAS VEGAS NV
20 89155

JERRY HOWELL
P.O. BOX 208
INDIAN SPRINGS NV
89070

21
22 *ald Andersen*
23 2-1-20
24
25
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27
28

ARNOLD ANDERSON

85509

P.O. BOX 208

INDIAN SPRINGS NV

89070

LAS VEGAS NV 890

3 FEB 2021 PM 5 L

FOREVER USA

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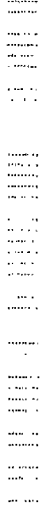
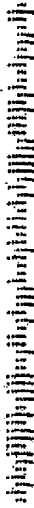
CLERK OF THE COURT

200 LEWIS AVE

LAS VEGAS NV

89155

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FEB 2 2021
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27

Electronically Filed
02/17/2021

Heath Shinn
CLERK OF THE COURT

1 ARNOLD ANDERSON
2 85509 / In Propria Personam
3 Post Office Box 208 S.D.C.C.
4 Indian Springs, Nevada 89018

5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7 ARNOLD ANDERSON
8 Petitioner

9 V

10 JERRY HOWELL (WARDEN)
11 RESPONDENT &

Case No. C-16-319021-1

Dept No. 12

Docket _____

13
14 NOTICE OF MOTION

15 YOU WILL PLEASE TAKE NOTICE, that A MOTION FOR
16 EVIDENTIARY HEARING

17 will come on for hearing before the above-entitled Court on the 11 day of MARCH, 2021,
18 at the hour of 12 o'clock 30th M. In Department 12, of said Court.

19
20 CC:FILE

21
22 DATED: this 1 day of FEBRUARY, 2021.

23
24 BY: ARNOLD ANDERSON
25 clerk of court #85509
26 /In Propria Personam

RECEIVED
27
28

CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA



Arnold Anderson, Plaintiff(s)
vs.

Case No.: A-21-827381-W

Jerry Howell, Warden SDCC, Defendant(s)

Department 12

NOTICE OF HEARING

Please be advised that the Plaintiff's Motion for Evidentiary Hearing in the above-entitled matter is set for hearing as follows:

Date: March 23, 2021

Time: 12:30 PM

Location: RJC Courtroom 14D
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Michelle McCarthy
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Michelle McCarthy
Deputy Clerk of the Court



1 **RSPN**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 ALEXANDER CHEN
6 Chief Deputy District Attorney
7 Nevada Bar #10539
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

12 ARNOLD ANDERSON,
13 #1202768

14 Defendant.

CASE NO: C-16-319021-1
A-21-827381-W
DEPT NO: XII

15 **STATE'S RESPONSE TO DEFENDANT'S PETITION FOR WRIT OF HABEAS**
16 **CORPUS (POST-CONVICTION)**

17 DATE OF HEARING: MARCH 11, 2021
18 TIME OF HEARING: 12:30 PM

19 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County
20 District Attorney, through ALEXANDER CHEN, Chief Deputy District Attorney, and hereby
21 submits the attached Points and Authorities in Response to Defendant's Petition For Writ Of
22 Habeas Corpus (Post-Conviction).

23 This Response is made and based upon all the papers and pleadings on file herein, the
24 attached points and authorities in support hereof, and oral argument at the time of hearing, if
25 deemed necessary by this Honorable Court.

26 //

27 //

28 //

//

\\CLARKCOUNTYDA.NET\CRM\CASE2\2016\435\13\201643513C-RSPN-(ARNOLD KEITH ANDERSON)-001.DOCX

1 **POINTS AND AUTHORITIES**

2 **STATEMENT OF THE CASE**

3 On October 27, 2016, Arnold Anderson (hereinafter "Defendant") was charged by way
4 of Information with the crimes of: Attempt Murder with Use of a Deadly Weapon (Category
5 B Felony- NRS 200.010, 200.030, 193.330, 193.165- NOC 50031); Robbery with Use of a
6 Deadly Weapon (Category B Felony- NRS 200.380, 193.165- NOC 50138); and Battery with
7 Use of a Deadly Weapon resulting in Substantial Bodily Harm (Category Be Felony- NRS
8 400.281- NOC 50226).

9 On October 31, 2016, Defendant pled not guilty and invoked his right to a speedy trial.
10 On November 4, 2016, Defendant filed a Pro Per Motion to "Dismiss Counsel and Represent
11 Myself." On November 28, 2016, Defendant filed Motion to "Vacate Motion (12-6-16) to
12 Dismiss Attorney of Record," where he stated that he changed his mind and wanted to keep
13 his appointed counsel Ken Frizzell, Esq. On December 29, 2016, Defendant filed another
14 Motion to "Dismiss Counsel and Appoint New Counsel Plus Pro-Per Ferretta Rights."

15 On January 24, 2017, the District Court held a hearing on Defendant's Motion to
16 "Dismiss Counsel and Appoint New Counsel Plus Pro-Per Ferretta Rights," and after hearing
17 from the parties the District Court continued the matter for a week for a status check. A week
18 later during the status check, Defendant and Mr. Frizzell stated that they came to an
19 understanding and that the conflict was resolved. On March 7, 2017, the District Court held a
20 hearing on Defendant's renewed Motion to "Dismiss Counsel and Replace Counsel and
21 Appoint Defendant Pro Per Status." At the conclusion of the hearing, the Court denied the
22 motion.

23 On March 16, 2017, after conducting Faretta canvass, the Court granted Defendant's
24 request to represent himself, finding that he knowingly, voluntary, and intelligently waived his
25 right to be represented by counsel. On April 13, 2017, Defendant filed a Pro Per Notice of
26 Motion and Motion to Suppress and a Pro Per Notice of Motion and Petition for Writ of Habeas
27 Corpus. The State filed a Response to Defendant's Writ of Habeas Corpus on May 28, 2017,
28 and an Opposition to Defendant's Motion to Suppress on May 1, 2017. The District Court
denied both motions on May 4, 2017.

1 On May 4, 2017, Defendant filed the following motions: Defendant's Pro Per Motion
2 and Notice of Motion to Seek Handwriting Specialist NRS 50.275; Defendant's Pro Per Notice
3 of Motion and Motion to Compel State to Surrender Discovery; and Defendant's Pro Per
4 Notice of Motion and Motion to reconsider Motion to Dismiss. On May 25, 2017, denied the
5 Motion to Reconsider Motion to Dismiss, denied the Motion to Seek Handwriting Specialist,
6 and set a status check to ensure Defendant received all the requisite discovery.

7 On May 25, 2017, Defendant filed the following motions: Defendant's Pro Per Notice
8 of Motion Re Motion to Dismiss; Defendant's Pro Per Notice of Motion Re: Motion for Franks
9 Hearing; Defendant's Pro Per Notice of Motion Re: Motion for Full Brady Discovery;
10 Defendant's Pro Per Notice of Motion Re: Motion to Oppose State's Opposition to Dismiss;
11 Defendant's Pro Per Motion Re: Motion to Dismiss-Based on Malicious Vindictive
12 Prosecution; Defendant's Pro Per Notice of Motion Re: Motion to Dismiss Standby counsel
13 Kenneth Frizzell; Defendant's Pro Per Notice of Motion Re: Motion of Alibi Witnesses;
14 Defendant's Pro Per Notice of Motion Re: Motion to Dismiss-Case is Double Jeopardy;
15 Defendant's Pro Per Notice of Motion Re: Motion Writ of Habeas Corpus to Test the Legality
16 of This Arrest; Defendant's Pro Per Notice of Motion Re: Motion to Suppress; and
17 Defendant's Pro Per Notice of Motion Re: Motion for Evidentiary Hearing. On June 13, 2017
18 the Court denied all of the motions except for: Defendant's Pro Per Motion for Full Brady
19 Discovery. Defendant filed a Case Appeal Statement on June 22, 2017.

20 Following multiple continuances, the trial date was set and the State filed a Notice of
21 Intent to Seek Punishment as a Habitual Criminal/Felon on August 22, 2017. The State also
22 filed a Notice of Motion and Motion in Limine on August 25, 2017. On August 29, 2017,
23 Defendant filed a Pro Per "Notice of Motion and Motion to Strike and Oppode [sic] State's
24 Motion to Seek Punishment as a Habitual Criminal Felony if a Felony Conviction Occur" on
25 August 29, 2017. On September 14, 2017, the Nevada Supreme court Dismissed Defendant's
26 appeal and filed an Order under Case No. 73351.

27 On August 28, 2017, Defendant's jury trial commenced. After a five-day jury trial, the
28 jury returned a guilty verdict on Count 1 - Attempt Murder with Use of a Deadly Weapon, and
Count 3 - Battery with Use of a Deadly Weapon resulting in Substantial Bodily Harm on
September 1, 2017. On December 5, 2017, the Judgment of Conviction was filed, sentencing

1 Defendant to aggregate total of maximum 50 years and minimum parole eligibility after 20
2 years.

3 On December 27, 2016, Defendant filed a Notice of Appeal. On April 23, 2018,
4 Defendant filed his opening brief. (Nevada Supreme Court Case No. 74076). On October 31,
5 2019, the Nevada Supreme Court affirmed the Judgment of Conviction. Remittitur issued on
6 March 16, 2020.

7 On January 5, 2021, Defendant filed the instant Petition for Writ of Habeas Corpus
8 (Post-Conviction) ("Petition"). The State's response now follows.

9 STATEMENT OF FACTS

10 On August 23, 2016, Terry Bolden ("Bolden") was at his brother's house. Jury Trial
11 Day 2 ("JT 2"), August 29, 2017, at 140. At or about 6:00 p.m., Defendant called Bolden for
12 the purpose of meeting up to settle some debts. Id. at 141-2. When Defendant arrived, Bolden
13 went outside his brother's house to meet the Defendant at his car. Id. Defendant immediately
14 exited the vehicle and stated that Bolden owed the Defendant money. Id. at 144-5. Bolden
15 responded that he would pay Defendant later but agreed to give Defendant gas money. Id. at
16 145. As Bolden pulled out money from his pocket, Defendant reached to grab Bolden's money
17 from his hand. Id. Bolden resisted and as a result a fight ensued. Id. As they were fighting,
18 Rhonda Robinson ("Robinson") exited Defendant's car. JT 2, at 65. Upon exiting the vehicle,
19 Robinson testified that she saw Defendant point his gun at Bolden and shoot Bolden in the
20 head, stomach, and three times in the leg. Id. at 70. Defendant then ran to his vehicle and fled
21 from the scene, taking all of Bolden's money. Id.

22 Bolden subsequently gave a statement to the police. JT 2, at 158. In his statement,
23 Bolden provided that the vehicle used was a black Camaro. Id. Bolden later told the Detective
24 Gilberto Valenzuela ("Detective Valenzuela") that he remembered that Defendant said he
25 typically picked up his mail from 3700 S. Nellis. JT 4, at 161. When Detective Valenzuela
26 drove by the address, they saw a black Camaro. Id. After running the plate on the Camaro,
27 Detective Valenzuela discovered the vehicle was owned by Defendant. Id. at 162. Detective
28 Valenzuela then created a six-pack photo array and administered it to Bolden—where Bolden
picked out Defendant. Id. at 163-4. At the same time, but separate from Bolden, another
detective administered a six-pack photo array to Robinson who witnessed the shooting. Id. at

1 165-6. Robinson also identified Defendant as the shooter. Id. at 168. Shortly after these
2 identifications, Defendant was arrested. Id. at 168

3 ARGUMENT

4 **I. DEFENDANT'S CLAIMS ARE BARRED BY THE LAW OF THE CASE**

5 Out of the excess claims raised in this Petition, four of his arguments have already been
6 raised on direct appeal and denied by the Nevada Supreme Court (Case No. 74076).
7 Specifically, Defendant attempts to relitigate the following claims: (1) Defendant was denied
8 his right to counsel when he was not appointed new counsel and instead represented himself
9 because trial counsel, Kenneth Frizzell, Esq., was allegedly ineffective; (2) the district court
10 erred in allowing Defendant to represent himself at trial; (3) Defendant's sentence violated the
11 Double Jeopardy Clause; and (4) Defendant's Confrontation Clause rights were violated when
12 the Court admitted Arndaejac Anderson's jail call through the testimony of Marco Rafalovich.
13 Petition at 5, 10, 39, 65, 72, 74, 110, 127; see generally, Appellant's Opening Brief, April 23,
14 2018, 1-37. Defendant's claims are barred by the law of the case.

15 "The law of a first appeal is law of the case on all subsequent appeals in which the facts
16 are substantially the same." Hall v. State, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975) (quoting
17 Walker v. State, 85 Nev. 337, 343, 455 P.2d 34, 38 (1969)). "The doctrine of the law of the
18 case cannot be avoided by a more detailed and precisely focused argument subsequently made
19 after reflection upon the previous proceedings." Id. at 316, 535 P.2d at 799. Under the law of
20 the case doctrine, issues previously decided on direct appeal may not be reargued in a habeas
21 petition. Pellegrini v. State, 117 Nev. 860, 879, 34 P.3d 519, 532 (2001) (citing McNelson v.
22 State, 115 Nev. 396, 414-15, 990 P.2d 1263, 1275 (1999)). Furthermore, this Court cannot
23 overrule the Nevada Supreme Court. NEV. CONST. Art. VI § 6. Here, the Nevada Supreme
24 Court discussed and denied Defendant's claims on direct appeal. The Court found that: (1) the
25 district court did not abuse its discretion in denying Defendant's requests for new counsel; (2)
26 Defendant was not denied his right to counsel; (3) Defendant's sentence was not redundant;
27 and (4) the forfeiture-by-wrongdoing exception to the Confrontation Clause allowed the
28 introduction of the jail phone call through Rafalovich. Nevada Supreme Court Order,

1 November 27, 2019, at 1-13. Therefore, such claims are barred by the law of the case and must
2 be denied.

3 **II. DEFENDANT'S CLAIMS ARE WAIVED FOR FAILING TO RAISE THEM**
4 **ON APPEAL**

5 Defendant raises a multitude of issues in the instant Petition, totaling to over 36 claims.
6 However, Defendant had to opportunity to raise his complaints on direct appeal, which he had
7 filed on April 23, 2016. See Nevada Supreme Court Case No. 74076. While Defendant raised
8 only a few claims on direct appeal (all of which are reincorporated into this Petition)¹, he now
9 attempts to relitigate the entirety of his case after failing to previously include such claims on
10 direct appeal. Because Defendant failed to address these claims on direct appeal, they must
11 therefore be summarily dismissed absent a showing of good cause and prejudice.

12 NRS 34.810(1) reads:

13 The court shall dismiss a petition if the court determines that:

14 (b) The petitioner's conviction was the result of a trial and the
15 grounds for the petition could have been:

16 (2) Raised in a direct appeal or a prior petition for a writ of habeas
17 corpus or postconviction relief.

18 The Nevada Supreme Court has held that "challenges to the validity of a guilty plea and
19 claims of ineffective assistance of trial and appellate counsel must first be pursued in post-
20 conviction proceedings.... [A]ll other claims that are appropriate for a direct appeal must be
21 pursued on direct appeal, or they will be *considered waived in subsequent proceedings*."
22 Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994) (emphasis added)
23 (disapproved on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999)). "A
24 court must dismiss a habeas petition if it presents claims that either were or could have been
25 presented in an earlier proceeding, unless the court finds both cause for failing to present the
26 claims earlier or for raising them again and actual prejudice to the petitioner." Evans v. State,
27 117 Nev. 609, 646-47, 29 P.3d 498, 523 (2001).

28

¹ See *supra*, Section I.

1 Further, substantive claims are beyond the scope of habeas and waived. NRS 34.724(2)(a);
2 Evans v. State, 117 Nev. 609, 646–47, 29 P.3d 498, 523 (2001); Franklin v. State, 110 Nev.
3 750, 752, 877 P.2d 1058, 1059 (1994), disapproved on other grounds, Thomas v. State, 115
4 Nev. 148, 979 P.2d 222 (1999).

5 A defendant may only escape these procedural bars if they meet the burden of
6 establishing good cause and prejudice:

7 3. Pursuant to subsections 1 and 2, the petitioner has the burden of pleading
8 and proving specific facts that demonstrate:

9 (a) Good cause for the petitioner's failure to present the claim or for
10 presenting the claim again; and

11 (b) Actual prejudice to the petitioner.

12 NRS 34.810(3). Where a defendant does not show good cause for failure to raise claims of
13 error upon direct appeal, the district court is not obliged to consider them in post-conviction
14 proceedings. Jones v. State, 91 Nev. 416, 536 P.2d 1025 (1975).

15 In the instant matter, Defendant does not even attempt to argue good cause as to why
16 he failed to raise the 36 additional claims presented within the instant Petition on direct appeal.
17 Thus, Defendant fails to establish good cause.

18 In terms of prejudice, Defendant claims that appellate counsel Sandra Stewart, Esq.,
19 (“Ms. Stewart” and/or “appellate counsel”) was ineffective in her representation on direct
20 appeal. Defendant argues that he was prejudiced by Ms. Stewart’s refusal to include the
21 entirety of his complaints on direct appeal. Defendant cannot establish prejudice because any
22 claim that appellate counsel was ineffective is without merit. Thus, this Petition should be
23 denied for the following reasons.

24 **III. APPELLATE COUNSEL WAS NOT INEFFECTIVE**

25 The Sixth Amendment to the United States Constitution provides that, “[i]n all criminal
26 prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his
27 defense.” The United States Supreme Court has long recognized that “the right to counsel is
28 the right to the effective assistance of counsel.” Strickland v. Washington, 466 U.S. 668, 686,

1 104 S. Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323
2 (1993).

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

14 The court begins with the presumption of effectiveness and then must determine
15 whether the defendant has demonstrated by a preponderance of the evidence that counsel was
16 ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). “Effective counsel
17 does not mean errorless counsel, but rather counsel whose assistance is ‘[w]ithin the range of
18 competence demanded of attorneys in criminal cases.’” Jackson v. Warden, 91 Nev. 430, 432,
19 537 P.2d 473, 474 (1975).

20 Counsel cannot be ineffective for failing to make futile objections or arguments. See
21 Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). Trial counsel has the
22 “immediate and ultimate responsibility of deciding if and when to object, which witnesses, if
23 any, to call, and what defenses to develop.” Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167
24 (2002).

25 Based on the above law, the role of a court in considering allegations of ineffective
26 assistance of counsel is “not to pass upon the merits of the action not taken but to determine
27 whether, under the particular facts and circumstances of the case, trial counsel failed to render
28 reasonably effective assistance.” Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711

1 (1978). This analysis does not mean that the court should “second guess reasoned choices
2 between trial tactics nor does it mean that defense counsel, to protect himself against
3 allegations of inadequacy, must make every conceivable motion no matter how remote the
4 possibilities are of success.” Id. To be effective, the constitution “does not require that counsel
5 do what is impossible or unethical. If there is no bona fide defense to the charge, counsel
6 cannot create one and may disserve the interests of his client by attempting a useless charade.”
7 United States v. Cronic, 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19 (1984).

8 “There are countless ways to provide effective assistance in any given case. Even the
9 best criminal defense attorneys would not defend a particular client in the same way.”
10 Strickland, 466 U.S. at 689, 104 S. Ct. at 689. “Strategic choices made by counsel after
11 thoroughly investigating the plausible options are almost unchallengeable.” Dawson v. State,
12 108 Nev. 112, 117, 825 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784
13 P.2d 951, 953 (1989). In essence, the court must “judge the reasonableness of counsel’s
14 challenged conduct on the facts of the particular case, viewed as of the time of counsel’s
15 conduct.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066.

16 Even if a defendant can demonstrate that his counsel’s representation fell below an
17 objective standard of reasonableness, he must still demonstrate prejudice and show a
18 reasonable probability that, but for counsel’s errors, the result of the trial would have been
19 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing
20 Strickland, 466 U.S. at 687, 104 S. Ct. at 2064). “A reasonable probability is a probability
21 sufficient to undermine confidence in the outcome.” Id. (citing Strickland, 466 U.S. at 687-89,
22 694, 104 S. Ct. at 2064-65, 2068).

23 The Nevada Supreme Court has held “that a habeas corpus petitioner must prove the
24 disputed factual allegations underlying his ineffective-assistance claim by a preponderance of
25 the evidence.” Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). Furthermore,
26 claims of ineffective assistance of counsel asserted in a petition for post-conviction relief must
27 be supported with specific factual allegations, which if true, would entitle the petitioner to
28 relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and “naked”

1 allegations are not sufficient, nor are those belied and repelled by the record. Id. NRS
2 34.735(6) states in relevant part, “[Petitioner] *must* allege specific facts supporting the claims
3 in the petition[.] . . . Failure to allege specific facts rather than just conclusions may cause your
4 petition to be dismissed.” (emphasis added).

5 Here, Defendant argues that appellate counsel failed to present all the issues he had
6 wanted to raise on direct appeal. Petition at 114. Defendant claims that Ms. Stewart was
7 ineffective for following reasons fails.²

8 **A. Defendant’s Claims of False Evidence Fail**

9 Defendant alleges that appellate counsel was ineffective for failing raise claims of false
10 evidence presented by the State at trial. Petition at 16-118. Defendant’s claims are meritless.

11 There is a strong presumption that appellate counsel’s performance was reasonable and
12 fell within “the wide range of reasonable professional assistance.” See United States v.
13 Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990); citing Strickland, 466 U.S. at 689, 104 S. Ct. at
14 2065. A claim of ineffective assistance of appellate counsel must satisfy the two-prong test set
15 forth by Strickland. Kirksey v. State, 112 Nev. 980, 998, 923 P.2d 1102, 1114 (1996). In order
16 to satisfy Strickland’s second prong, the defendant must show that the omitted issue would
17 have had a reasonable probability of success on appeal. Id.

18 The professional diligence and competence required on appeal involves “winnowing
19 out weaker arguments on appeal and focusing on one central issue if possible, or at most on a
20 few key issues.” Jones v. Barnes, 463 U.S. 745, 751-52, 103 S. Ct. 3308, 3313 (1983). In
21 particular, a “brief that raises every colorable issue runs the risk of burying good arguments .
22 . . in a verbal mound made up of strong and weak contentions.” Id. at 753, 103 S. Ct. at 3313.
23 “For judges to second-guess reasonable professional judgments and impose on appointed
24 counsel a duty to raise every ‘colorable’ claim suggested by a client would disserve the very
25 goal of vigorous and effective advocacy.” Id. at 754, 103 S. Ct. at 3314. Further, effective
26 assistance of appellate counsel does not mean that appellate counsel must raise every non-

27
28 ² The grounds upon which Defendant argues ineffective assistance of counsel are reiterated through the Petition as individual grounds for the dismissal of his case. To prevent redundancy, the State will address the merits of Defendant’s claims under its ineffective assistance of appellate counsel analysis.

1 frivolous issue. See Jones v. Barnes, 463 U.S. 745, 751–54, 103 S.Ct. 3308, 3312–15, 77
2 L.Ed.2d 987 (1983). An attorney's decision not to raise meritless issues on appeal is
3 not ineffective assistance of counsel. Daniel v. Overton, 845 F.Supp. 1170, 1176
4 (E.D.Mich.1994); Leaks v. United States, 841 F.Supp. 536, 541 (S.D.N.Y.1994), aff'd, 47
5 F.3d 1157 (2d Cir.), cert. denied, 516 U.S. 926, 116 S.Ct. 327, 133 L.Ed.2d 228 (1995). To
6 establish prejudice based on the deficient assistance of appellate counsel, the defendant must
7 show that the omitted issue would have a reasonable probability of success on
8 appeal. Duhamel v. Collins, 955 F.2d 962, 967 (5th Cir.1992); Heath, 941 F.2d at 1132. In
9 making this determination, a court must review the merits of the omitted claim. Heath, 941
10 F.2d at 1132.

11 Here, Defendant argues that appellate counsel was ineffective for not raising claims of
12 “false evidence” regarding certain testimony at trial. Petition at 16, 37, 43, 78, 118.
13 Specifically, Defendant takes issue with the testimonies of: (1) Laura Brook Cornell; (2) Jacob
14 Werner; (3) Rhonda Robinson; (4) Michael Kahnke; (5) Terry Bolden; (5) Caitlin King; and
15 (6) Gilberto Valenzuela. Id. Appellant’s claims are irrelevant.

16 The Nevada Supreme Court has held that a criminal defendant has the right to cross-
17 examine a witness as to bias or motives in testifying. Hughes v. State, 98 Nev. 437, 651 P.2d
18 102 (1982). Additionally, the broadest discretion is allowed when cross-examination is used
19 to generally attack such credibility. Bushnell v. State, 95 Nev. 570, 599 P.2d 1038 (1979). At
20 trial, Defendant was afforded ample opportunity and leeway to impeach those the State had
21 called to testify at trial. Defendant was able to cross-examine each witness and impeach them
22 regarding any inconsistent testimony he perceived at trial. Indeed, this was not a winning issue
23 on appeal. Defendant was able to highlight misidentification, inconsistencies, and whether he
24 thought a witness was lying out during cross-examination by showing prior-inconsistent
25 statements. It is for the jury to decide the credibility of the evidence. McNair v. State, 108 Nev.
26 53, 825 P.2d 571 (1992) (it is the jury’s function, not that of the court, to assess weight of the
27 evidence and determine credibility of witnesses). Therefore, appellate counsel could not have
28

1 been ineffective for recognizing the frivolity of these false evidence arguments on direct
2 appeal. Thus, this claim should be denied.

3 **B. Appellate Counsel Not Ineffective for Not Arguing there was a Lack of**
4 **Probable Cause at the Preliminary Hearing**

5 Defendant contends that the State failed to present sufficient evidence at the preliminary
6 hearing. Petition, at 25. Defendant's claim is meritless. Defendant was afforded a five-day jury
7 trial which concluded in Defendant being found guilty of Attempt Murder With Use of a
8 Deadly Weapon and Battery With Use of a Deadly Weapon Resulting in Substantial Bodily
9 Harm. Verdict, September 1, 2017, 1-2. Because Defendant was found guilty beyond a
10 reasonable doubt, a more stringent standard than that required at a preliminary hearing, such
11 claim could not win on appeal. Sheriff v. Steward, 109 Nev. 831, 835, 858 P.2d 48, 51 (1993)
12 (finding of "[p]robable cause to support a criminal charge '[m]ay be based on slight, even
13 'marginal' evidence'"). Thus, Defendant's claim that there was insufficient evidence to find
14 probable cause at the preliminary is not only meritless, but immaterial.

15 Nevertheless, Defendant simultaneously claims there was insufficient evidence to find
16 him guilty at trial. Petition at 122. Defendant's claim is belied by the record and without merit.
17 The Nevada Supreme Court has found that in reviewing a claim of insufficient evidence, the
18 relevant inquiry is "whether, after viewing the evidence in the light most favorable to the
19 prosecution, any rational trier of fact could have found the essential elements of the crime
20 beyond a reasonable doubt." State v. Origel-Candido, 114 Nev. 378, 381, 956 P.2d 1378, 1380
21 (1998) quoting Koza v. State, 100 Nev. 245, 250, 681 P.2d 44, 47 (1984); see also Jackson v.
22 Virginia, 443 U.S. 307, 99 S.Ct. 2781 (1979). In State v. Walker, 109 Nev. 683, 685 857 P.2d
23 1, 2 (1993), this Court delineated the proper standard of review to be utilized when analyzing
24 a claim of insufficiency of evidence:

25 Insufficiency of the evidence occurs where the prosecutor has not produced a
26 minimum threshold of evidence upon which a conviction may be based.
27 Therefore, even if the evidence presented at trial were believed by the jury, it
28 would be insufficient to sustain a conviction, as it could not convince a
reasonable and fair-minded jury of guilt beyond a reasonable doubt. Id.

1 Furthermore, the Nevada Supreme Court has ruled it will not reverse a verdict even if the
2 verdict is contrary to the evidence where there is substantial evidence to support it. State v.
3 Varga, 66 Nev. 102, 117, 205 P.2d 803, 810 (1949).

4 Moreover, this Court has specifically stated that “[c]ircumstantial evidence alone may
5 sustain a conviction.” McNair v. State, 108 Nev. 53, 61, 825 P.2d 571, 576 (1992); see also
6 Kazalyn v. State, 108 Nev. 67, 71, 825 P.2d 578, 581 (1992). The rationale behind this rule is
7 that the trier of fact “may reasonably rely upon circumstantial evidence; to conclude otherwise
8 would mean that a criminal could commit a secret murder, destroy the body of the victim, and
9 escape punishment despite convincing circumstantial evidence against him or her.” Williams
10 v. State, 96 Nev. 367, 374, 609 P.2d 309, 313 (1980) citing People v. Scott, 176 Cal. App. 2nd
11 458, 1 Cal. Rptr. 600 (1959). In the present case, there was sufficient evidence to convict
12 Defendant at trial.

13 To start, the victim, Bolden, testified at trial who committed the crime: Defendant. JT
14 4 at 163-4. The victim testified regarding the specific acts performed by the Defendant: (1)
15 Defendant took money from the victim; (2) with the use of a deadly weapon, and (3) shot the
16 victim five times. JT 2 at 141-150. Additionally, the victim testified that he was transported to
17 the hospital and has several scars from the injuries inflicted by Defendant. JT 2 at 153-155.
18 Inasmuch, a victim’s testimony alone is sufficient to support Defendant’s conviction beyond
19 a reasonable doubt. Rosales v. State, 128 Nev. 931, 381 P.3d 657 (2012) (holding there was
20 sufficient evidence to convict defendant for aggravated assault when the victim testified, he
21 felt frightened, intimidated, harassed, and fearing substantial bodily harm). The word of the
22 victim is sufficient to establish proof beyond a reasonable doubt because “it is exclusively
23 within the province of the trier of fact to weigh evidence and pass on the credibility of
24 witnesses and their testimony.” Lay v. State, 100 Nev. 1189, 1192, 886 P.2d 448, 450 (1994);
25 See also, Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221 (1979); Azbill v. State, 88
26 Nev. 240, 252, 495 P.2d 1064, 1072 (1972), cert. denied 429 U.S. 895, 97 S.Ct. 257 (1976).
27 Even still, Robinson, an eyewitness to the crime, also testified at trial that Defendant was the
28 shooter and later identified Defendant in a photo array. JT 2 at 165-8. Therefore, counsel could

1 only be ineffective for raising such meritless claim of insufficient evidence on appeal. As such,
2 this claim should be denied.

3 Confusingly, Defendant still argues that counsel was ineffective for failing to raise this
4 claim on appeal because the victim was a “co-conspirator” in this case. Petition at 14.
5 However, this completely misstates the trial testimony. Bolden testified that the Defendant
6 assisted Bolden in paying for a place to live weekly. JT 2 at 140-45. Initially, Bolden believed
7 Defendant was merely helping him; however, Bolden explained that he soon realized
8 Defendant expected Bolden to assist in selling drugs. Id. at 145. During trial, Bolden told the
9 jury that he in fact did not agree to sell drugs nor did he ever owe Defendant money for drugs.
10 Id. Regardless, even if Bolden was involved in the drug sale, that alone does not make Bolden
11 a co-conspirator in the crimes Defendant is charged with. Therefore, based on Bolden’s
12 testimony, he could not in any way be an accomplice to his *own* attempted murder and robbery.
13 Such allegation is quite literally impossible. Therefore, Defendant’s contention that Bolden ‘s
14 role as a co-conspirator somehow negates his testimony is meritless. Thus, Defendant’s claim
15 that appellate counsel was ineffective for failing to bring these irrelevant claims of insufficient
16 evidence is without merit.

17 **C. Defendant’s Claim that Appellate Counsel was Ineffective for Not Raising**
18 **Claims of Unlawful Detention, Search, and Seizure Fail.**

19 Defendant claims appellate counsel was ineffective for failing to allege that he was
20 illegally arrested and that the search warrant in his case was illegally procured. Petition, at 30,
21 36, 87. Again, Defendant’s claims had no reasonable probability of success on appeal.
22 Strickland, 466 U.S. at 689, 104 S. Ct. at 2065.

23 First, Defendant claims that he was illegally detained because he was not “arrested,”
24 there was no arrest warrant, and no charges pending. Petition at 30-36. NRS 171.124 provides
25 that an officer may arrest a person “when a felony or gross misdemeanor has in fact been
26 committed, and the agent has reasonable cause for believing the person arrested to have
27 committed it.” Thomas v. Sheriff, Clark County, 85 Nev. 551, 553 (1969); See Ornelas v. U.S.
28 690, 695-96 (1996).

1 There can be no debate that a reasonable person would believe Defendant committed
2 the crime at hand. As noted *supra*, Bolden was shot multiple times, and both he and Robinson
3 picked Defendant out of a six-pack photo array. JT 2 at 163-8. There simply cannot be any
4 debate about whether Defendant's arrest was lawful. A fact Ms. Stewart informed Defendant
5 of. Exhibit B at 3. Thus, appellate counsel was if anything, effective, for not pursuing a
6 meritless claim.

7 Second, Defendant contends that the vehicle stop that led to his arrest was unlawful.
8 Petition at 30. As noted, probable cause is the question of whether a prudent person would
9 believe a crime was committed. Thomas, 85 Nev. at 553. Given the facts known to the police
10 at the time of Defendant's arrest, there was undoubtedly the existence of probable cause for a
11 felony car stop. In fact, Defendant was stopped in the very vehicle that he used to flee from
12 the crime scene. JT 4 at 162. Consequently, the police impounded the vehicle and prior to a
13 search obtained a search warrant, following a positive identification from the victim and
14 Robinson. JT 4 at 165-68. Thus, appellate counsel was not ineffective for informing Defendant
15 of the issues with this claim and not raising it on appeal.

16 **D. Appellate Counsel was Not Ineffective for Not Raising Alleged Juror Issues on**
17 **Direct Appeal.**

18 Defendant complains that appellate counsel was ineffective for failing to argue that that
19 Defendant's right to a fair trial was violated due to juror misconduct. Petition at 42-82.
20 Defendant raises the following claims of misconduct: (1) Juror No. 6 was biased because she
21 recognized one of the prosecutors; (2) Juror No. 9 was biased because he allegedly "wrote the
22 word dick in his jury note"; (3) Juror No. 4 should have been dismissed due to his alleged lack
23 of comprehension of the English language; (4) Juror No. 3 should have been dismissed because
24 she stated that she was "sad" when her car was stolen because it contained her grandson's
25 pillow in it, who had recently passed away; (5) Juror No.10 should have been dismissed
26 because she worked for a company that had been robbed previously; (6) Juror No. 1 should
27 have been dismissed for previously possessing a stolen credit card; and (7) potential juror,
28

1 Chatavia McGowan (“McGowan”) was improperly dismissed even though she had a newborn
2 child at home. Petition, at 51-85. Defendant’s claims are waived and meritless.

3 During voir dire, Defendant failed to object to the confirmation of Jurors No. 1, 3, 4, 6,
4 9, 10. See Jury Trial Day 1, August 28, 2017, 261. Additionally, the Court concluded voir dire
5 announcing the potential jury panel and questioned each party as to whether they had any
6 objections to the potential jurors. Id. At no point did Defendant object, but instead conveyed
7 that he had “no” objections to the panel. Id. The issues raised by Defendant were known to
8 him at the time of voir dire as Defendant references the jurors’ remarks as the reason that they
9 should have been dismissed. However, a party waives any challenge to the seating of a juror
10 on appeal where the party was aware of the basis for the challenge during voir dire. Savedzada
11 v. State, 134 Nev. 283, 419 P.3d 184 (Nev. App, 2019) (holding where the party was aware of
12 the basis of the challenge at the time of voir dire, had the opportunity to challenge the
13 prospective juror on those facts, but declined to do so, and approved the juror’s presence on
14 the panel *waives any challenge on appeal*) (emphasis added). Clearly, appellate counsel could
15 not have been ineffective for failing to raise these issues on appeal since Defendant never
16 objected to the juror’s presence on the jury panel. Thus, Defendant’s claims were waived, and
17 his claims of ineffectiveness should be denied.

18 Further, Defendant alleges that Juror No. 9 wrote the expletive “dick” on his jury note.
19 Defendant’s presents a bare and naked claim. “Bare” and “naked” allegations are not sufficient
20 to warrant post-conviction relief, nor are those belied and repelled by the record. Hargrove v.
21 State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). Defendant provides this baseless argument
22 to support the contention that Juror No. 9 “could” have been there to corrupt the jury.
23 Defendant fails to provide any support of this claim. Therefore, appellate counsel could not be
24 found ineffective for determining this claim unwinnable on direct appeal. Thus, this bare and
25 naked claim should be denied.

26 Finally, Defendant claims that potential juror McGowan was improperly dismissed
27 from the jury panel because the Court failed to make a record as to why she was dismissed.
28 This is not the case. The Court questioned McGowan as to whether she would be able to make

1 arrangements for her children if she were to be empaneled. JT 1 at 73-4. McGowan replied
2 that she would try, but that she had not made childcare arrangements for her four year old and
3 four month old children at that point in time. Id. The Court noted its concern for the newborn
4 child, and Defendant did not object as to her exclusion on the jury panel. Thus, this claim is
5 waived and should be denied.

6 **E. Appellate Counsel was Not Ineffective for Failing to Raise Certain Claims**

7 **Regarding Whether Trial Counsel was Ineffective.**

8 **i. Defendant was not denied his right to speedy trial**

9 Defendant claims that appellate counsel was ineffective for not arguing that trial
10 counsel was ineffective for waiving Defendant's right to a speedy trial. Petition, at 74.
11 Defendant's claim is a losing one. Defendant authorized trial counsel to file a pre-trial Petition
12 for Writ of Habeas Corpus. In filing the petition, Defendant "waive[d] his 60 day right to a
13 trial." Petition for Writ of Habeas Corpus, December 8, 2016, 2. Such disclosure is evidenced
14 within the petition itself and provides:

15 Petitioner waives his (60) day right to a trial and further
16 acknowledges that, if the Petition is not decided within fifteen (15)
17 days before the date set for trial, Petitioner consents that the Court
18 may, without notice of a hearing, continue the trial indefinitely or
19 to a date designated by the Court, and further that if any party
20 appeals the Court's ruling and the appeal is not determined before
21 the dates set for trial, Petitioner consents that the date is
22 automatically vacated and the trial postponed unless the Court
23 otherwise orders.

24 Id. at 2.

25 Clearly, Defendant waived his right to a speedy trial in directing trial counsel to file the
26 pre-trial petition. Thus, this issue would have been summarily denied on appeal and Ms.
27 Stewart cannot be found ineffective for not raising this issue on appeal. As such, Defendant's
28 claim should be denied.

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1 **IV. THE JURY INSTRUCTIONS PRESENTED WERE AN ACCURATE**
2 **REPRESENTATION OF THE LAW**

3 Defendant alleges that the jury instruction on Attempt Murder because it was
4 “misleading.” Petition, at 68. Confusingly, Defendant complains that the jury was
5 misinformed because there is no such thing as “attempt malice.” Id. Defendant simply provides
6 his misinformed opinion on the law as his baseless argument is belied by the record because
7 the instruction was not an incorrect statement of the law. Mann, 118 Nev. at 354, 46 P.3d at
8 1230. “District courts have broad discretion to settle jury instructions.” Cortinas v. State, 124
9 Nev. 1013, 195 P.3d 315, 319 (2008). Further, when an error has not been preserved, the Court
10 employs plain-error review. See Green v. State, 119 Nev. 542, 545, 80 P.3d 93, 95 (2003)
11 (explaining that failure to object to a jury instruction precludes appellate review except in
12 circumstances amounting to plain error under NRS 178.602). Under that standard, an error that
13 is plain from a review of the record does not require reversal unless the defendant demonstrates
14 that the error affected his or her substantial rights by causing “actual prejudice or a miscarriage
15 of justice.” Id.

16 Here, Defendant initially objected to the to the attempted murder instruction, but later
17 retracted his objection once the Court clarified the definition of Attempt Murder. The
18 following colloquy took place between the Court and Defendant:

19 THE COURT: Thank you. All right. The next instruction is the
20 attempt murder instruction, so if you’ll remove that and replace it
21 with the new one that the party’s agreed upon, which adds, thus,
22 in order to find the defendant guilty of attempt murder, you must
23 find that the defendant had the specific intent to kill. And that’s
24 the instruction you proposed; is that correct, [Defendant]?

25 THE DEFENDANT: Yes, but I was telling Mr.—Mr. Frizzell that
26 I think attempt murder is misleading to the jury.

27 ...

28 THE DEFENDANT: I said I objected to that one, because I think
 attempted murder is misleading to the jury if it’s not showing what
 the statute is wording would attempt it is and then what murder is.
 THE COURT: Okay. We did define what an attempt is in the
 instruction right before, an act done with intent to commit a crime,
 intending, but failing, to accomplishment, is an attempt to commit

1 that crime. And then the jury would be instructed on attempt
2 murder. Any objection knowing now they'll be instructed on what
attempt means, and then attempt murder?

3 THE DEFENDANT: No.

4 THE COURT: Okay. And we added, thus, in order to find the
defendant guilty of attempt murder, you must find that the
5 defendant has specific intent to kill. Okay.

6 Jury Trial Day 5, September 1, 2017, 12-13.

7 The Court walked Defendant through the Attempt Murder instruction, Defendant took
8 no issue once the Court explained the meaning, and yet, now he raises this unsupported
9 contention out of frustration with the result of his trial.

10 Regardless, the jury instruction for Attempt Murder is an accurate representation of the
11 law. To be found guilty of Attempt Murder there must be the *intent* to kill a human being. See
12 NRS 200.010, 200.030. Thus, this claim should be denied.

13 **V. THERE WAS NO PROSECUTORIAL MISCONDUCT AT TRIAL**

14 Defendant raises multiple claims of prosecutorial misconduct at trial. Specifically, he
15 claims: (1) there was misconduct because two prosecutors working on his case instead of just
16 one; (2) the State failed to produce Defendant with discovery; (3) Deputy District Attorney
17 (“DDA”) Bryan Schwartz, Esq., allegedly gave misleading jury instructions³ and presented
18 lies to the jury; and (3) DDA Binu Palal, Esq., lied to the jury. Petition, at 46, 53, 96, 68, 101.

19 Claims of prosecutorial misconduct that have not been objected to at trial will not be
20 reviewed on appeal unless they constitute “plain error.” Leonard v. State, 17 P.3d 397, 415
21 (2001); See Mitchell v. State, 114 Nev. 1417, 971 P.2d 813, 819 (1998); Rippo v. State, 113
22 Nev. 1239, 946 P.2d 1017, 1030 (1997). Should the Court disagree, then it is the State’s
23 position that Defendant’s argument is without merit.

24 The standard of review for prosecutorial misconduct rests upon Defendant showing
25 “that the remarks made by the prosecutor were ‘patently prejudicial.’” Riker v. State, 111
26 Nev. 1316, 1328, 905 P.2d 706, 713 (1995) (citing Libby v. State, 109 Nev. 905, 911, 859
27 P.2d 1050, 1054 (1993)). This is based on a defendant’s right to have a fair trial, not
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³ See supra, Section IV, regarding the jury instructions presented at trial.

1 necessarily a perfect one. Ross v. State, 106 Nev. 924, 927, 803 P.2d 1104, 1105 (1990). The
2 relevant inquiry is whether the prosecutor's statements so contaminated the proceedings with
3 unfairness as to make the result a denial of due process. Darden v. Wainwright, 477 U.S. 168,
4 181, 106 S.Ct. 2464, 2471 (1986). Defendant must show that the statements violated a clear
5 and unequivocal rule of law, he was denied a substantial right, and as a result, he was materially
6 prejudiced. Libby, 109 Nev. at 911, 859 P.2d at 1054.

7 First, Defendant claims it was misconduct to have two prosecutors on working on his
8 case instead of just one because he had chosen to represent himself. Petition, at 46. However,
9 as noted by the Nevada Supreme Court in its affirmance of Defendant's direct appeal,
10 Defendant filed three requests to substitute counsel and represent himself. Order of
11 Affirmance, November 27, 2019, at 12. Defendant's decision does not, therefore, create an
12 inherent unfairness for the State to engage in normal trial practice. It is the standard procedure
13 for many cases that go to trial for there to be a first and second chair attorney. Not only is this
14 practice commonplace, but Defendant fails to address how he was prejudiced. Thus, this claim
15 should be denied.

16 Second, Defendant argues that the State failed to turn over discovery in his case, and
17 that the Court denied all his discovery requests. Petition at 53. Defendant's claim is belied by
18 the record. Mann, 118 Nev. at 354, 46 P.3d at 1230.

19 During Defendant's Faretta canvass, Defendant alerted the Court that he had not
20 received complete discovery from either trial counsel or the State. In response to Defendant's
21 concerns, the Court allowed Defendant the opportunity to file a Motion to Obtain A Full Brady
22 Discovery And To Inspect All Evidence ("Brady Motion"). On April 13, 2017, the Court ruled
23 on the Brady Motion as follows:

- 24 1. Police Report from Officer Hafen- Upon Court's inquiry, Mr.
25 Schwartz confirmed a police report from Officer Hafen does
26 not exist.
- 27 2. Officer A. Karas Report- Upon Court's inquiry, Mr. Schwartz
28 confirmed there is no report from Officer A. Karas.
Court advised Defendant the State cannot provide what does not
exist.

3. Affidavit for warrant of search of the Camaro- Any search warrants will be turned over by the State, if any.
4. Affidavit and Summons for all suspects in Justice Court Case 16F14731, Department 5- Motion Off Calendar as there are no other suspects.
5. Affidavit and Summons for all suspects Case C319021-1- Motion Denied because Defendant is the only suspect in this case.
6. Arrest warrant for Arnold Anderson and all suspects in Cases 16F14731X an C319021-Motion Off Calendar as there was no arrest warrant, and the arrest occurred based on probable cause.
7. Affidavit and Summons for arrest warrant for Arnold Anderson- Motion Off Calendar as this does not exist.
8. Photo array issued by investigator Officer Valenzuela- Court NOTED a six pack of photos was produced in this case. COURT ORDERED, MOTION GRANTED as to six-pack photo line up; and State to overturn the photo line up.
9. Photo array- MOTION GRANTED as to photo line up; and State is to turn over the photo line up.
10. List of all witnesses expected to testify or have knowledge of the case- COURT ORDERED, State is to comply with NRS 174.234. Court NOTED State has already complied with the statute and turned over a witness list, and State has a continuing obligation, without Court ordering State to provide a witness list.
11. List of witnesses interviewed by Plaintiff- MOTION DENIED as State is not required to provide this.
12. All documents relating to investigation of this case—MOTION GRANTED to the extent it is required by NRS 174.235.
13. A list of former or present agents of Plaintiff who have participated who will or who will not be called as a witness- State is to comply with statutory obligations and provide Defendant with a witness list.
14. Copies of pictures of Camaro seized on 9-15-16 by Officer Valenzuela- MOTION GRANTED as to pictures taken during this search; and State is to provide these pictures.
15. Case summary for Case 16F14731-MOTION DENIED.
16. All photos involved in this case, all reports, any scientific test, copy of criminal proceedings of Arndaejae Anderson- MOTION GRANTED only to the extent it is required by statute.

Court Minutes, April 13, 2017, 1-3.

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1 Indeed, Defendant was not precluded access to discovery as this Court afforded
2 Defendant additional time to request the necessary documents, and further ordered the State
3 to produce the necessary discovery pursuant to statute.⁴ Therefore, Defendant's claim that the
4 State committed prosecutorial misconduct for failing to turn over discovery is belied by the
5 record. Thus, this claim should be denied.

6 Further, when analyzing Defendant's claims specific to DDA Palal and Schwartz
7 committing prosecutorial misconduct, such claims are bare and naked allegations. Hargrove,
8 100 Nev. at 502, 686 P.2d at 225. On the contrary, it was Defendant who committed
9 misconduct throughout the entirety of trial. Defendant objected to almost all the testimony
10 making comments such as: "that's good acting" during victim testimony; "there's no doctor
11 here to prove that [Bolden's] the one in the hospital" when the victim described his injuries;
12 and refusing to comply with sustained objections during his cross-examination. JT 2, at 52,
13 151. Defendant exhibited outbursts throughout the entire trial and argued with the Court at
14 every turn. Moreover, Defendant does not provide how the prosecutors' comments were so
15 unfair that they denied him due process and/or prejudiced Defendant. Therefore, Defendant
16 fails to demonstrate the factors to prove he was subject to unfair due process. Thus, this claim
17 should be denied.

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27 ⁴ In the same vein, Defendant additionally claims that the district court abused its discretion by precluding Defendant
28 discovery and the ability to prepare for trial. Defendant's claim is belied by the record as this Court allowed Defendant
supplemental time to receive discovery and file relevant motions. See Court Minutes, March 23, 2017, 1-3; Court Minutes,
April 13, 2017, 1-3. Thus, this claim should be denied. Mann, at 354, 46 P.3d at 1230.

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CONCLUSION

Based on the foregoing the State respectfully requests that Defendant's Petition for Writ of Habeas Corpus (Post-Conviction) be DENIED.

DATED this 19th day of February, 2021.

Respectfully submitted,

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

BY /s/ ALEXANDER CHEN
ALEXANDER CHEN
Chief Deputy District Attorney
Nevada Bar #10539

CERTIFICATE OF MAILING

I hereby certify that service of the above and foregoing was made this 19th day of February, 2021, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

ARNOLD ANDERSON, #85509
LOVELOCK CORRECTIONAL CENTER
1200 PRISON ROAD
LOVELOCK, NV 89419

BY /s/ E. DEL PADRE
E. DEL PADRE
Secretary for the District Attorney's Office

AC/mc/ed/GU

Electronically Filed
03/11/2021-

Thomas S. Shuman
CLERK OF THE COURT

ARNOLD ANDERSON NO. _____

65501
SOUTHERN DESERT CORRECTIONAL CTN.
20825 COLD CREEK RD.
P.O. BOX 208
INDIAN SPRINGS, NV 89070

DISTRICT COURT
CLARK COUNTY NEVADA.

ARNOLD ANDERSON
Plaintiff

v.

Jerry Howell Warden

A-21-827381-W
CASE NO.: C-16-319021-1

DEPT. NO.: 12

DOCKET: _____

NO HEARING REQUIRED

MOTION FOR
TELEPHONIC HEARING.

COMES NOW, ARNOLD ANDERSON, herein above respectfully
moves this Honorable Court for an TELEPHONIC CONFERENCE
FOR MARCH 23, 2021 AT 12:30 PM.

This Motion is made and based upon the accompanying Memorandum of Points and
Authorities,

DATED: this 25 day of FEBRUARY, 2021

BY: ARNOLD ANDERSON

Arnold Anderson # 85509
Defendant In Proper Personam

RECEIVED

MAR - 3 2021

CLERK OF THE COURT

ADDITIONAL FACTS OF THE CASE:

ARGUMENT

THE PLAINTIFF HAS A EVIDENTIARY HEARING
ON MARCH 23, 2021 AT 12:30 PM, THE
PRISON WILL NOT TRANSPORT PLAINTIFF
TO COURT. PLAINTIFF ASK THAT THE
CLERK CONTACT THE PRISON ON
MARCH 23, 2021 AT 725-216-6500
SOUTHERN DESERT CORRECTIONAL CENTER
FOR THE HEARING.

CONCLUSION,

PLAINTIFF ASK THE CLERK OF THE COURT
TO CONTACT SOUTHERN DESERT CORRECTIONAL
CENTER AT 725-216-6500 SO PLAINTIFF
CAN PARTICIPATE IN THE HEARING.

Alfred Alarcon
2-25-21

CERTIFICATE OF SERVICE BY MAILING

I, Arnold Anderson, hereby certify, pursuant to NRCP 5(b), that on this 25
day of February, 2021, I mailed a true and correct copy of the foregoing, "Telephonic
Motion"

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

Jerry Howell
2055 Coldwater Road
Indian Springs NV
89070

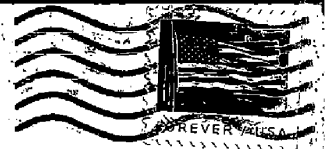
CC:FILE

DATED: this 25 day of February, 2021.

Arnold Anderson
Clerk #
85509 /In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

Arnold Anderson
85509
P.O. Box 208
Indian Springs NV
89070

LAS VEGAS NV 890
26 FEB 2021 PM 3 L



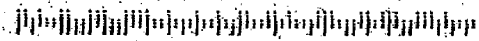
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MAR - 1 2021

CLERK OF THE COURT
3rd Floor

CLERK OF THE COURT
200 LEWIS AVE
LAS VEGAS NV
89155

89101-530000



Electronically Filed
03/11/2021

Arnold Anderson
CLERK OF THE COURT

ARNOLD ANDERSON

85509 / Pro Per

~~2000 2000 2000~~
P.O. BOX ~~200~~ 208

~~2000 2000 2000~~
INDIAN SPRINGS NV
89070

IN THE EIGHT JUDICIAL DISTRICT COURT

OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK

ARNOLD ANDERSON

Plaintiff,

vs.

JERRY HOWELL (WARDEN)

Defendant

Case No.: C-16-319021-1
A-21-827381 W

Dept No.: 12

Notice of Motion

NOTICE OF MOTION

YOU WILL PLEASE TAKE NOTICE, that A MOTION FOR
TELEPHONIC HEARING

will come on for hearing before the above-entitled Court on the 23 day of

MARCH, 2021, at the hour of 12 o'clock 30 p.m. in

Department 12, of said Court.

DATED this 25 day of FEBRUARY, 2021.

Arnold Anderson

85509

Per

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P.O. BOX ~~200~~ 208

~~2000 2000 2000~~

INDIAN SPRINGS NV
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/ Pro

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CLERK OF THE COURT

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MAR - 1 2021

DISTRICT COURT
CLARK COUNTY, NEVADA

ARNOLD ANDERSON
PLAINTIFF

CASE # C-16-319021-1

A-21-827381-W

DEPT # 12

JERRY HOWELL (WARDEN)
DEFENDANT

MEMO TO COURT CLERK

CAN YOU PLEASE GIVE ME A COPY OF THE
COURT MINUTES IN THIS CASE FOR THE
HEARING OF MARCH 11, 2021?

THANK YOU

ALL 3-14-21

ARNOLD ANDERSON

85509

P.O. BOX 208

INDIAN SPRINGS NV

89070

A-21-827381-W
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Left Side Filing
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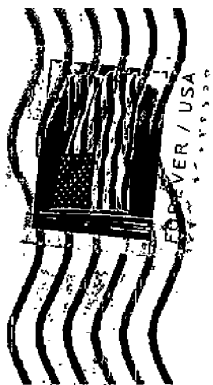
MAR 19 2021

CLERK OF DISTRICT COURT

Handwriting practice lines consisting of 20 horizontal lines.

Arnold Anderson
85509
P.O. BOX 208
INDIAN SPRINGS NV
89070

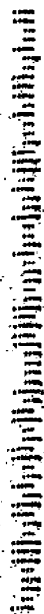
LAS VEGAS NV 890
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CLERK OF THE COURT
200 LEWIS
AVE
LAS VEGAS NV
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SOUTHERN DESERT
CORRECTIONAL CENTER

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OUTGOING MAIL

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DISTRICT COURT
CLARK COUNTY, NEVADA.

Electronically Filed
04/23/2021

Heather Shuman
CLERK OF THE COURT

ARNOLD ANDERSON
Plaintiff

CASE # C-16-319021-1
A-21-827381-W

V
STATE OF NEVADA.
Jerry Howell (Warden AT SDCC)

MEMO TO COURT CLERK

I SENT IN A DUPLICATE WRIT OF
HABEAS CORPUS IN THE MONTH OF JANUARY 2021
CAN YU PLEASE SEND IT BACK? I NEVER
RECEIVED IT.

THANK YOU

ARNOLD ANDERSON
85509
P.O. BOX 208
WINDY HILL SPRINGS NV
89070.

RECEIVED
APR 13 2021
CLERK OF THE COURT

ARNOLD ANDERSON
85509
P.O. BOX 208
INDIAN SPRINGS NV
89070

LAS VEGAS NV 890
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Ear
April 2

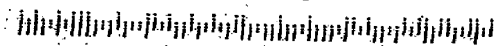


FOREVER / USA

3rd Floor

CLERK OF THE COURT
200 LEWIS AVE
LAS VEGAS NV
89155

89101-230000

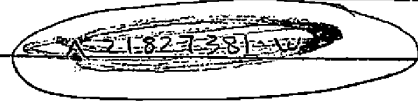


OUTGOING MAIL
APR 03 2021
SOUTHERN DISTRICT
COMMUNICATIONS CENTER

DISTRICT COURT
CLARK COUNTY, NEVADA

ARNOLD ANDERSON
Plaintiff

CASE # C-16319021-1



STATE OF NEVADA

JERRY HAWZELL WARDEN AT SDCC

A-21-827381-W
LSF
Left Side Filing
4952639



MEMO TO COURT CLERK

I WASNT PRESENT FOR MY HEARING FOR APRIL 1, 2021
CAN YOU PLEASE SEND ME A COPY OF THE COURT
MINUTES FOR THAT DAY? THANK YOU.

ARNOLD ANDERSON
85509
P.O. Box 208
INDIAN SPRINGS NJ
89070.

RECEIVED
APR 13 2021
CLERK OF THE COURT

ARNOLD ANDERSON

85509

P.O. BOX 208

INDIAN SPRINGS NJ

89070

LAS VEGAS NV 890

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FOREVER / USA

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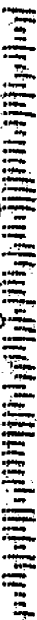
CLERK OF THE COURT

200 LEWIS AVE

LAS VEGAS NV

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SOUTHERN DESERT
CORRECTIONAL CENTER
APR 05 2021
OUTGOING MAIL

Heather Shinn
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

CASE # C-16-319021-1

A-21-827381-W

ARNOLD ANDERSON
PLAINTIFF

STATE OF NEVADA

JERRY HOWELL WARDEN AT(DCC)
DEFENDANTS.

NOTICE OF APPEAL

COMES NOW THE PLAINTIFF ARNOLD ANDERSON IN
PROPER PERSON APPEALING THE DENIAL OF THE
POST CONVICTION WRIT FROM THE EIGHT JUDICIAL
DISTRICT COURT HEARING ON APRIL 1, 2021.

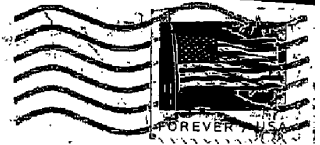
Celso Choles ^{pro se.}

4-8-21

RECEIVED
MAY 11 2021
CLERK OF THE COURT

ARNOLD ANDERSON
85509
P.O. BOX 208
INDIAN SPRINGS NV
89070

LAS VEGAS NV 890
7 MAY 2021 PM 3 L



3rd Floor

CLERK OF THE COURT
200 LEWIS AVE
LAS VEGAS NV
89155

89101-830000

MAY 07 2021

Heather L. Smith
CLERK OF THE COURT

27

DISTRICT COURT
CLARK COUNTY, NEVADA

ARNOLD ANDERSON
PLAINTIFF

CASE # C-16-319021-1

A-21-827381-W

V

DEPT # 12

STATE OF NEVADA

JERRY HOWELL WARDEN AT (SDCC)
DEFENDANTS

CASE APPEAL STATEMENT

1. NAME OF APPELLANT FILING THIS CASE APPEAL STATEMENT

ARNOLD ANDERSON

2. IDENTIFY THE JUDGE ISSUING DECISION, JUDGEMENT OR ORDER
APPEALED FROM.

HONORABLE MICHELLE LEAVITT

3. IDENTIFY ALL PARTIES TO THE PROCEEDINGS IN THE DISTRICT
COURT

ARNOLD ANDERSON

STATE OF NEVADA, JERRY HOWELL WARDEN AT (SDCC)

4. IDENTIFY ALL PARTIES INVOLVED IN THIS APPEAL

ARNOLD ANDERSON

STATE OF NEVADA, JERRY HOWELL WARDEN AT (SDCC)

RECEIVED

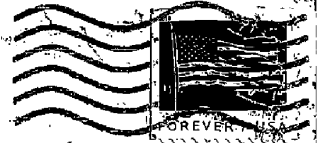
MAY 11 2021

CLERK OF THE COURT

1	
2	5. SET FORTH THE NAME LAW FIRM, ADDRESS AND TELEPHONE NUMBER
3	OF ALL COUNSEL ON APPEAL AND IDENTIFY THE PARTY OR PARTIES
4	WHOM THEY REPRESENT.
5	ARNOLD ANDERSON PRO SE STEVEN B. WOLFSON 702-671-2500
6	85509 CLARK COUNTY DISTRICT ATTORNEY
7	P.O. BOX 208 200 LEWIS AVE
8	INDIAN SPRINGS NV 89070 LAS VEGAS NV 89155
9	
10	6. INDICATE WHETHER APPELLANT WAS REPRESENTED BY
11	APPOINTED OR RETAINED COUNSEL IN THE DISTRICT COURT
12	PRO SE
13	
14	7. INDICATE WHETHER APPELLANT IS REPRESENTED BY APPOINTED
15	OR RETAINED COUNSEL ON APPEAL
16	(NO) PRO SE
17	
18	8. INDICATE WHETHER APPELLANT WAS GRANTED LEAVE TO
19	PROCEED INFORMA PAUPERIS AND DATE ENTRY OF THE
20	DISTRICT COURT ORDERING GRANTING SUCH LEAVE.
21	UNKNOWN.
22	
23	9. INDICATE THE DATE THE PROCEEDINGS COMMENCED IN THE
24	DISTRICT COURT, DATE COMPLAINT, INDICTMENT INFORMATION
25	OR PETITION WAS FILED. JANUARY 5, 2021
26	
27	
28	old case pre se
	2 4-8-21

ARNOLD ANDERSON
85509
P.O. BOX 208
INDIAN SPRINGS NV
89070

LAS VEGAS NV 890
7 MAY 2021 PM 3 L



3rd Floor

CLERK OF THE COURT
200 LEWIS AVE
LAS VEGAS NV
89155

89101-630000

MAY 07 2021

Heidi J. Smith
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

ARNOLD ANDERSON
Plaintiff

CASE# C-16-319021-1

A-21-827381-W

v

DEPT# 12

STATE OF NEVADA

Jerry Howell (Warden at sdcc)
defendants

SUPPLEMENTAL MEMO
TO NOTICE OF APPEAL

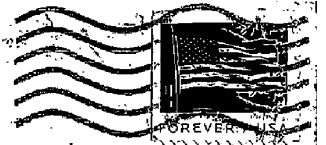
THE Plaintiff has not received the order
denying post conviction writ of habeas
corpus and is unaware of the actual
denial date if it's APRIL 1, 2021 OR APRIL 8, 2021

add address

RECEIVED
MAY 11 2021
CLERK OF THE COURT

ARNOLD ANDERSON
85809
P.O. BOX 208
INDIAN SPRINGS NV
89070

LAS VEGAS NV 890
7 MAY 2021 PM 3 L



3rd Floor

CLERK OF THE COURT
200 LEWIS AVE
LAS VEGAS NV
89155

89101-630000

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

9 ARNOLD ANDERSON,

10 Plaintiff(s),

11 vs.

12 JERRY HOWELL, WARDEN SDCC,

13 Defendant(s),

Case No: A-21-827381-W

Dept No: XII

14
15
16 **CASE APPEAL STATEMENT**

17
18 1. Appellant(s): Arnold Anderson

19 2. Judge: Michelle Leavitt

20 3. Appellant(s): Arnold Anderson

21 Counsel:

22 Arnold Anderson #85509
23 P.O. Box 208
24 Indian Springs, NV 89070

25 4. Respondent (s): Jerry Howell, Warden SDCC

26 Counsel:

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

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5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A
- Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A
6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No
7. Appellant Represented by Appointed Counsel On Appeal: N/A
8. Appellant Granted Leave to Proceed in Forma Pauperis**: N/A
***Expires 1 year from date filed*
Appellant Filed Application to Proceed in Forma Pauperis: No
Date Application(s) filed: N/A
9. Date Commenced in District Court: January 5, 2021
10. Brief Description of the Nature of the Action: Civil Writ
Type of Judgment or Order Being Appealed: Civil Writ of Habeas Corpus
11. Previous Appeal: No
Supreme Court Docket Number(s): N/A
12. Child Custody or Visitation: N/A
13. Possibility of Settlement: Unknown

Dated This 13 day of May 2021.

Steven D. Grierson, Clerk of the Court

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

cc: Arnold Anderson

DISTRICT COURT
CLARK COUNTY, NEVADA

ARNOLD ANDERSON
Plaintiff

CASE # C-16-319021-1

A-21-827381-W

DEPT # 12

STATE OF NEVADA.

Jerry Howell (Warden at side)
defendants

MEMO TO COURT CLERK

CAN you send me a COPY OF THE
court order denying the evidentiary
hearing?

Thank you.

alel Allen

ARNOLD ANDERSON

85509

P.O. Box 208

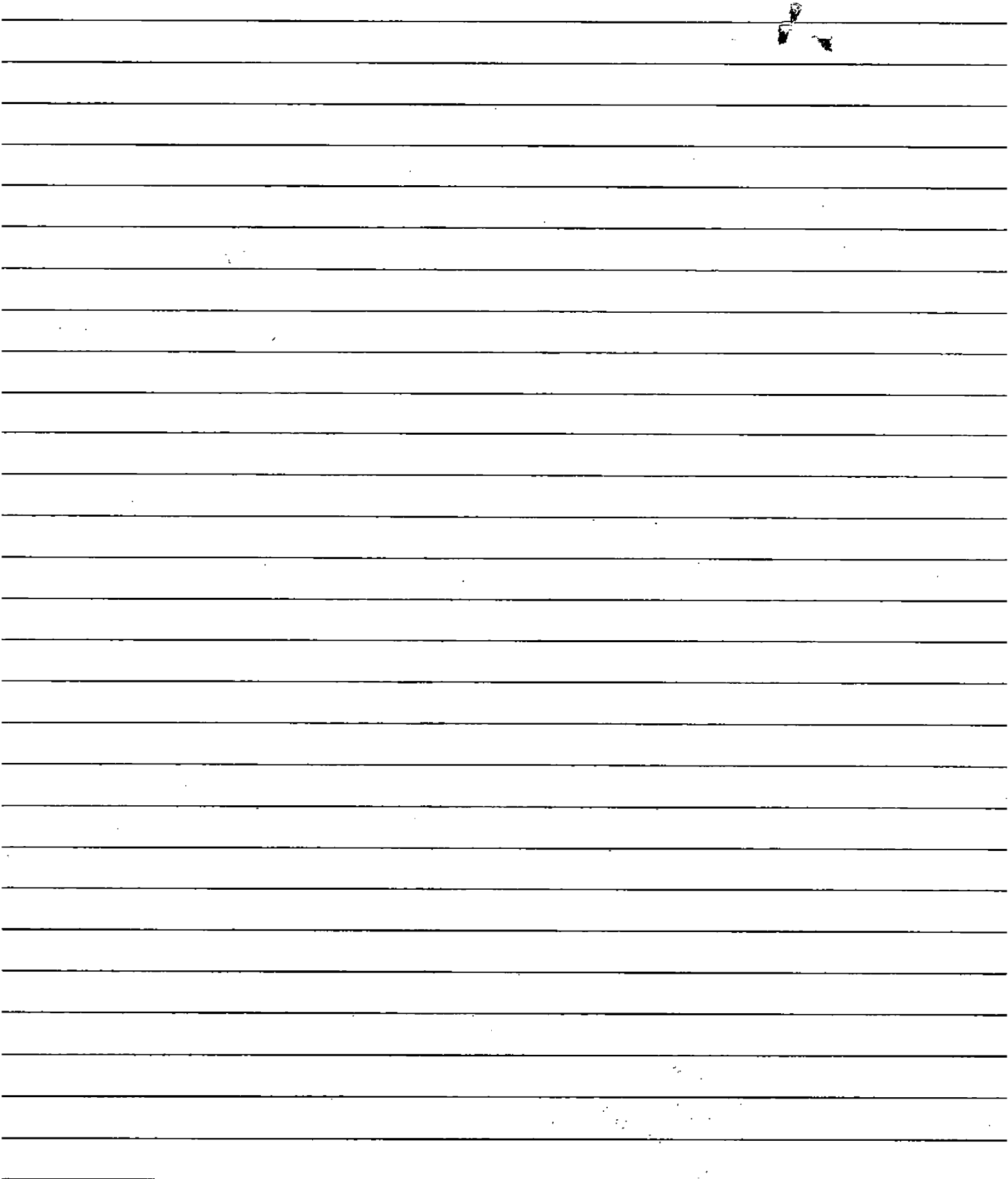
Indian Springs NV

89070

A-21-827381-W
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RECEIVED
MAY 17 2021
CLERK OF THE COURT



ARNOLD ANDERSON

85509

P.O. BOX 208

INDIAN SPRINGS NV

89070

LAS VEGAS NV 890

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3rd Floor

CLERK OF THE COURT

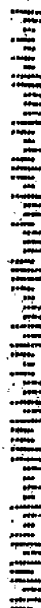
200 Lewis Ave

LAS VEGAS NV

89155

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DISTRICT COURT
CLARK COUNTY, NEVADA

ARNOLD ANDERSON
Plaintiff

CASE # C-16-319021-1

~~A-21-827381-W~~
DEPT # 12

v

STATE OF NEVADA

Perry Howell warden at sdcc
defendants

MEMO TO COURT CLERK

CAN YOU TELL ME WHAT DAY THE
DENIAL OF THE WRIT OF HABEAS CORPUS
POST CONVICTION WAS DENIED BY SENDING
ME A COPY OF THE ORDER? THANK YOU

alderson

5-6-21

ARNOLD ANDERSON

85509

P.O. Box 208

Indian Springs NV

89070.

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CLERK OF THE COURT

A-21-827381-W
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Indian Springs NV

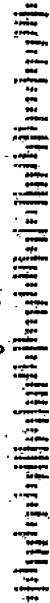
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DISTRICT COURT
CLARK COUNTY, NEVADA

Steven D. Grierson

ARNOLD ANDERSON
Plaintiff

CASE # C-16-319021-1

DEPT # 12

V

A-21-827381-W

STATE OF NEVADA

JERRY HOWELL Warden ASSOC
Defendants

NOTICE OF APPEAL

COMES NOW THE PLAINTIFF ARNOLD ANDERSON
IN PROPER PERSON APPEALING THE DENIAL
OF THE POST CONVICTION WRIT OF HABEAS
CORPUS THAT WAS DENIED ON APRIL 23, 2021
IN THE EIGHT JUDICIAL DISTRICT COURT.

Chad Chubbuck pro se.

5-13-21

RECEIVED
MAY 25 2021
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

ARNOLD ANDERSON
Plaintiff

V

STATE OF NEVADA

JERRY HOWELL WARDEN AT SDCC
Defendants

CASE # C-16-319021-1

A-21-827381-W

DEPT # 12

CASE APPEAL STATEMENT

1. NAME OF APPELLANT FILING THIS CASE APPEAL STATEMENT

ARNOLD K. ANDERSON

2. IDENTIFY THE JUDGE ISSUING THE DECISION, JUDGEMENT OR
ORDER APPEALED FROM.

HON. MICHELLE LEAVITT

3. IDENTIFY ALL PARTIES TO THE PROCEEDINGS IN THE DISTRICT COURT

ARNOLD K. ANDERSON

STATE OF NEVADA - JERRY HOWELL WARDEN AT SDCC

4. IDENTIFY ALL PARTIES INVOLVED IN THIS APPEAL

ARNOLD K. ANDERSON

STATE OF NEVADA JERRY HOWELL WARDEN AT SDCC.

1	
2	5. SET FORTH THE NAME, LAW FIRM, ADDRESS AND TELEPHONE
3	NUMBER OF ALL COUNSEL ON APPEAL AND IDENTIFY THE
4	PARTY OR PARTIES WHOM THEY REPRESENT.
5	STEVEN B. WOLFSON
6	CLARK COUNTY DISTRICT ATTORNEY 702-671-2700
7	200 LEWIS AVE
8	LAS VEGAS NV 89155
9	6. INDICATE WHETHER APPELLANT WAS REPRESENTED BY
10	APPOINTED OR RETAINED COUNSEL IN THE DISTRICT COURT.
11	PRO-PER.
12	7. INDICATE WHETHER APPELLANT IS REPRESENTED BY
13	APPOINTED OR RETAINED COUNSEL ON APPEAL.
14	NO
15	8. INDICATE WHETHER APPELLANT WAS GRANTED LEAVE
16	TO PROCEED IN INFORMA PAUPERIS AND THE DATE
17	OF ENTRY OF THE DISTRICT COURT ORDERING GRANTING
18	SUCH LEAVE
19	UNKNOWN.
20	9. INDICATE THE DATE THE PROCEEDINGS COMMENCED
21	IN THE DISTRICT COURT, DATE COMPLAINT INDICTMENT
22	INFORMATION OR PETITION WAS FILED.
23	OCTOBER 31, 2016, WRIT FOR POSTCONVICTION FILED JANUARY 5, 2021.
24	addded ^{pro se}
25	5-13-21
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DISTRICT COURT
CLARK COUNTY, NEVADA

ARNOLD ANDERSON
V Plaintiff

CASE# C-16-319021-1

STATE OF NEVADA

DEPT# 12

DEPT. HOWELL WARDEN AT SDCC
DEFENDANTS

A-21-827381-W.

SUPPLEMENTAL MEMO

TO THE NOTICE OF APPEAL

PLAINTIFF IS NOT AWARE OF THE ACTUAL

DENIAL DATE OF THE POST CONVICTION

WRIT OF HABEAS CORPUS IF IT WAS

APRIL 1, 2021 APRIL 8, 2021 APRIL 23, 2021

PLAINTIFF NEVER RECEIVED THE ORDER

DENYING THE WRIT.

Arnold Anderson

5-13-21

89101-830000

AKND Anderson
85509 202 X0808
P.O. BOX 202
08088
08088 NV
SPRINGS

3763
15# 2492842

3rd Floor

CLERK OF THE COURT
200 LEWIS AVE
LAS VEGAS NV
89155

LAS VEGAS NV 890
18 MAY 2021 PM 3 L

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05/18/2021
FIRST-CLASS MAIL
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ZIP 89101
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Steven D. Grierson

DISTRICT COURT
CLARK COUNTY, NEVADA

ARNOLD ANDERSON
plaintiff

CASE # C-16-319021

A-21-827381-W

STATE OF NEVADA

DEPT # 12

JERRY HOWELL WARDEN (AT SDCC)
DEPENDANTS.

NOTICE OF APPEAL

COMES NOW THE PLAINTIFF ARNOLD ANDERSON IN
PROPER PERSON APPEALING THE DENIAL OF THE
EVIDENTIARY HEARING ON APRIL 8, 2021 IN THE
EIGHT JUDICIAL DISTRICT COURT ON THE DATE
OF APRIL 1, 2021 LAST KNOWN DATE MAY 11, 2021. I
AM APPEALING THE EVIDENTIARY HEARING DENIAL

Arnold Anderson proper

4-8-21

RECEIVED

MAY 25 2021

CLERK OF THE COURT

1		
2	DISTRICT COURT	
3	CLARK COUNTY, NEVADA	
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6	ARNOLD ANDERSON	CASE # C-16-319021-1
7	Plaintiff	A-21-827381-W
8	V.	DEPT # 12
9	STATE OF NEVADA	
10	JERRY HOWELL (Warden at sdcc)	
11	Defendants	
12		
13	SUPPLEMENTAL MEMO	
14	TO NOTICE OF APPEAL	
15	PLAINTIFF HAS NOT RECEIVED THE ORDER	
16	DENYING THE EVIDENTIARY HEARING I	
17	DONT KNOW IF ITS APRIL 1, 2021 OR APRIL 8, 2021	
18	PLAINTIFF HAVE NOT RECEIVED THE ORDER	
19	DENYING IT. I ASK TO SUBMIT NOTICE OF APPEAL	
20	LAST KNOWN DATE MAY 11, 2021 I WAS NOT PRESENT IN COURT	
21	ceda Cuda	
22	5-17-21	
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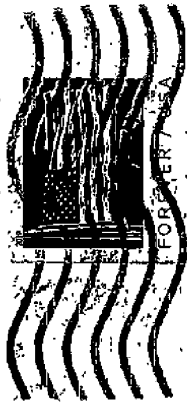
1		
2	DISTRICT COURT	
3	CLARK COUNTY, NEVADA	
4	ARNOLD ANDERSON	CASE# C-16-319021-1
5	Plaintiff	DEPT# 12
6	STATE OF NEVADA	A-21-827381-W.
7	JERRY HOWELL Warden AT SDCC	
8	DEFENDANTS	
9		
10		
11	CASE APPEAL STATEMENT	
12	1. NAME OF APPELLANT FILING THIS CASE APPEAL STATEMENT	
13	ARNOLD K. ANDERSON	
14	2. I IDENTIFY THE JUDGE ISSUING THE DECISION JUDGEMENT	
15	OR ORDER APPEALED FROM.	
16	HON. MICHELLE LEAVITT	
17	3. I IDENTIFY ALL PARTIES TO THE PROCEEDINGS IN THE DISTRICT COURT	
18	ARNOLD K. ANDERSON	
19	STATE OF NEVADA	
20	JERRY HOWELL Warden AT SDCC	
21	4. I IDENTIFY ALL PARTIES INVOLVED IN THIS APPEAL	
22	ARNOLD K. ANDERSON	
23	STATE OF NEVADA	
24	JERRY HOWELL Warden AT SDCC.	
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1	
2	5. SET FORTH THE NAME, LAW FIRM ADDRESS AND TELEPHONE NUMBER OF ALL
3	COUNSEL ON APPEAL AND IDENTIFY THE PARTY OR PARTIES WHOM THEY
4	REPRESENT.
5	STEVEN B. WOLFSON 702-671-2700
6	CLARK COUNTY DISTRICT ATTORNEY
7	200 LEWIS ^{AVE}
8	LAS VEGAS NV 89155
9	6. INDICATE WHETHER APPELLANT WAS REPRESENTED BY APPOINTED
10	OR RETAINED COUNSEL IN THE DISTRICT COURT
11	PRO PER.
12	7. INDICATE WHETHER APPELLANT IS REPRESENTED BY APPOINTED
13	OR RETAINED COUNSEL ON APPEAL.
14	NO
15	8. INDICATE WHETHER APPELLANT WAS GRANTED LEAVE TO PROCEED
16	IN INFORMA PAUPERIS AND THE DATE OF ENTRY OF THE
17	DISTRICT COURT ORDER GRANTING SUCH LEAVE.
18	NOT YET KNOWN.
19	9. INDICATE THE DATE THE PROCEEDINGS COMMENCED
20	IN THE DISTRICT COURT COMPLAINT INDICTMENT INFORMATION
21	OR PETITION WAS FILED.
22	OCTOBER 31, 2016. EVIDENTIARY HEARING MOTION FILED
23	FEBRUARY 17, 2021.
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26	celal Chelbi PRO SE.
27	5-17-21
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Arnold Anderson
85509
P.O. Box 208
Indian Springs NV
89070

LAS VEGAS NV 890

18 MAY 2021 PM 5 L



3rd Floor

CLERK OF THE COURT
200 Lewis Ave
Las Vegas NV
89101-5300

(12901)
89101-5300



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

ARNOLD ANDERSON,

Plaintiff(s),

vs.

JERRY HOWELL, WARDEN SDCC,

Defendant(s),

Case No: A-21-827381-W

Dept No: XII

CASE APPEAL STATEMENT

1. Appellant(s): Arnold Anderson

2. Judge: Michelle Leavitt

3. Appellant(s): Arnold Anderson

Counsel:

Arnold Anderson #85509
P.O. Box 208
Indian Springs, NV 89070

4. Respondent (s): Jerry Howell, Warden SDCC

Counsel:

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

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5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A
- Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A
6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No
7. Appellant Represented by Appointed Counsel On Appeal: N/A
8. Appellant Granted Leave to Proceed in Forma Pauperis**: N/A
***Expires 1 year from date filed*
Appellant Filed Application to Proceed in Forma Pauperis: No
Date Application(s) filed: N/A
9. Date Commenced in District Court: January 5, 2021
10. Brief Description of the Nature of the Action: Civil Writ
Type of Judgment or Order Being Appealed: Civil Writ of Habeas Corpus
11. Previous Appeal: Yes
Supreme Court Docket Number(s): 82917
12. Child Custody or Visitation: N/A
13. Possibility of Settlement: Unknown

Dated This 27 day of May 2021.

Steven D. Grierson, Clerk of the Court

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

cc: Arnold Anderson



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

ARNOLD ANDERSON,

Plaintiff(s),

vs.

JERRY HOWELL, WARDEN SDCC,

Defendant(s),

Case No: A-21-827381-W

Dept No: XII

CASE APPEAL STATEMENT

1. Appellant(s): Arnold Anderson

2. Judge: Michelle Leavitt

3. Appellant(s): Arnold Anderson

Counsel:

Arnold Anderson #85509
P.O. Box 208
Indian Springs, NV 89070

4. Respondent (s): Jerry Howell, Warden SDCC

Counsel:

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

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5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A
- Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A
6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No
7. Appellant Represented by Appointed Counsel On Appeal: N/A
8. Appellant Granted Leave to Proceed in Forma Pauperis**: N/A
***Expires 1 year from date filed*
Appellant Filed Application to Proceed in Forma Pauperis: No
Date Application(s) filed: N/A
9. Date Commenced in District Court: January 5, 2021
10. Brief Description of the Nature of the Action: Civil Writ
Type of Judgment or Order Being Appealed: Misc. Order
11. Previous Appeal: Yes
Supreme Court Docket Number(s): 82917
12. Child Custody or Visitation: N/A
13. Possibility of Settlement: Unknown

Dated This 27 day of May 2021.

Steven D. Grierson, Clerk of the Court

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

cc: Arnold Anderson

FFCO
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
ALEXANDER CHEN
Chief Deputy District Attorney
Nevada Bar #10539
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

ARNOLD ANDERSON,
#1202768

Defendant.

CASE NO: A-21-827381-W
C-16-319021-1
DEPT NO: XII

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

DATE OF HEARING: APRIL 1, 2021
TIME OF HEARING: 12:30 PM

THIS CAUSE having come on for hearing before the Honorable MICHELLE LEAVITT, District Judge, on the 1st day of April 2021, the Defendant not present, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, represented by and through MELANIE MARLAND, Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

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

2 **STATEMENT OF THE CASE**

3 On October 27, 2016, Arnold Anderson (hereinafter "Defendant") was charged by way
4 of Information with the crimes of: Attempt Murder with Use of a Deadly Weapon (Category
5 B Felony- NRS 200.010, 200.030, 193.330, 193.165- NOC 50031); Robbery with Use of a
6 Deadly Weapon (Category B Felony- NRS 200.380, 193.165- NOC 50138); and Battery with
7 Use of a Deadly Weapon resulting in Substantial Bodily Harm (Category Be Felony- NRS
8 400.281- NOC 50226).

9 On October 31, 2016, Defendant pled not guilty and invoked his right to a speedy trial.
10 On November 4, 2016, Defendant filed a Pro Per Motion to "Dismiss Counsel and Represent
11 Myself." On November 28, 2016, Defendant filed Motion to "Vacate Motion (12-6-16) to
12 Dismiss Attorney of Record," where he stated that he changed his mind and wanted to keep
13 his appointed counsel Ken Frizzell, Esq. On December 29, 2016, Defendant filed another
14 Motion to "Dismiss Counsel and Appoint New Counsel Plus Pro-Per Ferretta Rights."

15 On January 24, 2017, the District Court held a hearing on Defendant's Motion to
16 "Dismiss Counsel and Appoint New Counsel Plus Pro-Per Ferretta Rights," and after hearing
17 from the parties the District Court continued the matter for a week for a status check. A week
18 later during the status check, Defendant and Mr. Frizzell stated that they came to an
19 understanding and that the conflict was resolved. On March 7, 2017, the District Court held a
20 hearing on Defendant's renewed Motion to "Dismiss Counsel and Replace Counsel and
21 Appoint Defendant Pro Per Status." At the conclusion of the hearing, the Court denied the
22 motion.

23 On March 16, 2017, after conducting Faretta canvass, the Court granted Defendant's
24 request to represent himself, finding that he knowingly, voluntary, and intelligently waived his
25 right to be represented by counsel. On April 13, 2017, Defendant filed a Pro Per Notice of
26 Motion and Motion to Suppress and a Pro Per Notice of Motion and Petition for Writ of Habeas
27 Corpus. The State filed a Response to Defendant's Writ of Habeas Corpus on May 28, 2017,
28 and an Opposition to Defendant's Motion to Suppress on May 1, 2017. The District Court
denied both motions on May 4, 2017.

1 On May 4, 2017, Defendant filed the following motions: Defendant's Pro Per Motion
2 and Notice of Motion to Seek Handwriting Specialist NRS 50.275; Defendant's Pro Per Notice
3 of Motion and Motion to Compel State to Surrender Discovery; and Defendant's Pro Per
4 Notice of Motion and Motion to reconsider Motion to Dismiss. On May 25, 2017, denied the
5 Motion to Reconsider Motion to Dismiss, denied the Motion to Seek Handwriting Specialist,
6 and set a status check to ensure Defendant received all the requisite discovery.

7 On May 25, 2017, Defendant filed the following motions: Defendant's Pro Per Notice
8 of Motion Re Motion to Dismiss; Defendant's Pro Per Notice of Motion Re: Motion for Franks
9 Hearing; Defendant's Pro Per Notice of Motion Re: Motion for Full Brady Discovery;
10 Defendant's Pro Per Notice of Motion Re: Motion to Oppose State's Opposition to Dismiss;
11 Defendant's Pro Per Motion Re: Motion to Dismiss-Based on Malicious Vindictive
12 Prosecution; Defendant's Pro Per Notice of Motion Re: Motion to Dismiss Standby counsel
13 Kenneth Frizzell; Defendant's Pro Per Notice of Motion Re: Motion of Alibi Witnesses;
14 Defendant's Pro Per Notice of Motion Re: Motion to Dismiss-Case is Double Jeopardy;
15 Defendant's Pro Per Notice of Motion Re: Motion Writ of Habeas Corpus to Test the Legality
16 of This Arrest; Defendant's Pro Per Notice of Motion Re: Motion to Suppress; and
17 Defendant's Pro Per Notice of Motion Re: Motion for Evidentiary Hearing. On June 13, 2017,
18 the Court denied all of the motions except for: Defendant's Pro Per Motion for Full Brady
19 Discovery. Defendant filed a Case Appeal Statement on June 22, 2017.

20 Following multiple continuances, the trial date was set and the State filed a Notice of
21 Intent to Seek Punishment as a Habitual Criminal/Felon on August 22, 2017. The State also
22 filed a Notice of Motion and Motion in Limine on August 25, 2017. On August 29, 2017,
23 Defendant filed a Pro Per "Notice of Motion and Motion to Strike and Oppode [sic] State's
24 Motion to Seek Punishment as a Habitual Criminal Felony if a Felony Conviction Occur" on
25 August 29, 2017. On September 14, 2017, the Nevada Supreme court Dismissed Defendant's
26 appeal and filed an Order under Case No. 73351.

27 On August 28, 2017, Defendant's jury trial commenced. After a five-day jury trial, the
28 jury returned a guilty verdict on Count 1 - Attempt Murder with Use of a Deadly Weapon, and
Count 3 - Battery with Use of a Deadly Weapon resulting in Substantial Bodily Harm on
September 1, 2017. On December 5, 2017, the Judgment of Conviction was filed, sentencing

1 Defendant to aggregate total of maximum 50 years and minimum parole eligibility after 20
2 years.

3 On December 27, 2016, Defendant filed a Notice of Appeal. On April 23, 2018,
4 Defendant filed his opening brief. (Nevada Supreme Court Case No. 74076). On October 31,
5 2019, the Nevada Supreme Court affirmed the Judgment of Conviction. Remittitur issued on
6 March 16, 2020.

7 On January 5, 2021, Defendant filed the instant Petition for Writ of Habeas Corpus
8 (Post-Conviction) ("Petition"). The State filed its Response on February 19, 2021. This Court
9 denied the Petition on April 1, 2021.

10 **STATEMENT OF FACTS**

11 On August 23, 2016, Terry Bolden ("Bolden") was at his brother's house. Jury Trial
12 Day 2 ("JT 2"), August 29, 2017, at 140. At or about 6:00 p.m., Defendant called Bolden for
13 the purpose of meeting up to settle some debts. Id. at 141-2. When Defendant arrived, Bolden
14 went outside his brother's house to meet the Defendant at his car. Id. Defendant immediately
15 exited the vehicle and stated that Bolden owed the Defendant money. Id. at 144-5. Bolden
16 responded that he would pay Defendant later but agreed to give Defendant gas money. Id. at
17 145. As Bolden pulled out money from his pocket, Defendant reached to grab Bolden's money
18 from his hand. Id. Bolden resisted and as a result a fight ensued. Id. As they were fighting,
19 Rhonda Robinson ("Robinson") exited Defendant's car. JT 2, at 65. Upon exiting the vehicle,
20 Robinson testified that she saw Defendant point his gun at Bolden and shoot Bolden in the
21 head, stomach, and three times in the leg. Id. at 70. Defendant then ran to his vehicle and fled
22 from the scene, taking all of Bolden's money. Id.

23 Bolden subsequently gave a statement to the police. JT 2, at 158. In his statement,
24 Bolden provided that the vehicle used was a black Camaro. Id. Bolden later told the Detective
25 Gilberto Valenzuela ("Detective Valenzuela") that he remembered that Defendant said he
26 typically picked up his mail from 3700 S. Nellis. JT 4, at 161. When Detective Valenzuela
27 drove by the address, they saw a black Camaro. Id. After running the plate on the Camaro,
28 Detective Valenzuela discovered the vehicle was owned by Defendant. Id. at 162. Detective
Valenzuela then created a six-pack photo array and administered it to Bolden—where Bolden
picked out Defendant. Id. at 163-4. At the same time, but separate from Bolden, another

1 detective administered a six-pack photo array to Robinson who witnessed the shooting. Id. at
2 165-6. Robinson also identified Defendant as the shooter. Id. at 168. Shortly after these
3 identifications, Defendant was arrested. Id. at 168

4 AUTHORITY

5 **I. DEFENDANT’S CLAIMS ARE BARRED BY THE LAW OF THE CASE**

6 Out of the excess claims raised in this Petition, four of his arguments have already been
7 raised on direct appeal and denied by the Nevada Supreme Court (Case No. 74076).
8 Specifically, Defendant attempts to relitigate the following claims: (1) Defendant was denied
9 his right to counsel when he was not appointed new counsel and instead represented himself
10 because trial counsel, Kenneth Frizzell, Esq., was allegedly ineffective; (2) the district court
11 erred in allowing Defendant to represent himself at trial; (3) Defendant’s sentence violated the
12 Double Jeopardy Clause; and (4) Defendant’s Confrontation Clause rights were violated when
13 the Court admitted Arndaejac Anderson’s jail call through the testimony of Marco Rafalovich.
14 Petition at 5, 10, 39, 65, 72, 74, 110, 127; see generally, Appellant’s Opening Brief, April 23,
15 2018, 1-37. Defendant’s claims are barred by the law of the case.

16 “The law of a first appeal is law of the case on all subsequent appeals in which the facts
17 are substantially the same.” Hall v. State, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975) (quoting
18 Walker v. State, 85 Nev. 337, 343, 455 P.2d 34, 38 (1969)). “The doctrine of the law of the
19 case cannot be avoided by a more detailed and precisely focused argument subsequently made
20 after reflection upon the previous proceedings.” Id. at 316, 535 P.2d at 799. Under the law of
21 the case doctrine, issues previously decided on direct appeal may not be reargued in a habeas
22 petition. Pellegrini v. State, 117 Nev. 860, 879, 34 P.3d 519, 532 (2001) (citing McNelson v.
23 State, 115 Nev. 396, 414-15, 990 P.2d 1263, 1275 (1999)). Furthermore, this Court cannot
24 overrule the Nevada Supreme Court. NEV. CONST. Art. VI § 6. Here, the Nevada Supreme
25 Court discussed and denied Defendant’s claims on direct appeal. The Court found that: (1) the
26 district court did not abuse its discretion in denying Defendant’s requests for new counsel; (2)
27 Defendant was not denied his right to counsel; (3) Defendant’s sentence was not redundant;
28 and (4) the forfeiture-by-wrongdoing exception to the Confrontation Clause allowed the

1 introduction of the jail phone call through Rafalovich. Nevada Supreme Court Order,
2 November 27, 2019, at 1-13. Therefore, such claims are barred by the law of the case and are
3 denied.

4 **II. DEFENDANT'S CLAIMS ARE WAIVED FOR FAILING TO RAISE THEM**
5 **ON APPEAL**

6 Defendant raises a multitude of issues in the instant Petition, totaling to over 36 claims.
7 However, Defendant had to opportunity to raise his complaints on direct appeal, which he had
8 filed on April 23, 2016. See Nevada Supreme Court Case No. 74076. While Defendant raised
9 only a few claims on direct appeal (all of which are reincorporated into this Petition)¹, he now
10 attempts to relitigate the entirety of his case after failing to previously include such claims on
11 direct appeal. Because Defendant failed to address these claims on direct appeal, they are
12 summarily dismissed absent a showing of good cause and prejudice.

13 NRS 34.810(1) reads:

14 The court shall dismiss a petition if the court determines that:

15 (b) The petitioner's conviction was the result of a trial and the
16 grounds for the petition could have been:

17 (2) Raised in a direct appeal or a prior petition for a writ of habeas
18 corpus or postconviction relief.

19 The Nevada Supreme Court has held that "challenges to the validity of a guilty plea and
20 claims of ineffective assistance of trial and appellate counsel must first be pursued in post-
21 conviction proceedings.... [A]ll other claims that are appropriate for a direct appeal must be
22 pursued on direct appeal, or they will be *considered waived in subsequent proceedings*."
23 Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994) (emphasis added)
24 (disapproved on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999)). "A
25 court must dismiss a habeas petition if it presents claims that either were or could have been
26 presented in an earlier proceeding, unless the court finds both cause for failing to present the
27 claims earlier or for raising them again and actual prejudice to the petitioner." Evans v. State,
28 117 Nev. 609, 646-47, 29 P.3d 498, 523 (2001).

¹ See *supra*, Section I.

1 Further, substantive claims are beyond the scope of habeas and waived. NRS 34.724(2)(a);
2 Evans v. State, 117 Nev. 609, 646–47, 29 P.3d 498, 523 (2001); Franklin v. State, 110 Nev.
3 750, 752, 877 P.2d 1058, 1059 (1994), disapproved on other grounds, Thomas v. State, 115
4 Nev. 148, 979 P.2d 222 (1999).

5 A defendant may only escape these procedural bars if they meet the burden of
6 establishing good cause and prejudice:

7 3. Pursuant to subsections 1 and 2, the petitioner has the burden of pleading
8 and proving specific facts that demonstrate:

9 (a) Good cause for the petitioner's failure to present the claim or for
10 presenting the claim again; and

11 (b) Actual prejudice to the petitioner.

12 NRS 34.810(3). Where a defendant does not show good cause for failure to raise claims of
13 error upon direct appeal, the district court is not obliged to consider them in post-conviction
14 proceedings. Jones v. State, 91 Nev. 416, 536 P.2d 1025 (1975).

15 In the instant matter, Defendant does not even attempt to argue good cause as to why
16 he failed to raise the 36 additional claims presented within the instant Petition on direct appeal.
17 Thus, Defendant fails to establish good cause.

18 In terms of prejudice, Defendant claims that appellate counsel Sandra Stewart, Esq.,
19 (“Ms. Stewart” and/or “appellate counsel”) was ineffective in her representation on direct
20 appeal. Defendant argues that he was prejudiced by Ms. Stewart’s refusal to include the
21 entirety of his complaints on direct appeal. Defendant cannot establish prejudice because any
22 claim that appellate counsel was ineffective is without merit. Thus, this Petition is denied for
23 the following reasons.

24 **III. APPELLATE COUNSEL WAS NOT INEFFECTIVE**

25 The Sixth Amendment to the United States Constitution provides that, “[i]n all criminal
26 prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his
27 defense.” The United States Supreme Court has long recognized that “the right to counsel is
28 the right to the effective assistance of counsel.” Strickland v. Washington, 466 U.S. 668, 686,

1 104 S. Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323
2 (1993).

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

14 The court begins with the presumption of effectiveness and then must determine
15 whether the defendant has demonstrated by a preponderance of the evidence that counsel was
16 ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). “Effective counsel
17 does not mean errorless counsel, but rather counsel whose assistance is ‘[w]ithin the range of
18 competence demanded of attorneys in criminal cases.’” Jackson v. Warden, 91 Nev. 430, 432,
19 537 P.2d 473, 474 (1975).

20 Counsel cannot be ineffective for failing to make futile objections or arguments. See
21 Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). Trial counsel has the
22 “immediate and ultimate responsibility of deciding if and when to object, which witnesses, if
23 any, to call, and what defenses to develop.” Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167
24 (2002).

25 Based on the above law, the role of a court in considering allegations of ineffective
26 assistance of counsel is “not to pass upon the merits of the action not taken but to determine
27 whether, under the particular facts and circumstances of the case, trial counsel failed to render
28 reasonably effective assistance.” Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711

1 (1978). This analysis does not mean that the court should “second guess reasoned choices
2 between trial tactics nor does it mean that defense counsel, to protect himself against
3 allegations of inadequacy, must make every conceivable motion no matter how remote the
4 possibilities are of success.” Id. To be effective, the constitution “does not require that counsel
5 do what is impossible or unethical. If there is no bona fide defense to the charge, counsel
6 cannot create one and may disserve the interests of his client by attempting a useless charade.”
7 United States v. Cronin, 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19 (1984).

8 “There are countless ways to provide effective assistance in any given case. Even the
9 best criminal defense attorneys would not defend a particular client in the same way.”
10 Strickland, 466 U.S. at 689, 104 S. Ct. at 689. “Strategic choices made by counsel after
11 thoroughly investigating the plausible options are almost unchallengeable.” Dawson v. State,
12 108 Nev. 112, 117, 825 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784
13 P.2d 951, 953 (1989). In essence, the court must “judge the reasonableness of counsel’s
14 challenged conduct on the facts of the particular case, viewed as of the time of counsel’s
15 conduct.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066.

16 Even if a defendant can demonstrate that his counsel’s representation fell below an
17 objective standard of reasonableness, he must still demonstrate prejudice and show a
18 reasonable probability that, but for counsel’s errors, the result of the trial would have been
19 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing
20 Strickland, 466 U.S. at 687, 104 S. Ct. at 2064). “A reasonable probability is a probability
21 sufficient to undermine confidence in the outcome.” Id. (citing Strickland, 466 U.S. at 687-89,
22 694, 104 S. Ct. at 2064-65, 2068).

23 The Nevada Supreme Court has held “that a habeas corpus petitioner must prove the
24 disputed factual allegations underlying his ineffective-assistance claim by a preponderance of
25 the evidence.” Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). Furthermore,
26 claims of ineffective assistance of counsel asserted in a petition for post-conviction relief must
27 be supported with specific factual allegations, which if true, would entitle the petitioner to
28 relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and “naked”

1 allegations are not sufficient, nor are those belied and repelled by the record. Id. NRS
2 34.735(6) states in relevant part, “[Petitioner] *must* allege specific facts supporting the claims
3 in the petition[.] . . . Failure to allege specific facts rather than just conclusions may cause your
4 petition to be dismissed.” (emphasis added).

5 Here, Defendant argues that appellate counsel failed to present all the issues he had
6 wanted to raise on direct appeal. Petition at 114. Defendant claims that Ms. Stewart was
7 ineffective for following reasons fails.²

8 **A. Defendant’s Claims of False Evidence Fail**

9 Defendant alleges that appellate counsel was ineffective for failing raise claims of false
10 evidence presented by the State at trial. Petition at 16-118. Defendant’s claims are meritless.

11 There is a strong presumption that appellate counsel’s performance was reasonable and
12 fell within “the wide range of reasonable professional assistance.” See United States v.
13 Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990); citing Strickland, 466 U.S. at 689, 104 S. Ct. at
14 2065. A claim of ineffective assistance of appellate counsel must satisfy the two-prong test set
15 forth by Strickland. Kirksey v. State, 112 Nev. 980, 998, 923 P.2d 1102, 1114 (1996). In order
16 to satisfy Strickland’s second prong, the defendant must show that the omitted issue would
17 have had a reasonable probability of success on appeal. Id.

18 The professional diligence and competence required on appeal involves “winnowing
19 out weaker arguments on appeal and focusing on one central issue if possible, or at most on a
20 few key issues.” Jones v. Barnes, 463 U.S. 745, 751-52, 103 S. Ct. 3308, 3313 (1983). In
21 particular, a “brief that raises every colorable issue runs the risk of burying good arguments .
22 . . in a verbal mound made up of strong and weak contentions.” Id. at 753, 103 S. Ct. at 3313.
23 “For judges to second-guess reasonable professional judgments and impose on appointed
24 counsel a duty to raise every ‘colorable’ claim suggested by a client would disserve the very
25 goal of vigorous and effective advocacy.” Id. at 754, 103 S. Ct. at 3314. Further, effective
26 assistance of appellate counsel does not mean that appellate counsel must raise every non-

27
28 ² The grounds upon which Defendant argues ineffective assistance of counsel are reiterated through the Petition as individual grounds for the dismissal of his case. To prevent redundancy, this Court has addressed the merits of Defendant’s claims under its ineffective assistance of appellate counsel analysis.

1 frivolous issue. See Jones v. Barnes, 463 U.S. 745, 751–54, 103 S.Ct. 3308, 3312–15, 77
2 L.Ed.2d 987 (1983). An attorney's decision not to raise meritless issues on appeal is
3 not ineffective assistance of counsel. Daniel v. Overton, 845 F.Supp. 1170, 1176
4 (E.D.Mich.1994); Leaks v. United States, 841 F.Supp. 536, 541 (S.D.N.Y.1994), aff'd, 47
5 F.3d 1157 (2d Cir.), cert. denied, 516 U.S. 926, 116 S.Ct. 327, 133 L.Ed.2d 228 (1995). To
6 establish prejudice based on the deficient assistance of appellate counsel, the defendant must
7 show that the omitted issue would have a reasonable probability of success on
8 appeal. Duhamel v. Collins, 955 F.2d 962, 967 (5th Cir.1992); Heath, 941 F.2d at 1132. In
9 making this determination, a court must review the merits of the omitted claim. Heath, 941
10 F.2d at 1132.

11 Here, Defendant argues that appellate counsel was ineffective for not raising claims of
12 “false evidence” regarding certain testimony at trial. Petition at 16, 37, 43, 78, 118.
13 Specifically, Defendant takes issue with the testimonies of: (1) Laura Brook Cornell; (2) Jacob
14 Werner; (3) Rhonda Robinson; (4) Michael Kahnke; (5) Terry Bolden; (5) Caitlin King; and
15 (6) Gilberto Valenzuela. Id. Defendant’s claims are irrelevant.

16 The Nevada Supreme Court has held that a criminal defendant has the right to cross-
17 examine a witness as to bias or motives in testifying. Hughes v. State, 98 Nev. 437, 651 P.2d
18 102 (1982). Additionally, the broadest discretion is allowed when cross-examination is used
19 to generally attack such credibility. Bushnell v. State, 95 Nev. 570, 599 P.2d 1038 (1979). At
20 trial, Defendant was afforded ample opportunity and leeway to impeach those the State had
21 called to testify at trial. Defendant was able to cross-examine each witness and impeach them
22 regarding any inconsistent testimony he perceived at trial. Indeed, this was not a winning issue
23 on appeal. Defendant was able to highlight misidentification, inconsistencies, and whether he
24 thought a witness was lying out during cross-examination by showing prior-inconsistent
25 statements. It is for the jury to decide the credibility of the evidence. McNair v. State, 108 Nev.
26 53, 825 P.2d 571 (1992) (it is the jury’s function, not that of the court, to assess weight of the
27 evidence and determine credibility of witnesses). Therefore, appellate counsel could not have
28 //

1 been ineffective for recognizing the frivolity of these false evidence arguments on direct
2 appeal. Thus, this claim is denied.

3 **B. Appellate Counsel Not Ineffective for Not Arguing there was a Lack of**
4 **Probable Cause at the Preliminary Hearing**

5 Defendant contends that the State failed to present sufficient evidence at the preliminary
6 hearing. Petition, at 25. Defendant's claim is meritless. Defendant was afforded a five-day jury
7 trial which concluded in Defendant being found guilty of Attempt Murder With Use of a
8 Deadly Weapon and Battery With Use of a Deadly Weapon Resulting in Substantial Bodily
9 Harm. Verdict, September 1, 2017, 1-2. Because Defendant was found guilty beyond a
10 reasonable doubt, a more stringent standard than that required at a preliminary hearing, such
11 claim could not win on appeal. Sheriff v. Steward, 109 Nev. 831, 835, 858 P.2d 48, 51 (1993)
12 (finding of "[p]robable cause to support a criminal charge '[m]ay be based on slight, even
13 'marginal' evidence'"). Thus, Defendant's claim that there was insufficient evidence to find
14 probable cause at the preliminary is not only meritless, but immaterial.

15 Nevertheless, Defendant simultaneously claims there was insufficient evidence to find
16 him guilty at trial. Petition at 122. Defendant's claim is belied by the record and without merit.
17 The Nevada Supreme Court has found that in reviewing a claim of insufficient evidence, the
18 relevant inquiry is "whether, after viewing the evidence in the light most favorable to the
19 prosecution, any rational trier of fact could have found the essential elements of the crime
20 beyond a reasonable doubt." State v. Origel-Candido, 114 Nev. 378, 381, 956 P.2d 1378, 1380
21 (1998) quoting Koza v. State, 100 Nev. 245, 250, 681 P.2d 44, 47 (1984); see also Jackson v.
22 Virginia, 443 U.S. 307, 99 S.Ct. 2781 (1979). In State v. Walker, 109 Nev. 683, 685 857 P.2d
23 1, 2 (1993), this Court delineated the proper standard of review to be utilized when analyzing
24 a claim of insufficiency of evidence:

25 Insufficiency of the evidence occurs where the prosecutor has not produced a
26 minimum threshold of evidence upon which a conviction may be based.
27 Therefore, even if the evidence presented at trial were believed by the jury, it
28 would be insufficient to sustain a conviction, as it could not convince a
reasonable and fairminded jury of guilt beyond a reasonable doubt. Id.

1 Furthermore, the Nevada Supreme Court has ruled it will not reverse a verdict even if the
2 verdict is contrary to the evidence where there is substantial evidence to support it. State v.
3 Varga, 66 Nev. 102, 117, 205 P.2d 803, 810 (1949).

4 Moreover, this Court has specifically stated that “[c]ircumstantial evidence alone may
5 sustain a conviction.” McNair v. State, 108 Nev. 53, 61, 825 P.2d 571, 576 (1992); see also
6 Kazalyn v. State, 108 Nev. 67, 71, 825 P.2d 578, 581 (1992). The rationale behind this rule is
7 that the trier of fact “may reasonably rely upon circumstantial evidence; to conclude otherwise
8 would mean that a criminal could commit a secret murder, destroy the body of the victim, and
9 escape punishment despite convincing circumstantial evidence against him or her.” Williams
10 v. State, 96 Nev. 367, 374, 609 P.2d 309, 313 (1980) citing People v. Scott, 176 Cal. App. 2nd
11 458, 1 Cal. Rptr. 600 (1959). In the present case, there was sufficient evidence to convict
12 Defendant at trial.

13 To start, the victim, Bolden, testified at trial who committed the crime: Defendant. JT
14 4 at 163-4. The victim testified regarding the specific acts performed by the Defendant: (1)
15 Defendant took money from the victim; (2) with the use of a deadly weapon, and (3) shot the
16 victim five times. JT 2 at 141-150. Additionally, the victim testified that he was transported to
17 the hospital and has several scars from the injuries inflicted by Defendant. JT 2 at 153-155.
18 Inasmuch, a victim’s testimony alone is sufficient to support Defendant’s conviction beyond
19 a reasonable doubt. Rosales v. State, 128 Nev. 931, 381 P.3d 657 (2012) (holding there was
20 sufficient evidence to convict defendant for aggravated assault when the victim testified, he
21 felt frightened, intimidated, harassed, and fearing substantial bodily harm). The word of the
22 victim is sufficient to establish proof beyond a reasonable doubt because “it is exclusively
23 within the province of the trier of fact to weigh evidence and pass on the credibility of
24 witnesses and their testimony.” Lay v. State, 100 Nev. 1189, 1192, 886 P.2d 448, 450 (1994);
25 See also, Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221 (1979); Azbill v. State, 88
26 Nev. 240, 252, 495 P.2d 1064, 1072 (1972), cert. denied 429 U.S. 895, 97 S.Ct. 257 (1976).
27 Even still, Robinson, an eyewitness to the crime, also testified at trial that Defendant was the
28 shooter and later identified Defendant in a photo array. JT 2 at 165-8. Therefore, counsel could
//

1 not be ineffective for raising such meritless claim of insufficient evidence on appeal. As such,
2 this claim is denied.

3 Confusingly, Defendant still argues that counsel was ineffective for failing to raise this
4 claim on appeal because the victim was a “co-conspirator” in this case. Petition at 14.
5 However, this completely misstates the trial testimony. Bolden testified that the Defendant
6 assisted Bolden in paying for a place to live weekly. JT 2 at 140-45. Initially, Bolden believed
7 Defendant was merely helping him; however, Bolden explained that he soon realized
8 Defendant expected Bolden to assist in selling drugs. Id. at 145. During trial, Bolden told the
9 jury that he in fact did not agree to sell drugs nor did he ever owe Defendant money for drugs.
10 Id. Regardless, even if Bolden was involved in the drug sale, that alone does not make Bolden
11 a co-conspirator in the crimes Defendant is charged with. Therefore, based on Bolden’s
12 testimony, he could not in any way be an accomplice to his *own* attempted murder and robbery.
13 Such allegation is quite literally impossible. Therefore, Defendant’s contention that Bolden ‘s
14 role as a co-conspirator somehow negates his testimony is meritless. Thus, Defendant’s claim
15 that appellate counsel was ineffective for failing to bring these irrelevant claims of insufficient
16 evidence is without merit.

17 **C. Defendant’s Claim that Appellate Counsel was Ineffective for Not Raising**
18 **Claims of Unlawful Detention, Search, and Seizure Fail.**

19 Defendant claims appellate counsel was ineffective for failing to allege that he was
20 illegally arrested and that the search warrant in his case was illegally procured. Petition, at 30,
21 36, 87. Again, Defendant’s claims had no reasonable probability of success on appeal.
22 Strickland, 466 U.S. at 689, 104 S. Ct. at 2065.

23 First, Defendant claims that he was illegally detained because he was not “arrested,”
24 there was no arrest warrant, nor any charges pending. Petition at 30-36. NRS 171.124 provides
25 that an officer may arrest a person “when a felony or gross misdemeanor has in fact been
26 committed, and the agent has reasonable cause for believing the person arrested to have
27 committed it.” Thomas v. Sheriff, Clark County, 85 Nev. 551, 553 (1969); See Ornelas v. U.S.
28 690, 695-96 (1996).

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1 There can be no debate that a reasonable person would believe Defendant committed
2 the crime at hand. As noted *supra*, Bolden was shot multiple times, and both he and Robinson
3 picked Defendant out of a six-pack photo array. JT 2 at 163-8. There simply cannot be any
4 debate about whether Defendant's arrest was lawful. A fact Ms. Stewart informed Defendant
5 of this fact. Exhibit B at 3. Thus, appellate counsel was if anything, effective, for not pursuing
6 a meritless claim.

7 Second, Defendant contends that the vehicle stop that led to his arrest was unlawful.
8 Petition at 30. As noted, probable cause is the question of whether a prudent person would
9 believe a crime was committed. Thomas, 85 Nev. at 553. Given the facts known to the police
10 at the time of Defendant's arrest, there was undoubtedly the existence of probable cause for a
11 felony car stop. In fact, Defendant was stopped in the very vehicle that he used to flee from
12 the crime scene. JT 4 at 162. Consequently, the police impounded the vehicle and prior to a
13 search obtained a search warrant, following a positive identification from the victim and
14 Robinson. JT 4 at 165-68. Thus, appellate counsel was not ineffective for informing Defendant
15 of the issues with this claim and not raising it on appeal.

16 **D. Appellate Counsel was Not Ineffective for Not Raising Alleged Juror Issues on**
17 **Direct Appeal.**

18 Defendant complains that appellate counsel was ineffective for failing to argue that that
19 Defendant's right to a fair trial was violated due to juror misconduct. Petition at 42-82.
20 Defendant raises the following claims of misconduct: (1) Juror No. 6 was biased because she
21 recognized one of the prosecutors; (2) Juror No. 9 was biased because he allegedly "wrote the
22 word dick in his jury note"; (3) Juror No. 4 should have been dismissed due to his alleged lack
23 of comprehension of the English language; (4) Juror No. 3 should have been dismissed because
24 she stated that she was "sad" when her car was stolen because it contained her grandson's
25 pillow in it, who had recently passed away; (5) Juror No.10 should have been dismissed
26 because she worked for a company that had been robbed previously; (6) Juror No. 1 should
27 have been dismissed for previously possessing a stolen credit card; and (7) potential juror,
28 //

1 Chatavia McGowan (“McGowan”) was improperly dismissed even though she had a newborn
2 child at home. Petition, at 51-85. Defendant’s claims are waived and meritless.

3 During voir dire, Defendant failed to object to the confirmation of Jurors No. 1, 3, 4, 6,
4 9, 10. See Jury Trial Day 1, August 28, 2017, 261. Additionally, the Court concluded voir dire
5 announcing the potential jury panel and questioned each party as to whether they had any
6 objections to the potential jurors. Id. At no point did Defendant object, but instead conveyed
7 that he had “no” objections to the panel. Id. The issues raised by Defendant were known to
8 him at the time of voir dire as Defendant references the jurors’ remarks as the reason that they
9 should have been dismissed. However, a party waives any challenge to the seating of a juror
10 on appeal where the party was aware of the basis for the challenge during voir dire. Savedzada
11 v. State, 134 Nev. 283, 419 P.3d 184 (Nev. App, 2019) (holding where the party was aware of
12 the basis of the challenge at the time of voir dire, had the opportunity to challenge the
13 prospective juror on those facts, but declined to do so, and approved the juror’s presence on
14 the panel *waives any challenge on appeal*) (emphasis added). Clearly, appellate counsel could
15 not have been ineffective for failing to raise these issues on appeal since Defendant never
16 objected to the juror’s presence on the jury panel. Thus, Defendant’s claims were waived, and
17 his claims of ineffectiveness are denied.

18 Further, Defendant alleges that Juror No. 9 wrote the expletive “dick” on his jury note.
19 Defendant’s presents a bare and naked claim. “Bare” and “naked” allegations are not sufficient
20 to warrant post-conviction relief, nor are those belied and repelled by the record. Hargrove v.
21 State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). Defendant provides this baseless argument
22 to support the contention that Juror No. 9 “could” have been there to corrupt the jury.
23 Defendant fails to provide any support of this claim. Therefore, appellate counsel could not be
24 found ineffective for determining this claim unwinnable on direct appeal. Thus, this bare and
25 naked claim is denied.

26 Finally, Defendant claims that potential juror McGowan was improperly dismissed
27 from the jury panel because the Court failed to make a record as to why she was dismissed.
28 This is not the case. The Court questioned McGowan as to whether she would be able to make

1 arrangements for her children if she were to be empaneled. JT 1 at 73-4. McGowan replied
2 that she would try, but that she had not made childcare arrangements for her four year old and
3 four month old children at that point in time. Id. The Court noted its concern for the newborn
4 child, and Defendant did not object as to her exclusion on the jury panel. Thus, this claim is
5 waived and denied.

6 **E. Appellate Counsel was Not Ineffective for Failing to Raise Certain Claims**

7 **Regarding Whether Trial Counsel was Ineffective.**

8 **i. Defendant was not denied his right to speedy trial**

9 Defendant claims that appellate counsel was ineffective for not arguing that trial
10 counsel was ineffective for waiving Defendant's right to a speedy trial. Petition, at 74.
11 Defendant's claim is a losing one. Defendant authorized trial counsel to file a pre-trial Petition
12 for Writ of Habeas Corpus. In filing the petition, Defendant "waive[d] his 60 day right to a
13 trial." Petition for Writ of Habeas Corpus, December 8, 2016, 2. Such disclosure is evidenced
14 within the petition itself and provides:

15 Petitioner waives his (60) day right to a trial and further
16 acknowledges that, if the Petition is not decided within fifteen (15)
17 days before the date set for trial, Petitioner consents that the Court
18 may, without notice of a hearing, continue the trial indefinitely or
19 to a date designated by the Court, and further that if any party
20 appeals the Court's ruling and the appeal is not determined before
21 the dates set for trial, Petitioner consents that the date is
22 automatically vacated and the trial postponed unless the Court
23 otherwise orders.

24 Id. at 2.

25 Clearly, Defendant waived his right to a speedy trial in directing trial counsel to file the
26 pre-trial petition. Thus, this issue would have been summarily denied on appeal and Ms.
27 Stewart cannot be found ineffective for not raising this issue on appeal. As such, Defendant's
28 claim is denied.

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1 **IV. THE JURY INSTRUCTIONS PRESENTED WERE AN ACCURATE**
2 **REPRESENTATION OF THE LAW**

3 Defendant alleges that the jury instruction on Attempt Murder because it was
4 “misleading.” Petition, at 68. Confusingly, Defendant complains that the jury was
5 misinformed because there is no such thing as “attempt malice.” Id. Defendant simply provides
6 a misinformed opinion on the law as his baseless argument is belied by the record because the
7 instruction was not an incorrect statement of the law. Mann, 118 Nev. at 354, 46 P.3d at 1230.
8 “District courts have broad discretion to settle jury instructions.” Cortinas v. State, 124 Nev.
9 1013, 195 P.3d 315, 319 (2008). Further, when an error has not been preserved, the Court
10 employs plain-error review. See Green v. State, 119 Nev. 542, 545, 80 P.3d 93, 95 (2003)
11 (explaining that failure to object to a jury instruction precludes appellate review except in
12 circumstances amounting to plain error under NRS 178.602). Under that standard, an error that
13 is plain from a review of the record does not require reversal unless the defendant demonstrates
14 that the error affected his or her substantial rights by causing “actual prejudice or a miscarriage
15 of justice.” Id.

16 Here, Defendant initially objected to the to the attempted murder instruction, but later
17 retracted his objection once the Court clarified the definition of Attempt Murder. The
18 following colloquy took place between the Court and Defendant:

19 THE COURT: Thank you. All right. The next instruction is the
20 attempt murder instruction, so if you’ll remove that and replace it
21 with the new one that the party’s agreed upon, which adds, thus,
22 in order to find the defendant guilty of attempt murder, you must
23 find that the defendant had the specific intent to kill. And that’s
24 the instruction you proposed; is that correct, [Defendant]?

25 THE DEFENDANT: Yes, but I was telling Mr.—Mr. Frizzell that
26 I think attempt murder is misleading to the jury.

27 ...

28 THE DEFENDANT: I said I objected to that one, because I think
 attempted murder is misleading to the jury if it’s not showing what
 the statute is wording would attempt it is and then what murder is.
 THE COURT: Okay. We did define what an attempt is in the
 instruction right before, an act done with intent to commit a crime,
 intending, but failing, to accomplishment, is an attempt to commit

1 that crime. And then the jury would be instructed on attempt
2 murder. Any objection knowing now they'll be instructed on what
attempt means, and then attempt murder?

3 THE DEFENDANT: No.

4 THE COURT: Okay. And we added, thus, in order to find the
defendant guilty of attempt murder, you must find that the
5 defendant has specific intent to kill. Okay.

6 Jury Trial Day 5, September 1, 2017, 12-13.

7 The Court walked Defendant through the Attempt Murder instruction, Defendant took
8 no issue once the Court explained the meaning, and yet, now he raises this unsupported
9 contention out of frustration with the result of his trial.

10 Regardless, the jury instruction for Attempt Murder is an accurate representation of the
11 law. To be found guilty of Attempt Murder there must be the *intent* to kill a human being. See
12 NRS 200.010, 200.030. Thus, this claim is denied.

13 **V. THERE WAS NO PROSECUTORIAL MISCONDUCT AT TRIAL**

14 Defendant raises multiple claims of prosecutorial misconduct at trial. Specifically, he
15 claims: (1) there was misconduct because two prosecutors working on his case instead of just
16 one; (2) the State failed to produce Defendant with discovery; (3) Deputy District Attorney
17 (“DDA”) Bryan Schwartz, Esq., allegedly gave misleading jury instructions³ and presented
18 lies to the jury; and (3) DDA Binu Palal, Esq., lied to the jury. Petition, at 46, 53, 96, 68, 101.

19 Claims of prosecutorial misconduct that have not been objected to at trial will not be
20 reviewed on appeal unless they constitute “plain error.” Leonard v. State, 17 P.3d 397, 415
21 (2001); See Mitchell v. State, 114 Nev. 1417, 971 P.2d 813, 819 (1998); Rippo v. State, 113
22 Nev. 1239, 946 P.2d 1017, 1030 (1997). Should the Court disagree, then it is the State’s
23 position that Defendant’s argument is without merit.

24 The standard of review for prosecutorial misconduct rests upon Defendant showing
25 “that the remarks made by the prosecutor were ‘patently prejudicial.’” Riker v. State, 111
26 Nev. 1316, 1328, 905 P.2d 706, 713 (1995) (citing Libby v. State, 109 Nev. 905, 911, 859
27 P.2d 1050, 1054 (1993)). This is based on a defendant’s right to have a fair trial, not
28

³ See supra, Section IV, regarding the jury instructions presented at trial.

1 necessarily a perfect one. Ross v. State, 106 Nev. 924, 927, 803 P.2d 1104, 1105 (1990). The
2 relevant inquiry is whether the prosecutor's statements so contaminated the proceedings with
3 unfairness as to make the result a denial of due process. Darden v. Wainwright, 477 U.S. 168,
4 181, 106 S.Ct. 2464, 2471 (1986). Defendant must show that the statements violated a clear
5 and unequivocal rule of law, he was denied a substantial right, and as a result, he was materially
6 prejudiced. Libby, 109 Nev. at 911, 859 P.2d at 1054.

7 First, Defendant claims it was misconduct to have two prosecutors working on his case
8 instead of just one because he had chosen to represent himself. Petition, at 46. However, as
9 noted by the Nevada Supreme Court in its affirmance of Defendant's direct appeal, Defendant
10 filed three requests to substitute counsel and represent himself. Order of Affirmance,
11 November 27, 2019, at 12. Defendant's decision does not, therefore, create an inherent
12 unfairness for the State to engage in normal trial practice. It is standard procedure for many
13 cases that go to trial for there to be a first and second chair attorney. Not only is this practice
14 commonplace, but Defendant fails to address how he was prejudiced. Thus, this claim is
15 denied.

16 Second, Defendant argues that the State failed to turn over discovery in his case, and
17 that the Court denied all his discovery requests. Petition at 53. Defendant's claim is belied by
18 the record. Mann, 118 Nev. at 354, 46 P.3d at 1230.

19 During Defendant's Faretta canvass, Defendant alerted the Court that he had not
20 received complete discovery from either trial counsel or the State. In response to Defendant's
21 concerns, the Court allowed Defendant the opportunity to file a Motion to Obtain A Full Brady
22 Discovery And To Inspect All Evidence ("Brady Motion"). On April 13, 2017, the Court ruled
23 on the Brady Motion as follows:

- 24 1. Police Report from Officer Hafen- Upon Court's inquiry, Mr.
25 Schwartz confirmed a police report from Officer Hafen does
26 not exist.
- 27 2. Officer A. Karas Report- Upon Court's inquiry, Mr. Schwartz
28 confirmed there is no report from Officer A. Karas.
Court advised Defendant the State cannot provide what does
not exist.

3. Affidavit for warrant of search of the Camaro- Any search warrants will be turned over by the State, if any.
4. Affidavit and Summons for all suspects in Justice Court Case 16F14731, Department 5- Motion Off Calendar as there are no other suspects.
5. Affidavit and Summons for all suspects Case C319021-1- Motion Denied because Defendant is the only suspect in this case.
6. Arrest warrant for Arnold Anderson and all suspects in Cases 16F14731X an C319021-Motion Off Calendar as there was no arrest warrant, and the arrest occurred based on probable cause.
7. Affidavit and Summons for arrest warrant for Arnold Anderson- Motion Off Calendar as this does not exist.
8. Photo array issued by investigator Officer Valenzuela- Court NOTED a six pack of photos was produced in this case. COURT ORDERED, MOTION GRANTED as to six-pack photo line up; and State to overturn the photo line up.
9. Photo array- MOTION GRANTED as to photo line up; and State is to turn over the photo line up.
10. List of all witnesses expected to testify or have knowledge of the case- COURT ORDERED, State is to comply with NRS 174.234. Court NOTED State has already complied with the statute and turned over a witness list, and State has a continuing obligation, without Court ordering State to provide a witness list.
11. List of witnesses interviewed by Plaintiff- MOTION DENIED as State is not required to provide this.
12. All documents relating to investigation of this case—MOTION GRANTED to the extent it is required by NRS 174.235.
13. A list of former or present agents of Plaintiff who have participated who will or who will not be called as a witness- State is to comply with statutory obligations and provide Defendant with a witness list.
14. Copies of pictures of Camaro seized on 9-15-16 by Officer Valenzuela- MOTION GRANTED as to pictures taken during this search; and State is to provide these pictures.
15. Case summary for Case 16F14731-MOTION DENIED.
16. All photos involved in this case, all reports, any scientific test, copy of criminal proceedings of Arndaejae Anderson- MOTION GRANTED only to the extent it is required by statute.

Court Minutes, April 13, 2017, 1-3.

1 Indeed, Defendant was not precluded access to discovery as this Court afforded
2 Defendant additional time to request the necessary documents, and further ordered the State
3 to produce the necessary discovery pursuant to statute.⁴ Therefore, Defendant's claim that the
4 State committed prosecutorial misconduct for failing to turn over discovery is belied by the
5 record. Thus, this claim is denied.

6 Further, when analyzing Defendant's claims specific to DDA Palal and Schwartz
7 committing prosecutorial misconduct, such claims are bare and naked allegations. Hargrove,
8 100 Nev. at 502, 686 P.2d at 225. On the contrary, it was Defendant who committed
9 misconduct throughout the entirety of trial. Defendant objected to almost all the testimony
10 making comments such as: "that's good acting" during victim testimony; "there's no doctor
11 here to prove that [Bolden's] the one in the hospital" when the victim described his injuries;
12 and refusing to comply with sustained objections during his cross-examination. JT 2, at 52,
13 151. Defendant exhibited outbursts throughout the entire trial and argued with the Court at
14 every turn. Moreover, Defendant does not provide how the prosecutors' comments were so
15 unfair that they denied him due process and/or were prejudicial. Therefore, Defendant fails to
16 demonstrate the requisite factors to prove he was subject to unfair due process. Thus, this claim
17 is denied.

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27 ⁴ In the same vein, Defendant additionally claims that the district court abused its discretion by precluding Defendant
28 discovery and the ability to prepare for trial. Defendant's claim is belied by the record as this Court allowed Defendant
supplemental time to receive discovery and file relevant motions. See Court Minutes, March 23, 2017, 1-3; Court Minutes,
April 13, 2017, 1-3. Thus, this claim is denied. Mann, at 354, 46 P.3d at 1230.

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA
4

5
6 Arnold Anderson, Plaintiff(s)

CASE NO: A-21-827381-W

7 vs.

DEPT. NO. Department 12

8 Jerry Howell, Warden SDCC,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 Electronic service was attempted through the Eighth Judicial District Court's
13 electronic filing system, but there were no registered users on the case. The filer has been
14 notified to serve all parties by traditional means.
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1 NEFF

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4 ARNOLD ANDERSON,

5
6 Petitioner,

7 vs.

8 JERRY HOWELL, WARDEN SDCC; ET.AL.,

9 Respondent,

Case No: A-21-827381-W

Dept No: XII

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

10
11 PLEASE TAKE NOTICE that on May 27, 2021, the court entered a decision or order in this matter, a
true and correct copy of which is attached to this notice.

12 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you
13 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is
14 mailed to you. This notice was mailed on June 3, 2021.

15 STEVEN D. GRIERSON, CLERK OF THE COURT

16 /s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

17
18
19 CERTIFICATE OF E-SERVICE / MAILING

20 I hereby certify that on this 3 day of June 2021, I served a copy of this Notice of Entry on the following:

21 ☒ By e-mail:

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

23 ☒ The United States mail addressed as follows:

24 Arnold Anderson # 85509
25 P.O. Box 208
Indain Springs, NV 89070

26
27 /s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

FFCO
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
ALEXANDER CHEN
Chief Deputy District Attorney
Nevada Bar #10539
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

ARNOLD ANDERSON,
#1202768

Defendant.

CASE NO: A-21-827381-W
C-16-319021-1

DEPT NO: XII

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

DATE OF HEARING: APRIL 1, 2021
TIME OF HEARING: 12:30 PM

THIS CAUSE having come on for hearing before the Honorable MICHELLE LEAVITT, District Judge, on the 1st day of April 2021, the Defendant not present, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, represented by and through MELANIE MARLAND, Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

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

2 **STATEMENT OF THE CASE**

3 On October 27, 2016, Arnold Anderson (hereinafter "Defendant") was charged by way
4 of Information with the crimes of: Attempt Murder with Use of a Deadly Weapon (Category
5 B Felony- NRS 200.010, 200.030, 193.330, 193.165- NOC 50031); Robbery with Use of a
6 Deadly Weapon (Category B Felony- NRS 200.380, 193.165- NOC 50138); and Battery with
7 Use of a Deadly Weapon resulting in Substantial Bodily Harm (Category Be Felony- NRS
8 400.281- NOC 50226).

9 On October 31, 2016, Defendant pled not guilty and invoked his right to a speedy trial.
10 On November 4, 2016, Defendant filed a Pro Per Motion to "Dismiss Counsel and Represent
11 Myself." On November 28, 2016, Defendant filed Motion to "Vacate Motion (12-6-16) to
12 Dismiss Attorney of Record," where he stated that he changed his mind and wanted to keep
13 his appointed counsel Ken Frizzell, Esq. On December 29, 2016, Defendant filed another
14 Motion to "Dismiss Counsel and Appoint New Counsel Plus Pro-Per Ferretta Rights."

15 On January 24, 2017, the District Court held a hearing on Defendant's Motion to
16 "Dismiss Counsel and Appoint New Counsel Plus Pro-Per Ferretta Rights," and after hearing
17 from the parties the District Court continued the matter for a week for a status check. A week
18 later during the status check, Defendant and Mr. Frizzell stated that they came to an
19 understanding and that the conflict was resolved. On March 7, 2017, the District Court held a
20 hearing on Defendant's renewed Motion to "Dismiss Counsel and Replace Counsel and
21 Appoint Defendant Pro Per Status." At the conclusion of the hearing, the Court denied the
22 motion.

23 On March 16, 2017, after conducting Faretta canvass, the Court granted Defendant's
24 request to represent himself, finding that he knowingly, voluntary, and intelligently waived his
25 right to be represented by counsel. On April 13, 2017, Defendant filed a Pro Per Notice of
26 Motion and Motion to Suppress and a Pro Per Notice of Motion and Petition for Writ of Habeas
27 Corpus. The State filed a Response to Defendant's Writ of Habeas Corpus on May 28, 2017,
28 and an Opposition to Defendant's Motion to Suppress on May 1, 2017. The District Court
denied both motions on May 4, 2017.

1 On May 4, 2017, Defendant filed the following motions: Defendant's Pro Per Motion
2 and Notice of Motion to Seek Handwriting Specialist NRS 50.275; Defendant's Pro Per Notice
3 of Motion and Motion to Compel State to Surrender Discovery; and Defendant's Pro Per
4 Notice of Motion and Motion to reconsider Motion to Dismiss. On May 25, 2017, denied the
5 Motion to Reconsider Motion to Dismiss, denied the Motion to Seek Handwriting Specialist,
6 and set a status check to ensure Defendant received all the requisite discovery.

7 On May 25, 2017, Defendant filed the following motions: Defendant's Pro Per Notice
8 of Motion Re Motion to Dismiss; Defendant's Pro Per Notice of Motion Re: Motion for Franks
9 Hearing; Defendant's Pro Per Notice of Motion Re: Motion for Full Brady Discovery;
10 Defendant's Pro Per Notice of Motion Re: Motion to Oppose State's Opposition to Dismiss;
11 Defendant's Pro Per Motion Re: Motion to Dismiss-Based on Malicious Vindictive
12 Prosecution; Defendant's Pro Per Notice of Motion Re: Motion to Dismiss Standby counsel
13 Kenneth Frizzell; Defendant's Pro Per Notice of Motion Re: Motion of Alibi Witnesses;
14 Defendant's Pro Per Notice of Motion Re: Motion to Dismiss-Case is Double Jeopardy;
15 Defendant's Pro Per Notice of Motion Re: Motion Writ of Habeas Corpus to Test the Legality
16 of This Arrest; Defendant's Pro Per Notice of Motion Re: Motion to Suppress; and
17 Defendant's Pro Per Notice of Motion Re: Motion for Evidentiary Hearing. On June 13, 2017,
18 the Court denied all of the motions except for: Defendant's Pro Per Motion for Full Brady
19 Discovery. Defendant filed a Case Appeal Statement on June 22, 2017.

20 Following multiple continuances, the trial date was set and the State filed a Notice of
21 Intent to Seek Punishment as a Habitual Criminal/Felon on August 22, 2017. The State also
22 filed a Notice of Motion and Motion in Limine on August 25, 2017. On August 29, 2017,
23 Defendant filed a Pro Per "Notice of Motion and Motion to Strike and Oppode [sic] State's
24 Motion to Seek Punishment as a Habitual Criminal Felony if a Felony Conviction Occur" on
25 August 29, 2017. On September 14, 2017, the Nevada Supreme court Dismissed Defendant's
26 appeal and filed an Order under Case No. 73351.

27 On August 28, 2017, Defendant's jury trial commenced. After a five-day jury trial, the
28 jury returned a guilty verdict on Count 1 - Attempt Murder with Use of a Deadly Weapon, and
Count 3 - Battery with Use of a Deadly Weapon resulting in Substantial Bodily Harm on
September 1, 2017. On December 5, 2017, the Judgment of Conviction was filed, sentencing

1 Defendant to aggregate total of maximum 50 years and minimum parole eligibility after 20
2 years.

3 On December 27, 2016, Defendant filed a Notice of Appeal. On April 23, 2018,
4 Defendant filed his opening brief. (Nevada Supreme Court Case No. 74076). On October 31,
5 2019, the Nevada Supreme Court affirmed the Judgment of Conviction. Remittitur issued on
6 March 16, 2020.

7 On January 5, 2021, Defendant filed the instant Petition for Writ of Habeas Corpus
8 (Post-Conviction) ("Petition"). The State filed its Response on February 19, 2021. This Court
9 denied the Petition on April 1, 2021.

10 **STATEMENT OF FACTS**

11 On August 23, 2016, Terry Bolden ("Bolden") was at his brother's house. Jury Trial
12 Day 2 ("JT 2"), August 29, 2017, at 140. At or about 6:00 p.m., Defendant called Bolden for
13 the purpose of meeting up to settle some debts. Id. at 141-2. When Defendant arrived, Bolden
14 went outside his brother's house to meet the Defendant at his car. Id. Defendant immediately
15 exited the vehicle and stated that Bolden owed the Defendant money. Id. at 144-5. Bolden
16 responded that he would pay Defendant later but agreed to give Defendant gas money. Id. at
17 145. As Bolden pulled out money from his pocket, Defendant reached to grab Bolden's money
18 from his hand. Id. Bolden resisted and as a result a fight ensued. Id. As they were fighting,
19 Rhonda Robinson ("Robinson") exited Defendant's car. JT 2, at 65. Upon exiting the vehicle,
20 Robinson testified that she saw Defendant point his gun at Bolden and shoot Bolden in the
21 head, stomach, and three times in the leg. Id. at 70. Defendant then ran to his vehicle and fled
22 from the scene, taking all of Bolden's money. Id.

23 Bolden subsequently gave a statement to the police. JT 2, at 158. In his statement,
24 Bolden provided that the vehicle used was a black Camaro. Id. Bolden later told the Detective
25 Gilberto Valenzuela ("Detective Valenzuela") that he remembered that Defendant said he
26 typically picked up his mail from 3700 S. Nellis. JT 4, at 161. When Detective Valenzuela
27 drove by the address, they saw a black Camaro. Id. After running the plate on the Camaro,
28 Detective Valenzuela discovered the vehicle was owned by Defendant. Id. at 162. Detective
Valenzuela then created a six-pack photo array and administered it to Bolden—where Bolden
picked out Defendant. Id. at 163-4. At the same time, but separate from Bolden, another

1 detective administered a six-pack photo array to Robinson who witnessed the shooting. Id. at
2 165-6. Robinson also identified Defendant as the shooter. Id. at 168. Shortly after these
3 identifications, Defendant was arrested. Id. at 168

4 **AUTHORITY**

5 **I. DEFENDANT’S CLAIMS ARE BARRED BY THE LAW OF THE CASE**

6 Out of the excess claims raised in this Petition, four of his arguments have already been
7 raised on direct appeal and denied by the Nevada Supreme Court (Case No. 74076).
8 Specifically, Defendant attempts to relitigate the following claims: (1) Defendant was denied
9 his right to counsel when he was not appointed new counsel and instead represented himself
10 because trial counsel, Kenneth Frizzell, Esq., was allegedly ineffective; (2) the district court
11 erred in allowing Defendant to represent himself at trial; (3) Defendant’s sentence violated the
12 Double Jeopardy Clause; and (4) Defendant’s Confrontation Clause rights were violated when
13 the Court admitted Arndaejac Anderson’s jail call through the testimony of Marco Rafalovich.
14 Petition at 5, 10, 39, 65, 72, 74, 110, 127; see generally, Appellant’s Opening Brief, April 23,
15 2018, 1-37. Defendant’s claims are barred by the law of the case.

16 “The law of a first appeal is law of the case on all subsequent appeals in which the facts
17 are substantially the same.” Hall v. State, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975) (quoting
18 Walker v. State, 85 Nev. 337, 343, 455 P.2d 34, 38 (1969)). “The doctrine of the law of the
19 case cannot be avoided by a more detailed and precisely focused argument subsequently made
20 after reflection upon the previous proceedings.” Id. at 316, 535 P.2d at 799. Under the law of
21 the case doctrine, issues previously decided on direct appeal may not be reargued in a habeas
22 petition. Pellegrini v. State, 117 Nev. 860, 879, 34 P.3d 519, 532 (2001) (citing McNelson v.
23 State, 115 Nev. 396, 414-15, 990 P.2d 1263, 1275 (1999)). Furthermore, this Court cannot
24 overrule the Nevada Supreme Court. NEV. CONST. Art. VI § 6. Here, the Nevada Supreme
25 Court discussed and denied Defendant’s claims on direct appeal. The Court found that: (1) the
26 district court did not abuse its discretion in denying Defendant’s requests for new counsel; (2)
27 Defendant was not denied his right to counsel; (3) Defendant’s sentence was not redundant;
28 and (4) the forfeiture-by-wrongdoing exception to the Confrontation Clause allowed the

1 introduction of the jail phone call through Rafalovich. Nevada Supreme Court Order,
2 November 27, 2019, at 1-13. Therefore, such claims are barred by the law of the case and are
3 denied.

4 **II. DEFENDANT'S CLAIMS ARE WAIVED FOR FAILING TO RAISE THEM**
5 **ON APPEAL**

6 Defendant raises a multitude of issues in the instant Petition, totaling to over 36 claims.
7 However, Defendant had to opportunity to raise his complaints on direct appeal, which he had
8 filed on April 23, 2016. See Nevada Supreme Court Case No. 74076. While Defendant raised
9 only a few claims on direct appeal (all of which are reincorporated into this Petition)¹, he now
10 attempts to relitigate the entirety of his case after failing to previously include such claims on
11 direct appeal. Because Defendant failed to address these claims on direct appeal, they are
12 summarily dismissed absent a showing of good cause and prejudice.

13 NRS 34.810(1) reads:

14 The court shall dismiss a petition if the court determines that:

15 (b) The petitioner's conviction was the result of a trial and the
16 grounds for the petition could have been:

17 (2) Raised in a direct appeal or a prior petition for a writ of habeas
18 corpus or postconviction relief.

19 The Nevada Supreme Court has held that "challenges to the validity of a guilty plea and
20 claims of ineffective assistance of trial and appellate counsel must first be pursued in post-
21 conviction proceedings.... [A]ll other claims that are appropriate for a direct appeal must be
22 pursued on direct appeal, or they will be *considered waived in subsequent proceedings*."
23 Franklin v. State, 110 Nev. 750, 752, 877 P.2d 1058, 1059 (1994) (emphasis added)
24 (disapproved on other grounds by Thomas v. State, 115 Nev. 148, 979 P.2d 222 (1999)). "A
25 court must dismiss a habeas petition if it presents claims that either were or could have been
26 presented in an earlier proceeding, unless the court finds both cause for failing to present the
27 claims earlier or for raising them again and actual prejudice to the petitioner." Evans v. State,
28 117 Nev. 609, 646-47, 29 P.3d 498, 523 (2001).

¹ See *supra*, Section I.

1 Further, substantive claims are beyond the scope of habeas and waived. NRS 34.724(2)(a);
2 Evans v. State, 117 Nev. 609, 646–47, 29 P.3d 498, 523 (2001); Franklin v. State, 110 Nev.
3 750, 752, 877 P.2d 1058, 1059 (1994), disapproved on other grounds, Thomas v. State, 115
4 Nev. 148, 979 P.2d 222 (1999).

5 A defendant may only escape these procedural bars if they meet the burden of
6 establishing good cause and prejudice:

7 3. Pursuant to subsections 1 and 2, the petitioner has the burden of pleading
8 and proving specific facts that demonstrate:

9 (a) Good cause for the petitioner's failure to present the claim or for
10 presenting the claim again; and

11 (b) Actual prejudice to the petitioner.

12 NRS 34.810(3). Where a defendant does not show good cause for failure to raise claims of
13 error upon direct appeal, the district court is not obliged to consider them in post-conviction
14 proceedings. Jones v. State, 91 Nev. 416, 536 P.2d 1025 (1975).

15 In the instant matter, Defendant does not even attempt to argue good cause as to why
16 he failed to raise the 36 additional claims presented within the instant Petition on direct appeal.
17 Thus, Defendant fails to establish good cause.

18 In terms of prejudice, Defendant claims that appellate counsel Sandra Stewart, Esq.,
19 (“Ms. Stewart” and/or “appellate counsel”) was ineffective in her representation on direct
20 appeal. Defendant argues that he was prejudiced by Ms. Stewart’s refusal to include the
21 entirety of his complaints on direct appeal. Defendant cannot establish prejudice because any
22 claim that appellate counsel was ineffective is without merit. Thus, this Petition is denied for
23 the following reasons.

24 **III. APPELLATE COUNSEL WAS NOT INEFFECTIVE**

25 The Sixth Amendment to the United States Constitution provides that, “[i]n all criminal
26 prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his
27 defense.” The United States Supreme Court has long recognized that “the right to counsel is
28 the right to the effective assistance of counsel.” Strickland v. Washington, 466 U.S. 668, 686,

1 104 S. Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323
2 (1993).

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

14 The court begins with the presumption of effectiveness and then must determine
15 whether the defendant has demonstrated by a preponderance of the evidence that counsel was
16 ineffective. Means v. State, 120 Nev. 1001, 1011, 103 P.3d 25, 32 (2004). “Effective counsel
17 does not mean errorless counsel, but rather counsel whose assistance is ‘[w]ithin the range of
18 competence demanded of attorneys in criminal cases.’” Jackson v. Warden, 91 Nev. 430, 432,
19 537 P.2d 473, 474 (1975).

20 Counsel cannot be ineffective for failing to make futile objections or arguments. See
21 Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). Trial counsel has the
22 “immediate and ultimate responsibility of deciding if and when to object, which witnesses, if
23 any, to call, and what defenses to develop.” Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167
24 (2002).

25 Based on the above law, the role of a court in considering allegations of ineffective
26 assistance of counsel is “not to pass upon the merits of the action not taken but to determine
27 whether, under the particular facts and circumstances of the case, trial counsel failed to render
28 reasonably effective assistance.” Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711

1 (1978). This analysis does not mean that the court should “second guess reasoned choices
2 between trial tactics nor does it mean that defense counsel, to protect himself against
3 allegations of inadequacy, must make every conceivable motion no matter how remote the
4 possibilities are of success.” Id. To be effective, the constitution “does not require that counsel
5 do what is impossible or unethical. If there is no bona fide defense to the charge, counsel
6 cannot create one and may disserve the interests of his client by attempting a useless charade.”
7 United States v. Cronin, 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19 (1984).

8 “There are countless ways to provide effective assistance in any given case. Even the
9 best criminal defense attorneys would not defend a particular client in the same way.”
10 Strickland, 466 U.S. at 689, 104 S. Ct. at 689. “Strategic choices made by counsel after
11 thoroughly investigating the plausible options are almost unchallengeable.” Dawson v. State,
12 108 Nev. 112, 117, 825 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784
13 P.2d 951, 953 (1989). In essence, the court must “judge the reasonableness of counsel’s
14 challenged conduct on the facts of the particular case, viewed as of the time of counsel’s
15 conduct.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066.

16 Even if a defendant can demonstrate that his counsel’s representation fell below an
17 objective standard of reasonableness, he must still demonstrate prejudice and show a
18 reasonable probability that, but for counsel’s errors, the result of the trial would have been
19 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing
20 Strickland, 466 U.S. at 687, 104 S. Ct. at 2064). “A reasonable probability is a probability
21 sufficient to undermine confidence in the outcome.” Id. (citing Strickland, 466 U.S. at 687-89,
22 694, 104 S. Ct. at 2064-65, 2068).

23 The Nevada Supreme Court has held “that a habeas corpus petitioner must prove the
24 disputed factual allegations underlying his ineffective-assistance claim by a preponderance of
25 the evidence.” Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). Furthermore,
26 claims of ineffective assistance of counsel asserted in a petition for post-conviction relief must
27 be supported with specific factual allegations, which if true, would entitle the petitioner to
28 relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and “naked”

1 allegations are not sufficient, nor are those belied and repelled by the record. Id. NRS
2 34.735(6) states in relevant part, “[Petitioner] *must* allege specific facts supporting the claims
3 in the petition[.] . . . Failure to allege specific facts rather than just conclusions may cause your
4 petition to be dismissed.” (emphasis added).

5 Here, Defendant argues that appellate counsel failed to present all the issues he had
6 wanted to raise on direct appeal. Petition at 114. Defendant claims that Ms. Stewart was
7 ineffective for following reasons fails.²

8 **A. Defendant’s Claims of False Evidence Fail**

9 Defendant alleges that appellate counsel was ineffective for failing raise claims of false
10 evidence presented by the State at trial. Petition at 16-118. Defendant’s claims are meritless.

11 There is a strong presumption that appellate counsel’s performance was reasonable and
12 fell within “the wide range of reasonable professional assistance.” See United States v.
13 Aguirre, 912 F.2d 555, 560 (2nd Cir. 1990); citing Strickland, 466 U.S. at 689, 104 S. Ct. at
14 2065. A claim of ineffective assistance of appellate counsel must satisfy the two-prong test set
15 forth by Strickland. Kirksey v. State, 112 Nev. 980, 998, 923 P.2d 1102, 1114 (1996). In order
16 to satisfy Strickland’s second prong, the defendant must show that the omitted issue would
17 have had a reasonable probability of success on appeal. Id.

18 The professional diligence and competence required on appeal involves “winnowing
19 out weaker arguments on appeal and focusing on one central issue if possible, or at most on a
20 few key issues.” Jones v. Barnes, 463 U.S. 745, 751-52, 103 S. Ct. 3308, 3313 (1983). In
21 particular, a “brief that raises every colorable issue runs the risk of burying good arguments .
22 . . in a verbal mound made up of strong and weak contentions.” Id. at 753, 103 S. Ct. at 3313.
23 “For judges to second-guess reasonable professional judgments and impose on appointed
24 counsel a duty to raise every ‘colorable’ claim suggested by a client would disserve the very
25 goal of vigorous and effective advocacy.” Id. at 754, 103 S. Ct. at 3314. Further, effective
26 assistance of appellate counsel does not mean that appellate counsel must raise every non-

27
28 ² The grounds upon which Defendant argues ineffective assistance of counsel are reiterated through the Petition as individual grounds for the dismissal of his case. To prevent redundancy, this Court has addressed the merits of Defendant’s claims under its ineffective assistance of appellate counsel analysis.

1 frivolous issue. See Jones v. Barnes, 463 U.S. 745, 751–54, 103 S.Ct. 3308, 3312–15, 77
2 L.Ed.2d 987 (1983). An attorney's decision not to raise meritless issues on appeal is
3 not ineffective assistance of counsel. Daniel v. Overton, 845 F.Supp. 1170, 1176
4 (E.D.Mich.1994); Leaks v. United States, 841 F.Supp. 536, 541 (S.D.N.Y.1994), aff'd, 47
5 F.3d 1157 (2d Cir.), cert. denied, 516 U.S. 926, 116 S.Ct. 327, 133 L.Ed.2d 228 (1995). To
6 establish prejudice based on the deficient assistance of appellate counsel, the defendant must
7 show that the omitted issue would have a reasonable probability of success on
8 appeal. Duhamel v. Collins, 955 F.2d 962, 967 (5th Cir.1992); Heath, 941 F.2d at 1132. In
9 making this determination, a court must review the merits of the omitted claim. Heath, 941
10 F.2d at 1132.

11 Here, Defendant argues that appellate counsel was ineffective for not raising claims of
12 “false evidence” regarding certain testimony at trial. Petition at 16, 37, 43, 78, 118.
13 Specifically, Defendant takes issue with the testimonies of: (1) Laura Brook Cornell; (2) Jacob
14 Werner; (3) Rhonda Robinson; (4) Michael Kahnke; (5) Terry Bolden; (5) Caitlin King; and
15 (6) Gilberto Valenzuela. Id. Defendant’s claims are irrelevant.

16 The Nevada Supreme Court has held that a criminal defendant has the right to cross-
17 examine a witness as to bias or motives in testifying. Hughes v. State, 98 Nev. 437, 651 P.2d
18 102 (1982). Additionally, the broadest discretion is allowed when cross-examination is used
19 to generally attack such credibility. Bushnell v. State, 95 Nev. 570, 599 P.2d 1038 (1979). At
20 trial, Defendant was afforded ample opportunity and leeway to impeach those the State had
21 called to testify at trial. Defendant was able to cross-examine each witness and impeach them
22 regarding any inconsistent testimony he perceived at trial. Indeed, this was not a winning issue
23 on appeal. Defendant was able to highlight misidentification, inconsistencies, and whether he
24 thought a witness was lying out during cross-examination by showing prior-inconsistent
25 statements. It is for the jury to decide the credibility of the evidence. McNair v. State, 108 Nev.
26 53, 825 P.2d 571 (1992) (it is the jury’s function, not that of the court, to assess weight of the
27 evidence and determine credibility of witnesses). Therefore, appellate counsel could not have
28 //

1 been ineffective for recognizing the frivolity of these false evidence arguments on direct
2 appeal. Thus, this claim is denied.

3 **B. Appellate Counsel Not Ineffective for Not Arguing there was a Lack of**
4 **Probable Cause at the Preliminary Hearing**

5 Defendant contends that the State failed to present sufficient evidence at the preliminary
6 hearing. Petition, at 25. Defendant's claim is meritless. Defendant was afforded a five-day jury
7 trial which concluded in Defendant being found guilty of Attempt Murder With Use of a
8 Deadly Weapon and Battery With Use of a Deadly Weapon Resulting in Substantial Bodily
9 Harm. Verdict, September 1, 2017, 1-2. Because Defendant was found guilty beyond a
10 reasonable doubt, a more stringent standard than that required at a preliminary hearing, such
11 claim could not win on appeal. Sheriff v. Steward, 109 Nev. 831, 835, 858 P.2d 48, 51 (1993)
12 (finding of "[p]robable cause to support a criminal charge '[m]ay be based on slight, even
13 'marginal' evidence'"). Thus, Defendant's claim that there was insufficient evidence to find
14 probable cause at the preliminary is not only meritless, but immaterial.

15 Nevertheless, Defendant simultaneously claims there was insufficient evidence to find
16 him guilty at trial. Petition at 122. Defendant's claim is belied by the record and without merit.
17 The Nevada Supreme Court has found that in reviewing a claim of insufficient evidence, the
18 relevant inquiry is "whether, after viewing the evidence in the light most favorable to the
19 prosecution, any rational trier of fact could have found the essential elements of the crime
20 beyond a reasonable doubt." State v. Origel-Candido, 114 Nev. 378, 381, 956 P.2d 1378, 1380
21 (1998) quoting Koza v. State, 100 Nev. 245, 250, 681 P.2d 44, 47 (1984); see also Jackson v.
22 Virginia, 443 U.S. 307, 99 S.Ct. 2781 (1979). In State v. Walker, 109 Nev. 683, 685 857 P.2d
23 1, 2 (1993), this Court delineated the proper standard of review to be utilized when analyzing
24 a claim of insufficiency of evidence:

25 Insufficiency of the evidence occurs where the prosecutor has not produced a
26 minimum threshold of evidence upon which a conviction may be based.
27 Therefore, even if the evidence presented at trial were believed by the jury, it
28 would be insufficient to sustain a conviction, as it could not convince a
reasonable and fairminded jury of guilt beyond a reasonable doubt. Id.

1 Furthermore, the Nevada Supreme Court has ruled it will not reverse a verdict even if the
2 verdict is contrary to the evidence where there is substantial evidence to support it. State v.
3 Varga, 66 Nev. 102, 117, 205 P.2d 803, 810 (1949).

4 Moreover, this Court has specifically stated that “[c]ircumstantial evidence alone may
5 sustain a conviction.” McNair v. State, 108 Nev. 53, 61, 825 P.2d 571, 576 (1992); see also
6 Kazalyn v. State, 108 Nev. 67, 71, 825 P.2d 578, 581 (1992). The rationale behind this rule is
7 that the trier of fact “may reasonably rely upon circumstantial evidence; to conclude otherwise
8 would mean that a criminal could commit a secret murder, destroy the body of the victim, and
9 escape punishment despite convincing circumstantial evidence against him or her.” Williams
10 v. State, 96 Nev. 367, 374, 609 P.2d 309, 313 (1980) citing People v. Scott, 176 Cal. App. 2nd
11 458, 1 Cal. Rptr. 600 (1959). In the present case, there was sufficient evidence to convict
12 Defendant at trial.

13 To start, the victim, Bolden, testified at trial who committed the crime: Defendant. JT
14 4 at 163-4. The victim testified regarding the specific acts performed by the Defendant: (1)
15 Defendant took money from the victim; (2) with the use of a deadly weapon, and (3) shot the
16 victim five times. JT 2 at 141-150. Additionally, the victim testified that he was transported to
17 the hospital and has several scars from the injuries inflicted by Defendant. JT 2 at 153-155.
18 Inasmuch, a victim’s testimony alone is sufficient to support Defendant’s conviction beyond
19 a reasonable doubt. Rosales v. State, 128 Nev. 931, 381 P.3d 657 (2012) (holding there was
20 sufficient evidence to convict defendant for aggravated assault when the victim testified, he
21 felt frightened, intimidated, harassed, and fearing substantial bodily harm). The word of the
22 victim is sufficient to establish proof beyond a reasonable doubt because “it is exclusively
23 within the province of the trier of fact to weigh evidence and pass on the credibility of
24 witnesses and their testimony.” Lay v. State, 100 Nev. 1189, 1192, 886 P.2d 448, 450 (1994);
25 See also, Culverson v. State, 95 Nev. 433, 435, 596 P.2d 220, 221 (1979); Azbill v. State, 88
26 Nev. 240, 252, 495 P.2d 1064, 1072 (1972), cert. denied 429 U.S. 895, 97 S.Ct. 257 (1976).
27 Even still, Robinson, an eyewitness to the crime, also testified at trial that Defendant was the
28 shooter and later identified Defendant in a photo array. JT 2 at 165-8. Therefore, counsel could
//

1 not be ineffective for raising such meritless claim of insufficient evidence on appeal. As such,
2 this claim is denied.

3 Confusingly, Defendant still argues that counsel was ineffective for failing to raise this
4 claim on appeal because the victim was a “co-conspirator” in this case. Petition at 14.
5 However, this completely misstates the trial testimony. Bolden testified that the Defendant
6 assisted Bolden in paying for a place to live weekly. JT 2 at 140-45. Initially, Bolden believed
7 Defendant was merely helping him; however, Bolden explained that he soon realized
8 Defendant expected Bolden to assist in selling drugs. Id. at 145. During trial, Bolden told the
9 jury that he in fact did not agree to sell drugs nor did he ever owe Defendant money for drugs.
10 Id. Regardless, even if Bolden was involved in the drug sale, that alone does not make Bolden
11 a co-conspirator in the crimes Defendant is charged with. Therefore, based on Bolden’s
12 testimony, he could not in any way be an accomplice to his *own* attempted murder and robbery.
13 Such allegation is quite literally impossible. Therefore, Defendant’s contention that Bolden ‘s
14 role as a co-conspirator somehow negates his testimony is meritless. Thus, Defendant’s claim
15 that appellate counsel was ineffective for failing to bring these irrelevant claims of insufficient
16 evidence is without merit.

17 **C. Defendant’s Claim that Appellate Counsel was Ineffective for Not Raising**
18 **Claims of Unlawful Detention, Search, and Seizure Fail.**

19 Defendant claims appellate counsel was ineffective for failing to allege that he was
20 illegally arrested and that the search warrant in his case was illegally procured. Petition, at 30,
21 36, 87. Again, Defendant’s claims had no reasonable probability of success on appeal.
22 Strickland, 466 U.S. at 689, 104 S. Ct. at 2065.

23 First, Defendant claims that he was illegally detained because he was not “arrested,”
24 there was no arrest warrant, nor any charges pending. Petition at 30-36. NRS 171.124 provides
25 that an officer may arrest a person “when a felony or gross misdemeanor has in fact been
26 committed, and the agent has reasonable cause for believing the person arrested to have
27 committed it.” Thomas v. Sheriff, Clark County, 85 Nev. 551, 553 (1969); See Ornelas v. U.S.
28 690, 695-96 (1996).

//

1 There can be no debate that a reasonable person would believe Defendant committed
2 the crime at hand. As noted *supra*, Bolden was shot multiple times, and both he and Robinson
3 picked Defendant out of a six-pack photo array. JT 2 at 163-8. There simply cannot be any
4 debate about whether Defendant's arrest was lawful. A fact Ms. Stewart informed Defendant
5 of this fact. Exhibit B at 3. Thus, appellate counsel was if anything, effective, for not pursuing
6 a meritless claim.

7 Second, Defendant contends that the vehicle stop that led to his arrest was unlawful.
8 Petition at 30. As noted, probable cause is the question of whether a prudent person would
9 believe a crime was committed. Thomas, 85 Nev. at 553. Given the facts known to the police
10 at the time of Defendant's arrest, there was undoubtedly the existence of probable cause for a
11 felony car stop. In fact, Defendant was stopped in the very vehicle that he used to flee from
12 the crime scene. JT 4 at 162. Consequently, the police impounded the vehicle and prior to a
13 search obtained a search warrant, following a positive identification from the victim and
14 Robinson. JT 4 at 165-68. Thus, appellate counsel was not ineffective for informing Defendant
15 of the issues with this claim and not raising it on appeal.

16 **D. Appellate Counsel was Not Ineffective for Not Raising Alleged Juror Issues on**
17 **Direct Appeal.**

18 Defendant complains that appellate counsel was ineffective for failing to argue that that
19 Defendant's right to a fair trial was violated due to juror misconduct. Petition at 42-82.
20 Defendant raises the following claims of misconduct: (1) Juror No. 6 was biased because she
21 recognized one of the prosecutors; (2) Juror No. 9 was biased because he allegedly "wrote the
22 word dick in his jury note"; (3) Juror No. 4 should have been dismissed due to his alleged lack
23 of comprehension of the English language; (4) Juror No. 3 should have been dismissed because
24 she stated that she was "sad" when her car was stolen because it contained her grandson's
25 pillow in it, who had recently passed away; (5) Juror No.10 should have been dismissed
26 because she worked for a company that had been robbed previously; (6) Juror No. 1 should
27 have been dismissed for previously possessing a stolen credit card; and (7) potential juror,
28 //

1 Chatavia McGowan (“McGowan”) was improperly dismissed even though she had a newborn
2 child at home. Petition, at 51-85. Defendant’s claims are waived and meritless.

3 During voir dire, Defendant failed to object to the confirmation of Jurors No. 1, 3, 4, 6,
4 9, 10. See Jury Trial Day 1, August 28, 2017, 261. Additionally, the Court concluded voir dire
5 announcing the potential jury panel and questioned each party as to whether they had any
6 objections to the potential jurors. Id. At no point did Defendant object, but instead conveyed
7 that he had “no” objections to the panel. Id. The issues raised by Defendant were known to
8 him at the time of voir dire as Defendant references the jurors’ remarks as the reason that they
9 should have been dismissed. However, a party waives any challenge to the seating of a juror
10 on appeal where the party was aware of the basis for the challenge during voir dire. Savedzada
11 v. State, 134 Nev. 283, 419 P.3d 184 (Nev. App, 2019) (holding where the party was aware of
12 the basis of the challenge at the time of voir dire, had the opportunity to challenge the
13 prospective juror on those facts, but declined to do so, and approved the juror’s presence on
14 the panel *waives any challenge on appeal*) (emphasis added). Clearly, appellate counsel could
15 not have been ineffective for failing to raise these issues on appeal since Defendant never
16 objected to the juror’s presence on the jury panel. Thus, Defendant’s claims were waived, and
17 his claims of ineffectiveness are denied.

18 Further, Defendant alleges that Juror No. 9 wrote the expletive “dick” on his jury note.
19 Defendant’s presents a bare and naked claim. “Bare” and “naked” allegations are not sufficient
20 to warrant post-conviction relief, nor are those belied and repelled by the record. Hargrove v.
21 State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). Defendant provides this baseless argument
22 to support the contention that Juror No. 9 “could” have been there to corrupt the jury.
23 Defendant fails to provide any support of this claim. Therefore, appellate counsel could not be
24 found ineffective for determining this claim unwinnable on direct appeal. Thus, this bare and
25 naked claim is denied.

26 Finally, Defendant claims that potential juror McGowan was improperly dismissed
27 from the jury panel because the Court failed to make a record as to why she was dismissed.
28 This is not the case. The Court questioned McGowan as to whether she would be able to make

1 arrangements for her children if she were to be empaneled. JT 1 at 73-4. McGowan replied
2 that she would try, but that she had not made childcare arrangements for her four year old and
3 four month old children at that point in time. Id. The Court noted its concern for the newborn
4 child, and Defendant did not object as to her exclusion on the jury panel. Thus, this claim is
5 waived and denied.

6 **E. Appellate Counsel was Not Ineffective for Failing to Raise Certain Claims**

7 **Regarding Whether Trial Counsel was Ineffective.**

8 **i. Defendant was not denied his right to speedy trial**

9 Defendant claims that appellate counsel was ineffective for not arguing that trial
10 counsel was ineffective for waiving Defendant's right to a speedy trial. Petition, at 74.
11 Defendant's claim is a losing one. Defendant authorized trial counsel to file a pre-trial Petition
12 for Writ of Habeas Corpus. In filing the petition, Defendant "waive[d] his 60 day right to a
13 trial." Petition for Writ of Habeas Corpus, December 8, 2016, 2. Such disclosure is evidenced
14 within the petition itself and provides:

15 Petitioner waives his (60) day right to a trial and further
16 acknowledges that, if the Petition is not decided within fifteen (15)
17 days before the date set for trial, Petitioner consents that the Court
18 may, without notice of a hearing, continue the trial indefinitely or
19 to a date designated by the Court, and further that if any party
20 appeals the Court's ruling and the appeal is not determined before
21 the dates set for trial, Petitioner consents that the date is
22 automatically vacated and the trial postponed unless the Court
23 otherwise orders.

24 Id. at 2.

25 Clearly, Defendant waived his right to a speedy trial in directing trial counsel to file the
26 pre-trial petition. Thus, this issue would have been summarily denied on appeal and Ms.
27 Stewart cannot be found ineffective for not raising this issue on appeal. As such, Defendant's
28 claim is denied.

//

//

1 **IV. THE JURY INSTRUCTIONS PRESENTED WERE AN ACCURATE**
2 **REPRESENTATION OF THE LAW**

3 Defendant alleges that the jury instruction on Attempt Murder because it was
4 “misleading.” Petition, at 68. Confusingly, Defendant complains that the jury was
5 misinformed because there is no such thing as “attempt malice.” Id. Defendant simply provides
6 a misinformed opinion on the law as his baseless argument is belied by the record because the
7 instruction was not an incorrect statement of the law. Mann, 118 Nev. at 354, 46 P.3d at 1230.
8 “District courts have broad discretion to settle jury instructions.” Cortinas v. State, 124 Nev.
9 1013, 195 P.3d 315, 319 (2008). Further, when an error has not been preserved, the Court
10 employs plain-error review. See Green v. State, 119 Nev. 542, 545, 80 P.3d 93, 95 (2003)
11 (explaining that failure to object to a jury instruction precludes appellate review except in
12 circumstances amounting to plain error under NRS 178.602). Under that standard, an error that
13 is plain from a review of the record does not require reversal unless the defendant demonstrates
14 that the error affected his or her substantial rights by causing “actual prejudice or a miscarriage
15 of justice.” Id.

16 Here, Defendant initially objected to the to the attempted murder instruction, but later
17 retracted his objection once the Court clarified the definition of Attempt Murder. The
18 following colloquy took place between the Court and Defendant:

19 THE COURT: Thank you. All right. The next instruction is the
20 attempt murder instruction, so if you’ll remove that and replace it
21 with the new one that the party’s agreed upon, which adds, thus,
22 in order to find the defendant guilty of attempt murder, you must
23 find that the defendant had the specific intent to kill. And that’s
24 the instruction you proposed; is that correct, [Defendant]?

25 THE DEFENDANT: Yes, but I was telling Mr.—Mr. Frizzell that
26 I think attempt murder is misleading to the jury.

27 ...

28 THE DEFENDANT: I said I objected to that one, because I think
 attempted murder is misleading to the jury if it’s not showing what
 the statute is wording would attempt it is and then what murder is.
 THE COURT: Okay. We did define what an attempt is in the
 instruction right before, an act done with intent to commit a crime,
 intending, but failing, to accomplishment, is an attempt to commit

1 that crime. And then the jury would be instructed on attempt
2 murder. Any objection knowing now they'll be instructed on what
attempt means, and then attempt murder?

3 THE DEFENDANT: No.

4 THE COURT: Okay. And we added, thus, in order to find the
defendant guilty of attempt murder, you must find that the
5 defendant has specific intent to kill. Okay.

6 Jury Trial Day 5, September 1, 2017, 12-13.

7 The Court walked Defendant through the Attempt Murder instruction, Defendant took
8 no issue once the Court explained the meaning, and yet, now he raises this unsupported
9 contention out of frustration with the result of his trial.

10 Regardless, the jury instruction for Attempt Murder is an accurate representation of the
11 law. To be found guilty of Attempt Murder there must be the *intent* to kill a human being. See
12 NRS 200.010, 200.030. Thus, this claim is denied.

13 **V. THERE WAS NO PROSECUTORIAL MISCONDUCT AT TRIAL**

14 Defendant raises multiple claims of prosecutorial misconduct at trial. Specifically, he
15 claims: (1) there was misconduct because two prosecutors working on his case instead of just
16 one; (2) the State failed to produce Defendant with discovery; (3) Deputy District Attorney
17 (“DDA”) Bryan Schwartz, Esq., allegedly gave misleading jury instructions³ and presented
18 lies to the jury; and (3) DDA Binu Palal, Esq., lied to the jury. Petition, at 46, 53, 96, 68, 101.

19 Claims of prosecutorial misconduct that have not been objected to at trial will not be
20 reviewed on appeal unless they constitute “plain error.” Leonard v. State, 17 P.3d 397, 415
21 (2001); See Mitchell v. State, 114 Nev. 1417, 971 P.2d 813, 819 (1998); Rippo v. State, 113
22 Nev. 1239, 946 P.2d 1017, 1030 (1997). Should the Court disagree, then it is the State’s
23 position that Defendant’s argument is without merit.

24 The standard of review for prosecutorial misconduct rests upon Defendant showing
25 “that the remarks made by the prosecutor were ‘patently prejudicial.’” Riker v. State, 111
26 Nev. 1316, 1328, 905 P.2d 706, 713 (1995) (citing Libby v. State, 109 Nev. 905, 911, 859
27 P.2d 1050, 1054 (1993)). This is based on a defendant’s right to have a fair trial, not
28

³ See supra, Section IV, regarding the jury instructions presented at trial.

1 necessarily a perfect one. Ross v. State, 106 Nev. 924, 927, 803 P.2d 1104, 1105 (1990). The
2 relevant inquiry is whether the prosecutor's statements so contaminated the proceedings with
3 unfairness as to make the result a denial of due process. Darden v. Wainwright, 477 U.S. 168,
4 181, 106 S.Ct. 2464, 2471 (1986). Defendant must show that the statements violated a clear
5 and unequivocal rule of law, he was denied a substantial right, and as a result, he was materially
6 prejudiced. Libby, 109 Nev. at 911, 859 P.2d at 1054.

7 First, Defendant claims it was misconduct to have two prosecutors working on his case
8 instead of just one because he had chosen to represent himself. Petition, at 46. However, as
9 noted by the Nevada Supreme Court in its affirmance of Defendant's direct appeal, Defendant
10 filed three requests to substitute counsel and represent himself. Order of Affirmance,
11 November 27, 2019, at 12. Defendant's decision does not, therefore, create an inherent
12 unfairness for the State to engage in normal trial practice. It is standard procedure for many
13 cases that go to trial for there to be a first and second chair attorney. Not only is this practice
14 commonplace, but Defendant fails to address how he was prejudiced. Thus, this claim is
15 denied.

16 Second, Defendant argues that the State failed to turn over discovery in his case, and
17 that the Court denied all his discovery requests. Petition at 53. Defendant's claim is belied by
18 the record. Mann, 118 Nev. at 354, 46 P.3d at 1230.

19 During Defendant's Faretta canvass, Defendant alerted the Court that he had not
20 received complete discovery from either trial counsel or the State. In response to Defendant's
21 concerns, the Court allowed Defendant the opportunity to file a Motion to Obtain A Full Brady
22 Discovery And To Inspect All Evidence ("Brady Motion"). On April 13, 2017, the Court ruled
23 on the Brady Motion as follows:

- 24 1. Police Report from Officer Hafen- Upon Court's inquiry, Mr.
25 Schwartz confirmed a police report from Officer Hafen does
26 not exist.
- 27 2. Officer A. Karas Report- Upon Court's inquiry, Mr. Schwartz
28 confirmed there is no report from Officer A. Karas.
Court advised Defendant the State cannot provide what does
not exist.

3. Affidavit for warrant of search of the Camaro- Any search warrants will be turned over by the State, if any.
4. Affidavit and Summons for all suspects in Justice Court Case 16F14731, Department 5- Motion Off Calendar as there are no other suspects.
5. Affidavit and Summons for all suspects Case C319021-1- Motion Denied because Defendant is the only suspect in this case.
6. Arrest warrant for Arnold Anderson and all suspects in Cases 16F14731X an C319021-Motion Off Calendar as there was no arrest warrant, and the arrest occurred based on probable cause.
7. Affidavit and Summons for arrest warrant for Arnold Anderson- Motion Off Calendar as this does not exist.
8. Photo array issued by investigator Officer Valenzuela- Court NOTED a six pack of photos was produced in this case. COURT ORDERED, MOTION GRANTED as to six-pack photo line up; and State to overturn the photo line up.
9. Photo array- MOTION GRANTED as to photo line up; and State is to turn over the photo line up.
10. List of all witnesses expected to testify or have knowledge of the case- COURT ORDERED, State is to comply with NRS 174.234. Court NOTED State has already complied with the statute and turned over a witness list, and State has a continuing obligation, without Court ordering State to provide a witness list.
11. List of witnesses interviewed by Plaintiff- MOTION DENIED as State is not required to provide this.
12. All documents relating to investigation of this case—MOTION GRANTED to the extent it is required by NRS 174.235.
13. A list of former or present agents of Plaintiff who have participated who will or who will not be called as a witness- State is to comply with statutory obligations and provide Defendant with a witness list.
14. Copies of pictures of Camaro seized on 9-15-16 by Officer Valenzuela- MOTION GRANTED as to pictures taken during this search; and State is to provide these pictures.
15. Case summary for Case 16F14731-MOTION DENIED.
16. All photos involved in this case, all reports, any scientific test, copy of criminal proceedings of Arndaejae Anderson- MOTION GRANTED only to the extent it is required by statute.

Court Minutes, April 13, 2017, 1-3.

1 Indeed, Defendant was not precluded access to discovery as this Court afforded
2 Defendant additional time to request the necessary documents, and further ordered the State
3 to produce the necessary discovery pursuant to statute.⁴ Therefore, Defendant's claim that the
4 State committed prosecutorial misconduct for failing to turn over discovery is belied by the
5 record. Thus, this claim is denied.

6 Further, when analyzing Defendant's claims specific to DDA Palal and Schwartz
7 committing prosecutorial misconduct, such claims are bare and naked allegations. Hargrove,
8 100 Nev. at 502, 686 P.2d at 225. On the contrary, it was Defendant who committed
9 misconduct throughout the entirety of trial. Defendant objected to almost all the testimony
10 making comments such as: "that's good acting" during victim testimony; "there's no doctor
11 here to prove that [Bolden's] the one in the hospital" when the victim described his injuries;
12 and refusing to comply with sustained objections during his cross-examination. JT 2, at 52,
13 151. Defendant exhibited outbursts throughout the entire trial and argued with the Court at
14 every turn. Moreover, Defendant does not provide how the prosecutors' comments were so
15 unfair that they denied him due process and/or were prejudicial. Therefore, Defendant fails to
16 demonstrate the requisite factors to prove he was subject to unfair due process. Thus, this claim
17 is denied.

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27 ⁴ In the same vein, Defendant additionally claims that the district court abused its discretion by precluding Defendant
28 discovery and the ability to prepare for trial. Defendant's claim is belied by the record as this Court allowed Defendant
supplemental time to receive discovery and file relevant motions. See Court Minutes, March 23, 2017, 1-3; Court Minutes,
April 13, 2017, 1-3. Thus, this claim is denied. Mann, at 354, 46 P.3d at 1230.

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Dated this 27th day of May, 2021

William Brewster

2EA 95A B58A 289D
Michelle Leavitt
District Court Judge

CERTIFICATE OF MAILING

ARNOLD ANDERSON, #85509
LOVELOCK CORRECTIONAL CENTER
1200 PRISON ROAD
LOVELOCK, NV 89419

BY /s/ L.M.
Secretary for the District Attorney's Office

23

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Arnold Anderson, Plaintiff(s)

CASE NO: A-21-827381-W

7 vs.

DEPT. NO. Department 12

8 Jerry Howell, Warden SDCC,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 Electronic service was attempted through the Eighth Judicial District Court's
13 electronic filing system, but there were no registered users on the case. The filer has been
14 notified to serve all parties by traditional means.

Heather L. Smith
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA.

ARNOLD ANDERSON
Plaintiff

CASE # C-16-319021-1

Dept # 12

A-21-827381-W

STATE OF NEVADA

JERRY HOWELL Warden et al

NOTICE OF MOTION

HEARING REQUIRED

MOTION TO RESET

POST CONVICTION WRIT FOR HEARING

COMES NOW THE PLAINTIFF ARNOLD ANDERSON
IN PROPER PERSON ASKING THIS HONORABLE COURT
TO RESET THE HEARING FOR THE POST
CONVICTION WRIT OF HABEAS CORPUS POINTS
AND AUTHORITIES ATTACHED.

BACKGROUND

THE PLAINTIFF FILED A MOTION FOR A TELEPHONIC
HEARING IT WAS DENIED ON OR ABOUT
MARCH 11, 2021 A HEARING WAS SET
TO HAVE A HEARING FOR THE POST CONVICTION
WRIT SOME HOW THE PRISON CASEWORKER
STATED THERE WAS NOT A COURT
ORDER TO TRANSPORT PLAINTIFF TO
COURT. I MAILED A RESPONSE FROM
THE UNIT CASEWORKER INDICATING HE

1
2 DID NOT SEE A COURT DATE, OR ANY HEARING. THE
3 PLAINTIFF EVEN SENT A LETTER INDICATING I
4 ANTICIPATED TO COME TO COURT.

5 POINTS AND AUTHORITY

6 IN TILCOCK V STATE 538 F3d 1138 HIS CONVICTION
7 WAS REVERSED BECAUSE HE DID NOT RECEIVE A EVIDENTIARY
8 HEARING BEFORE HIS WRIT OF HABEAS CORPUS WAS
9 HEARD. ALSO IN WILLIAMS V TAYLOR 529 US 420
10 THIS CASE WAS REMANDED FOR THE SAME, TO
11 RESET THE WRIT OF HABEAS CORPUS WOULD
12 BE DUE PROCESS.

13 ARGUMENT

14 THE PLAINTIFF DO NOT KNOW WHY HE WAS
15 NOT TRANSPORTED TO COURT.

16 CONCLUSION

17 THE PLAINTIFF ASK THIS COURT TO RESET A
18 DATE TO REHEAR THE WRIT AND ALLOW PLAINTIFF
19 A CHANCE TO PARTICIPATE IN THE HEARING OR,
20 AND ORDER A TELEPHONIC CONFERENCE OR A ORDER
21 TO THE DIRECTOR OF CORRECTIONS TO ALLOW ME
22 PRESENT AT THE HEARING. PLAINTIFF ASK THIS
23 COURT TO GRANT THIS MOTION.

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25 5-18-21

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This document does not contain the Social Security number of any person.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

DATED this 19 day of MAY, 2021

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), the undersigned hereby certifies that on this date, I deposited a true and correct copy of the foregoing Motion in the U.S. Mail with postage pre-paid thereon, addressed to:

DISTRICT ATTORNEY
(Name of other Party)

(Name of other Party)


200 CEWIS AVE
(Address)

(Address)

LV NV 89155
(City, State, Zip)

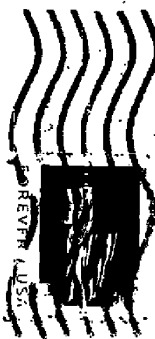
(City, State, Zip)

Dated this 19 day of MAY, 2021.


(Signature)

A. Arnold Anderson
85509
P.O. Box 208
Indian Springs NV
89070

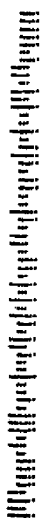
LAS VEGAS NV 8901
20 MAY 2021 PM 3 L



3rd Floor

CLERK OF THE COURT
200 LEWIS AVE
LAS VEGAS NV

89155



(~~85509~~ 8530000
Mail)



DISTRICT COURT
CLARK COUNTY, NEVADA

Arnold Anderson, Plaintiff(s)
vs.

Case No.: A-21-827381-W

Jerry Howell, Warden SDCC, Defendant(s)

Department 12

NOTICE OF HEARING

Please be advised that the Plaintiff's Notice of Motion - Motion to Reset Post Conviction Writ for Hearing in the above-entitled matter is set for hearing as follows:

Date: July 22, 2021

Time: 11:00 AM

Location: RJC Courtroom 14D
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Michelle McCarthy
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Michelle McCarthy
Deputy Clerk of the Court

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DISTRICT COURT
CLARK COUNTY, NEVADA

ARNOLD ANDERSON
Plaintiff

CASE# C-16-319021-1

V

DEPT# 12

STATE OF NEVADA

~~A-21-827381-22~~

JERRY HAWELL (Warden AT OCC)
Defendants

MEMO TO COURT CLERK

CAN YOU PLEASE SEND ME A COPY OF
THE COURT MINUTES FOR MAY 11, 2021 I
WASNT TRANSPORTED TO COURT. THE EVIDENTIARY HEARING
THANK YOU.

ARNOLD ANDERSON

85509

P.O. BOX 208

INDIAN SPRINGS NV

89070.

A-21-827381-W
LSF
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CLERK OF THE COURT

RECEIVED
MAY 25 2021

Steven D. Grierson

1 Arnold Anderson
2 65509 In Propria Personam
3 Post Office Box 208, S.D.C.C.
4 Indian Springs, Nevada 89018

5 IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

6 IN AND FOR THE COUNTY OF CLARK

7
8 ARNOLD ANDERSON

9
10 Plaintiff,

11 vs.

12 STATE OF NEVADA
13 JERRY HOWELL WARDEN ATSCC
14 Defendant.

A-21-827381-W
Case No. C-16-319021
Dept. No. 12
Docket _____

15
16 **NOTICE OF APPEAL**

17 NOTICE IS HEREBY GIVEN, That the Petitioner/Defendant,
18 PLAINTIFF, in and through his proper person, hereby
19 appeals to the Supreme Court of Nevada from the ORDER denying and/or
20 dismissing the

21 POST CONVICTION WRIT ON MAY 27, 2021

22 _____
23 ruled on the 27 day of MAY, 20 21.

24
25 Dated this 10 day of JUNE, 20 21

26 Respectfully Submitted,

27 *Arnold Anderson*

RECEIVED

JUN 14 2021

CLERK OF THE COURT

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5 by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
6 United State Mail addressed to the following:

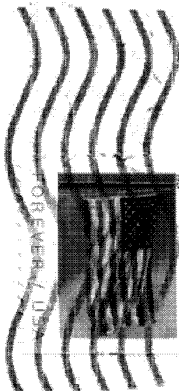
[illegible]

DATED: this 10 day of JUNE, 2021.

447

Arnold Anderson
85509
P.O. Box 208
Indian Springs NV
89070

LAS VEGAS NV 890
11 JUN 2021 PM 4 L



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JUN 14 2021

CLERK OF THE COURT

3rd Floor

CLERK OF THE COURT
200 LEWIS AVE
LAS VEGAS NV
89155

69101-630000



Steven D. Grierson

DISTRICT COURT
CLARK COUNTY, NEVADA.

ARNOLD ANDERSON
Plaintiff

CASE # C-16-319021-1

V

A-21-827381-W

STATE OF NEVADA

DEPT# 12

JERRY HOWELL Warden AT (SDCC)
Defendants.

CASE APPEAL STATEMENT

1. NAME OF APPELLANT FILING THIS CASE APPEAL STATEMENT.

ARNOLD ANDERSON.

2. IDENTIFY THE JUDGE ISSUING DECISION, JUDGEMENT OR
ORDER. HONORABLE MICHELLE LEAVITT.

3. IDENTIFY ALL PARTIES TO THE PROCEEDINGS IN THE
DISTRICT COURT.

ARNOLD ANDERSON

STATE OF NEVADA - JERRY HOWELL Warden AT SDCC

4. IDENTIFY ALL PARTIES INVOLVED IN THIS APPEAL

ARNOLD ANDERSON

STATE OF NEVADA - JERRY HOWELL Warden at SDCC

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JUN 14 2021

CLERK OF THE COURT

1
2 5. SET FORTH THE NAME THE LAW FIRM ADDRESS AND TELEPHONE
3 NUMBER OF ALL COUNSEL ON APPEAL, AND IDENTIFY THE PARTY
4 OR PARTIES OF WHOM THEY REPRESENT.

5 ARNOLD ANDERSON STEVE B. WOLFSON 702-671-2500
6 85509 PRO'SE CLARK COUNTY DISTRICT ATTORNEY
7 P.O. BOX 208 200 LEWIS AVE
8 INDIAN SPRINGS NV 89070 LAS VEGAS NV. 89155 -

9
10 6. INDICATE WHETHER APPELLANT WAS REPRESENTED BY APPOINTED
11 OR RETAINED COUNSEL, IN THE DISTRICT COURT.
12 NO.

13
14 7. INDICATE WHETHER APPELLANT IS REPRESENTED BY APPOINTED
15 OR RETAINED COUNSEL ON APPEAL.
16 NO.

17
18 8. INDICATE WHETHER APPELLANT WAS GRANTED LEAVE TO PROCEED INFORMA
19 PAUPERIS AND DATE ENTRY OF THE DISTRICT COURT ORDERING SUCH
20 LEAVE.
21 UNKNOWN.

22
23 9. INDICATE THE DATE THE PROCEEDINGS COMMENCED IN THE
24 DISTRICT COURT, DATE COMPLAINT, INDICTMENT INFORMATION
25 OR PETITION WAS FILED. JANUARY 5, 2021.
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**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK**

ARNOLD ANDERSON,

Plaintiff(s),

vs.

JERRY HOWELL, WARDEN SDCC,

Defendant(s),

Case No: A-21-827381-W

Dept No: XII

CASE APPEAL STATEMENT

1. Appellant(s): Arnold Anderson

2. Judge: Michelle Leavitt

3. Appellant(s): Arnold Anderson

Counsel:

Arnold Anderson #85509
P.O. Box 208
Indian Springs, NV 89070

4. Respondent (s): Jerry Howell, Warden SDCC

Counsel:

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

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5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A
- Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A
6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No
7. Appellant Represented by Appointed Counsel On Appeal: N/A
8. Appellant Granted Leave to Proceed in Forma Pauperis**: N/A
***Expires 1 year from date filed*
Appellant Filed Application to Proceed in Forma Pauperis: No
Date Application(s) filed: N/A
9. Date Commenced in District Court: January 5, 2021
10. Brief Description of the Nature of the Action: Civil Writ
Type of Judgment or Order Being Appealed: Misc. Order
11. Previous Appeal: Yes
Supreme Court Docket Number(s): 72102, 73351, 74076, 74736, 82917
12. Child Custody or Visitation: N/A
13. Possibility of Settlement: Unknown

Dated This 17 day of June 2021.

Steven D. Grierson, Clerk of the Court

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

cc: Arnold Anderson

Heather J. Smith
CLERK OF THE COURT

27

DISTRICT COURT
CLARK COUNTY, NEVADA

ARNOLD ANDERSON
Plaintiff

CASE# C-16-319021-1
A-21-827381-W

STATE OF NEVADA

JERRY HAWELL (WARDEN AT SDCC)
Defendants

HEARING REQUIRED

MOTION TO ENTER

ORDER DENYING WRIT

OF HABEAS CORPUS

COMES NOW THE PLAINTIFF IN PROPER PERSON

ASKING THIS HONORABLE COURT TO ENTER

THE ORDER DENYING THE WRIT OF

HABEAS CORPUS APRIL 1, 2021 OR APRIL

23, 2021. POINTS AND AUTHORITY ATTACHED.

BACKGROUND

PLAINTIFF FILED A POST CONVICTION WRIT

OF HABEAS CORPUS JANUARY 5, 2021 THIS

COURT RESET THE HEARING TO APRIL 1, 2021

PLAINTIFF WAS NOT PRESENT BECAUSE THE

PRISON REFUSED TO TRANSPORT ME TO

COURT.

RECEIVED

JUN -8 2021

CLERK OF THE COURT

1 ARGUMENT

2 Plaintiff ask this court to enter order
3 denying the writ of habeas corpus.

4 POINTS AND AUTHORITY

5 Pursuant to NRCR under rule 50(b)

6 a motion for judgement must be entered

7 pursuant to rule 4. A written order must

8 be entered no later than 30 days

9 after hearing.

10 CONCLUSION

11 I ask this court to enter the order

12 denying post conviction writ of

13 habeas corpus and forward me a copy.

14
15 cell S-31-21

16 PROOF OF SERVICE

17 On May 31, 2021 I mailed a copy

18 of this motion to

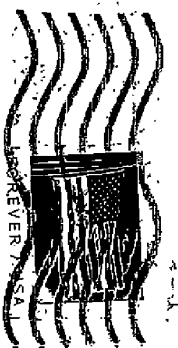
19
20 District Attorney

21 200 Lewis Ave 3rd Floor

22 LU NU 89155

ARNOLD ANDERSON
85509
P.O. BOX 208
INDIAN SPRINGS NV
89070

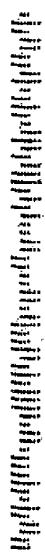
LAS VEGAS NV 890
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3rd Floor

CLERK OF THE COURT
200 LEWIS AVE
LAS VEGAS NV
89155

89101-890000



Heather S. Hemin
CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA

ARNOLD ANDERSON
Plaintiff

CASE# C-16-319021-1

-A-21-827381-W

STATE OF NEVADA

Jerry Hawen (Warden at sdcc)
Defendants

NOTICE OF MOTION

PLEASE TAKE NOTICE A HEARING WILL
COME ON JUNE 20, 2021 AT 8:30 AM
IN Dept 12, FOR MOTION TO ENTER JUDGEMENT
denying Post conviction writ of habeas corpus.

cc S-31-21

RECEIVED
JUN - 8 2021
CLERK OF THE COURT



DISTRICT COURT
CLARK COUNTY, NEVADA

Arnold Anderson, Plaintiff(s)
vs.

Case No.: A-21-827381-W

Jerry Howell, Warden SDCC, Defendant(s)

Department 12

NOTICE OF HEARING

Please be advised that the Plaintiff's Motion to Enter Order Denying Writ of Habeas Corpus in the above-entitled matter is set for hearing as follows:

Date: July 22, 2021

Time: 11:00 AM

Location: RJC Courtroom 14D
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Michelle McCarthy
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Michelle McCarthy
Deputy Clerk of the Court

DISTRICT COURT
CLARK COUNTY, NEVADA

CASE C16-319021-1
A-21-827381-W

Arnold Anderson
Plaintiff

STATE OF NEVADA

Teri Hemen (Warden at SDCC)
Defendants

HEARING REQUIRED

MOTION TO ENTER
THE COURTS DENIAL
OF THE EVIDENTIARY
HEARING

COMES NOW THE PLAINTIFF IN PROPER
PERSON ASKING THIS HONORABLE COURT
TO ENTER THE DENIAL OF THE EVIDENTIARY
HEARING FOR MAY 11, 2021 POINTS AND
AUTHORITY ATTACHED.

BACKGROUND

PLAINTIFF FILE A MOTION FOR A
EVIDENTIARY HEARING, PLAINTIFF WAS
NOT TRANSPORTED BECAUSE OF THE
PRISON'S REFUSAL TO TAKE ME.

1 ARGUMENT

2 PLAINTIFF ASK THIS COURT TO ENTER ORDER
3 JUDGEMENT OF DENYING THE EVIDENTIARY
4 HEARING.

5 POINTS AND AUTHORITY

6 PURSUANT TO NRCP UNDER RULE 50 (B) 1 A.
7 ORDER MUST BE ENTERED AFTER 30 DAYS
8 PURSUANT TO RULE 4.

9 CONCLUSION

10 I ASK THIS COURT TO ENTER ORDER AND
11 JUDGEMENT AND FORWARD PLAINTIFF
12 A COPY.

13 see S-31-71

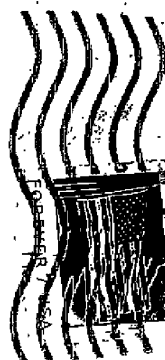
14 PROOF OF SERVICE

15 ON MAY 31, 2021 I MAILED A COPY
16 OF THIS MOTION TO

17
18 DISTRICT ATTORNEY
19 200 LEWIS AVE 3RD FLOOR
20 LU NU 89155.

Arnold Anderson
85509
P.O. Box 208
Indian Springs NV
89070

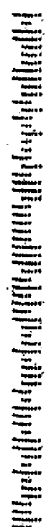
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3rd Floor

CLERK OF THE COURT
200 LEWIS
LAS VEGAS NV
89155

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DISTRICT COURT
CLARK COUNTY, NEVADA

ARNOLD ANDERSON
Plaintiff

CASE C-16-319021-1

V

A-21-827381-W

STATE OF NEVADA

Jerry Howell (Warden at sdcc)
Defendants

NOTICE OF MOTION

PLEASE TAKE NOTICE A HEARING WILL COME
ON FOR A MOTION TO ENTER JUDGEMENT
IN Dept 12 at 8:30 AM ON JUNE 20, 2021.
THE MOTION IS TO enter judgement denying
evidentiary hearing.

5-31-21

RECEIVED

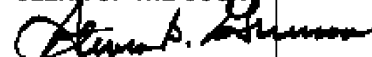
JUN - 8 2021

CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
6/17/2021 2:12 PM
Steven D. Grierson
CLERK OF THE COURT



Arnold Anderson, Plaintiff(s)	Case No.: A-21-827381-W
vs.	
Jerry Howell, Warden SDCC, Defendant(s)	Department 12

NOTICE OF HEARING

Please be advised that the Plaintiff's Motion to Enter the Courts Denial of the Evidentiary Hearing in the above-entitled matter is set for hearing as follows:

Date: July 22, 2021
Time: 11:00 AM
Location: RJC Courtroom 14D
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Michelle McCarthy
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Michelle McCarthy
Deputy Clerk of the Court

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

March 23, 2021

A-21-827381-W Arnold Anderson, Plaintiff(s)
vs.
Jerry Howell, Warden SDCC, Defendant(s)

**March 23, 2021 12:30 AM Motion Plaintiff's Motion for
Evidentiary Hearing**

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Haly Pannullo

RECORDER: Sara Richardson

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT ORDERED, matter OFF CALENDAR as this matter will be reviewed after the Petition is heard.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

April 01, 2021

A-21-827381-W	Arnold Anderson, Plaintiff(s)
	vs.
	Jerry Howell, Warden SDCC, Defendant(s)

April 01, 2021	12:30 AM	Petition for Writ of Habeas Corpus
-----------------------	-----------------	---

HEARD BY: Leavitt, Michelle

COURTROOM: RJC Courtroom 14D

COURT CLERK: Haly Pannullo

RECORDER: Sara Richardson

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Melanie Marland, Esq., present on behalf of the State.

Petitioner not present. COURT STATED there were thirty-six different claims and ORDERED, Petition DENIED as these claims were either waived because they should have been raised on direct appeal, they are barred by the law of the case as they were raised on direct appeal and adjudicated by the Nevada Supreme Court, or they are bare and naked allegations; State to prepare the Order.

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Supreme Court order dated June 4, 2021, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises two volumes with pages numbered 1 through 464.

ARNOLD ANDERSON,

Plaintiff(s),

vs.

JERRY HOWELL, WARDEN SDCC; STATE
OF NEVADA,

Defendant(s),

Case No: A-21-827381-W
Related Case C-16-319021-1
Dept. No: XII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 23 day of June 2021.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk