

NOASC
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ATTORNEY FOR OSCAR GOMEZ

Electronically Filed
Oct 27 2021 03:35 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

OSCAR GOMEZ,

Defendant

Case No.: A-20-815035-W
(C-16-316959-1)

Department IX

NOTICE OF APPEAL

Notice is hereby given that OSCAR GOMEZ, by and through his
counsel JIM HOFFMAN, appeals the denial of his PCR petitions orally announced
but not yet reduced to writing by the District Court on September 17, 2021.

DATED: October 21, 2021

/s/ Jim Hoffman

JIM HOFFMAN, ESQ.

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DATED: October 21, 2021

JIM HOFFMAN, ESQ.

CASE SUMMARY

CASE NO. A-20-815035-W

Oscar Gomez, Plaintiff(s)
vs.
State of Nevada, Defendant(s)

§
§
§
§
§

Location: **Department 9**
Judicial Officer: **Silva, Cristina D.**
Filed on: **05/14/2020**
Case Number History:
Cross-Reference Case Number: **A815035**

CASE INFORMATION

Related Cases
C-16-316959-1 (Writ Related Case)

Case Type: **Writ of Habeas Corpus**

Case Status: **05/14/2020 Open**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-20-815035-W
Court Department 9
Date Assigned 01/04/2021
Judicial Officer Silva, Cristina D.

PARTY INFORMATION






Plaintiff	Gomez, Oscar	<i>Lead Attorneys</i> Hoffman, James I. <i>Retained</i> 702-483-1816(W)
Defendant	State of Nevada	Wolfson, Steven B <i>Retained</i> 702-671-2700(W)

DATE













EVENTS & ORDERS OF THE COURT

INDEX

EVENTS

05/14/2020	 Inmate Filed - Petition for Writ of Habeas Corpus Party: Plaintiff Gomez, Oscar [1] Post Conviction
05/14/2020	 Memorandum of Points and Authorities Filed By: Plaintiff Gomez, Oscar [2]
05/14/2020	 Motion for Appointment of Attorney Filed By: Plaintiff Gomez, Oscar [3] Motion to Appoint Counsel and for Evidentiary Hearing
05/14/2020	 Order for Petition for Writ of Habeas Corpus [4] Order for Petition for Writ of Habeas Corpus
06/23/2020	 Response Filed by: Defendant State of Nevada [5] State's Response to Defendant's Petition for Writ of Habeas Corpus (Post-Conviction) and Motion for Appointment of Counsel and Request for Evidentiary Hearing

CASE SUMMARY
CASE NO. A-20-815035-W

09/14/2020	 Petition for Writ of Habeas Corpus Filed by: Plaintiff Gomez, Oscar <i>[6] Post Conviction</i>
10/15/2020	 Order for Production of Inmate <i>[7] Order for Production of Inmate via Video Conference of Inmate Oscar Gomez, Jr., BAC #1200302</i>
12/20/2020	 Order for Production of Inmate <i>[8] Order for Production of Inmate via Video Conference</i>
01/04/2021	Case Reassigned to Department 9 <i>Judicial Reassignment to Judge Cristina Silva</i>
02/04/2021	 Inmate Filed - Petition for Writ of Habeas Corpus Party: Plaintiff Gomez, Oscar <i>[10] "Original" Petition for Writ of Habeas Corpus</i>
02/05/2021	 Order for Petition for Writ of Habeas Corpus <i>[11] Order for Petition for Writ of Habeas Corpus</i>
02/17/2021	 Clerk's Notice of Hearing <i>[12] Notice of Hearing</i>
03/23/2021	 Response <i>[13] State's Response to Defendant's "Original" Petition for Writ of Habeas Corpus (Post-Conviction)</i>
06/04/2021	 Order for Production of Inmate <i>[14] Order for Production of Inmate Oscar Gomez, #1200302</i>
06/09/2021	 Order for Production of Inmate <i>[15]</i>
08/02/2021	 Order for Production of Inmate <i>[16] Order for Production via Video Conference of Inmate Oscar Gomez, BAC #1200302</i>
10/21/2021	 Notice of Appeal (Criminal) Party: Plaintiff Gomez, Oscar <i>[17] Notice of Appeal</i>
<u>HEARINGS</u>	
09/22/2020	Petition for Writ of Habeas Corpus (1:45 PM) (Judicial Officer: Adair, Valerie) Decision Made;
09/22/2020	Motion for Appointment of Attorney (1:45 PM) (Judicial Officer: Adair, Valerie) <i>Status Check Re: Setting of Evidentiary Hearing</i> Decision Made;
09/22/2020	 All Pending Motions (1:45 PM) (Judicial Officer: Adair, Valerie) Matter Heard; Journal Entry Details: <i>PETITION FOR WRIT OF HABEAS CORPUS...MOTION FOR APPOINTMENT OF COUNSEL AND REQUEST FOR EVIDENTIARY HEARING Court stated matters will be decided on the briefs. Further, the Court rejects all arguments but is considering possibility of</i>

CASE SUMMARY

CASE NO. A-20-815035-W

an evidentiary hearing as to concurrent time verses consecutive time was adequately discussed with Deft. by counsel, ORDERED, matters UNDER ADVISEMENT and minute order will issue. NDC CLERK'S NOTE: The above minute order has been distributed to: Oscar Gomez #1200302, S.D.C.C., P.O. Box 208, Indian Springs, NV 89070. aw;

10/13/2020



Decision (11:00 AM) (Judicial Officer: Adair, Valerie)

Decision Regarding Deft's Petition for Writ of Habeas Corpus

Minute Order - No Hearing Held; Decision Regarding Deft's Petition for Writ of Habeas Corpus

Journal Entry Details:

Defendant's Petition for Writ of Habeas Corpus will be scheduled for an evidentiary hearing on the sole issue of whether counsel failed to inform Defendant that he faced consecutive time for the deadly weapon enhancement. This matter is set for a status check to schedule the evidentiary hearing on Thursday, October 29 at 3:30. The State is directed to prepare an order to transport for Defendant's physical or remote appearance. NDC 10/29/2020 3:30 PM STATUS CHECK RE: SETTING OF EVIDENTIARY HEARING CLERK'S NOTE: The above minute order has been distributed to: Oscar Gomez #1200302, S.D.C.C., P.O. Box 208, Indian Springs, NV 89070. aw;

10/29/2020



Status Check (3:30 PM) (Judicial Officer: Silva, Cristina D.)

10/29/2020, 12/15/2020, 02/12/2021, 03/05/2021

Status Check Re: Setting of Evidentiary Hearing

Matter Continued; Status Check Re: Setting of Evidentiary Hearing

Matter Continued; Status Check Re: Setting of Evidentiary Hearing

Matter Continued; Status Check Re: Setting of Evidentiary Hearing

Matter Continued; Status Check Re: Setting of Evidentiary Hearing

Evidentiary Hearing set on 04/27/21

Matter Continued; Status Check Re: Setting of Evidentiary Hearing

Matter Continued; Status Check Re: Setting of Evidentiary Hearing

Matter Continued; Status Check Re: Setting of Evidentiary Hearing

Matter Continued; Status Check Re: Setting of Evidentiary Hearing

Evidentiary Hearing set on 04/27/21

Journal Entry Details:

Deputy District Attorney Chris Hamner present on behalf of the State. COURT STATED there was a Petition for Writ of Habeas Corpus and Request for Evidentiary hearing that was addressed in September of 2020, and there was another Writ filed. Upon Court's inquiry, Defendant stated with regards to the September hearing, he was never transported, and he submitted another Petition, and there is a third one. COURT ADVISED the Defendant the original Petition is still pending, and ORDERED, the Motion to Join filed on February 4, 2021 STRICKEN. COURT FURTHER STATED the original Petition was never addressed by the previous Judge. COURT STATED the matter was taken under advisement with Judge Adair, and then a decision was made on October 13, 2020 that a limited evidentiary hearing would be set regarding whether or not the Defendant was informed he would be sentenced to consecutive time for the deadly weapon portion, and the matter was supposed to be set for hearing and the Defendant was never transported. COURT STATED the question of whether or not the Defendant needed an attorney appointed has also never been addressed. COURT ORDERED, matter REFERRED to the Office of Appointed Counsel for an appointment of counsel; matter SET for status check; matter CONTINUED. COURT DIRECTED the State to file a Transport Order. NDC 3/5/2021 11:00 A.M. STATUS CHECK: CONFIRMATION OF COUNSEL... STATUS CHECK RE: SETTING OF EVIDENTIARY HEARING.. 4/7/21 11:00 A.M. PETITION FOR WRIT OF HABEAS CORPUS CLERK'S NOTE: A copy of this Minute Order has been e-mailed to the Office of Appointed Counsel (2-16-2021 ks);

Matter Continued; Status Check Re: Setting of Evidentiary Hearing

Matter Continued; Status Check Re: Setting of Evidentiary Hearing

Matter Continued; Status Check Re: Setting of Evidentiary Hearing

Matter Continued; Status Check Re: Setting of Evidentiary Hearing

Evidentiary Hearing set on 04/27/21




Journal Entry Details:

Court noted matter is on calendar today to explain to Deft. about setting evidentiary hearing and ORDERED, matter CONTINUED. State to prepare order to transport or for Deft. to appear remotely. Mr. Villani stated there have been two separate orders done and one of those was for today's hearing. NDC CLERK'S NOTE: The above minute order has been distributed to: Oscar Gomez #1200302, SDCC, P.O. Box 208, Indian Springs, NV 89070. aw;

EIGHTH JUDICIAL DISTRICT COURT





CASE SUMMARY

CASE NO. A-20-815035-W

	<p>Matter Continued; Status Check Re: Setting of Evidentiary Hearing Matter Continued; Status Check Re: Setting of Evidentiary Hearing Matter Continued; Status Check Re: Setting of Evidentiary Hearing Matter Continued; Status Check Re: Setting of Evidentiary Hearing Evidentiary Hearing set on 04/27/21 Journal Entry Details: <i>Court noted remote appearance was requested and could not be accommodated for today. Further, Deft. needs to be present for the Court to explain to him what is going on and ORDERED, matter CONTINUED. State to prepare order for Deft. to appear remotely. NDC CONTINUED TO: 12/15/2020 3:30 PM CLERK'S NOTE: The above minute order has been distributed to: Oscar Gomez #1200302, SDCC, P.O. Box 208, Indian Springs, NV 89070. aw;</i></p>
03/05/2021	<p>Status Check: Confirmation of Counsel (1:30 PM) (Judicial Officer: Silva, Cristina D.) <i>Confirmation of Counsel: Jim Hoffman</i> Matter Heard; Confirmation of Counsel: Jim Hoffman</p>
03/05/2021	<p> All Pending Motions (1:30 PM) (Judicial Officer: Silva, Cristina D.) Matter Heard; Journal Entry Details: <i>STATUS CHECK RE: SETTING OF EVIDENTIARY HEARING... STATUS CHECK: CONFIRMATION OF COUNSEL: JIM HOFFMAN... Monti Levi Esq. also present. Upon Court's inquiry, Mr. Hoffman stated he can confirm as counsel of record. COURT STATED their inclination is to set this matter for a status check in two weeks to set an evidentiary hearing. Mr. Hoffman stated that would be enough time. Mr. Palal stated he contacted Ms. Levy to be present today to expedite the process of setting the hearing. COURT ADVISED a status check will need to be set due to the mater needing to be calendared for a special setting through CCDC, and DIRECTED parties to meet and figure out dates they would be available to have the limited hearing and contact Chambers once done. Mr. Hoffman stated he reviewed the minutes, and inquired if this hearing only pertained to the first Petition the Defendant filed. COURT STATED it would be helpful and necessary to address the other pending Petitions, and suggested Mr. Hoffman look at the Petitions to see if there are grounds for them to be considered, and to meet and confer with the State. COURT ORDERED, Status Check CONTINUED. NDC 3/19/2021 11:00 A.M. STATUS CHECK RE: SETTING OF EVIDENTIARY HEARING;</i></p>
04/07/2021	<p>Petition for Writ of Habeas Corpus (11:00 AM) (Judicial Officer: Silva, Cristina D.) Hearing Set;</p>
04/07/2021	<p>Motion (11:00 AM) (Judicial Officer: Silva, Cristina D.) <i>Plaintiff's Motion to Join</i> Matter Heard; Plaintiff's Motion to Join</p>
04/07/2021	<p> All Pending Motions (11:00 AM) (Judicial Officer: Silva, Cristina D.) Matter Heard; Journal Entry Details: <i>PETITION FOR WRIT OF HABEAS CORPUS... PLAINTIFF'S MOTION TO JOIN... Defendant not present and in custody in the Nevada Department of Corrections. COURT STATED since the documents were filed Pro Per they are considered rouge documents. Mr. Hoffman informed the Court the Defendant filed the Petitions before he was appointed as counsel of record, adding he was going to submit on the pleadings, and not have any oral argument. Mr. Palal stated he did file a response that addressed both Petitions, and parties are ready to have a hearing. Mr. Hoffman informed the Court the Defendant's mother and sister may want to testify during the hearing, and he is ready to proceed. COURT ORDERED, Evidentiary Hearing set for April 27, 2021 STANDS. Mr. Palal informed the Court they filed a transport order when the hearing was set. COURT SO NOTED. NDC 4/27/2021 1:30 P.M. EVIDENTIARY HEARING;</i></p>
04/27/2021	<p>CANCELED Evidentiary Hearing (1:30 PM) (Judicial Officer: Silva, Cristina D.) <i>Vacated - per Attorney or Pro Per</i></p>
05/14/2021	<p> Status Check (1:30 PM) (Judicial Officer: Silva, Cristina D.) <i>Status Check: EVD Hearing</i></p>

CASE SUMMARY

CASE NO. A-20-815035-W

	<p>Matter Heard; Journal Entry Details: <i>APPEARANCES CONTINUED: Counsel present via video, through bluejeans technology. Mr. Gomez not present. Colloquy regarding evidentiary hearing date, and transporting defendants for in-person hearings. COURT ORDERED, the tentative hearing date will be 7-20-21. Further, the dept. will reach out to counsel to confirm the date evidentiary hearing date. Mr. Palal will confirm with the attorney witness. Mr. Hoffman advised Mr. Gomez is okay with appearing via video, from the prison. Court so noted. ;</i></p>
05/27/2021	<p> Minute Order (12:00 PM) (Judicial Officer: Silva, Cristina D.)</p> <p>Minute Order - No Hearing Held; Journal Entry Details: <i>Counsel for Petitioner was instructed to prepare an Order for Production of Inmate for Video Appearance and submit it to the department for signature. The order has not been received. Petitioner is hereby ordered to submit an Order for Production of Inmate for Video Appearance to the DC9 inbox. CLERK S NOTE: Counsel are to ensure a copy of the forgoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the registered service recipients via Odyssey eFileNV E-Service (5/27/2021 ks);</i></p>
08/10/2021	<p> Evidentiary Hearing (9:00 AM) (Judicial Officer: Silva, Cristina D.)</p> <p>OPI not received in time to produce petitioner Unavailability of room at NDOC Off Calendar; Journal Entry Details: <i>Monti Levy Esq. also present as prior counsel; Defendant not present and in custody in the Nevada Department of Corrections. COURT ADVISED this matter was set for a special evidentiary hearing at 9:00 a.m., and the time is now 9:50 a.m., adding the Court has spent almost the last hour trying to get in contact with NDOC, who informed them they did not set up the video conference, and now it is too late to transport the Defendant to the room. COURT FURTHER STATED the Defendant did not want to be transported to CCDC for this hearing, and requested Mr. Hoffman speak with the Defendant, adding they will not reset this hearing today, however directed parties to meet and confer to figure out a new time to set this hearing for, and then to reach out to chambers. COURT FURTHER ORDERED, matter OFF CALENDAR. NDC;</i></p>
08/20/2021	<p> Evidentiary Hearing (11:00 AM) (Judicial Officer: Silva, Cristina D.)</p> <p>Matter Heard; Journal Entry Details: <i>COURT STATED the matter is set for an evidentiary hearing regarding wether or not the Defendant understood if he was pleading to consecutive or concurrent time between the counts. EXCLUSIONARY RULE INVOKED. Testimony and exhibits presented. (See Worksheets). Mr. Hoffman argued that the relationship between Ms. Levy and the Defendant's family was difficult, and Ms. Levy was eager to be completed with case, and didn't thoroughly explain the offer to the Defendant and requested the Defendant's sentence be vacated. Upon Court's inquiry, Mr. Hoffman stated with regards to the entry of plea the Defendant felt rushed and pressured to entering into it. Mr. Palal argued what there is an implication the Defendant was rushed, the deal that was conveyed to the Defendant was the same offer from October 17, 2017 and then was accepted on 10/17/2021 was same offer on April 19, 2018. Mr. Palal further argued Ms. Levy testified she reviewed the length of the sentence with the Defendant multiple times. COURT STATED they would like to review the information provided through the Petition and testimony today, and ORDERED, matter SET for Decision. COURT ADVISED the Defendant's presence can be waived at the continued hearing date. NDC 9/17/2021 1:30 P.M. DECISION RE: PETITION FOR WRIT OF HABEAS CORPUS;</i></p>
09/17/2021	<p> Decision (1:30 PM) (Judicial Officer: Silva, Cristina D.)</p> <p>Denied; Journal Entry Details: <i>Defendant not present and in custody in the Nevada Department of Corrections; Deputy District Attorney Michelle Fleck present on behalf of the State. COURT ORDERED, Defendant's presence WAIVED as he requested not to be transported for the hearing. COURT STATED a hearing was conducted regarding the Petition for Writ of Habeas Corpus, and the</i></p>

CASE SUMMARY

CASE NO. A-20-815035-W

Court heard testimony in regards to whether the Defendant understood the terms of his negotiations, specifically the consecutive time to follow the second with use, and consecutive time with regards to the deadly weapon enhancement. COURT FURTHER STATED there was testimony from his prior attorney Monti Levy who testified she visited the Defendant over twenty times, discussed the sentence with the Defendant multiple times, and discussed sentencing ranges, adding she testified she wrote down the sentencing ranges in order to explain the consequences of the plea, and the explanation of the deadly weapon, and the consequences of the enhancement. COURT ADDITIONALLY STATED there was representations there was not a good relationship between Ms. Levy and the Defendant's family, however it did not impact her conveyance of offer; adding testimony was heard from Defendant, who testified Ms. Levy did not explain what the deadly weapon enhancement meant, and what it could run consecutive or concurrent, adding the sentence was no explained to Defendant. COURT ORDERED, Post Conviction Petition for Writ of Habeas Corpus DENIED, and FINDS Ms. Levy's testimony to be credible, that the sentence and the consequences of the sentence were explained to the Defendant, not only prior to change of plea, however by Mr. Palal as well in terms of how the sentences would run. Mr. Hoffman stated the Defendant filed three Post Conviction Petitions and requested the Court include their rulings on the other aspects of the Petition when they prepare the order, not just regarding the evidentiary hearing. NDC;

DISTRICT COURT CIVIL COVER SHEET

County, Nevada

A-20-815035-W

Dept. XXI

Case No. _____

(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone):

Oscar Gomez

Defendant(s) (name/address/phone):

State of Nevada

Attorney (name/address/phone):

Attorney (name/address/phone):

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

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

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

May 14, 2020

Date

Prepared by Clerk

Signature of initiating party or representative

See other side for family-related case filings.

September 22, 2020

Minutes Date: September 22, 2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

October 13, 2020

A-20-815035-W Oscar Gomez, Plaintiff(s)
vs.
State of Nevada, Defendant(s)

October 13, 2020	11:00 AM	Decision	Decision Regarding Deft's Petition for Writ of Habeas Corpus
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HEARD BY: Adair, Valerie

COURTROOM: Chambers

COURT CLERK: April Watkins

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Defendant's Petition for Writ of Habeas Corpus will be scheduled for an evidentiary hearing on the sole issue of whether counsel failed to inform Defendant that he faced consecutive time for the deadly weapon enhancement. This matter is set for a status check to schedule the evidentiary hearing on Thursday, October 29 at 3:30. The State is directed to prepare an order to transport for Defendant's physical or remote appearance.

NDC

10/29/2020 3:30 PM STATUS CHECK RE: SETTING OF EVIDENTIARY HEARING

CLERK'S NOTE: The above minute order has been distributed to: Oscar Gomez #1200302, S.D.C.C., P.O. Box 208, Indian Springs, NV 89070. aw

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

October 29, 2020

A-20-815035-W Oscar Gomez, Plaintiff(s)
vs.
State of Nevada, Defendant(s)

**October 29, 2020 3:30 PM Status Check Status Check Re:
Setting of
Evidentiary Hearing**

HEARD BY: Adair, Valerie

COURTROOM: RJC Courtroom 11C

COURT CLERK: April Watkins

RECORDER: Robin Page

REPORTER:

PARTIES

PRESENT: Rinetti, Dena I. Attorney

JOURNAL ENTRIES

- Court noted remote appearance was requested and could not be accommodated for today. Further, Deft. needs to be present for the Court to explain to him what is going on and ORDERED, matter CONTINUED. State to prepare order for Deft. to appear remotely.

NDC

CONTINUED TO: 12/15/2020 3:30 PM

CLERK'S NOTE: The above minute order has been distributed to: Oscar Gomez #1200302, SDCC, P.O. Box 208, Indian Springs, NV 89070. aw

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

December 15, 2020

A-20-815035-W Oscar Gomez, Plaintiff(s)
vs.
State of Nevada, Defendant(s)

**December 15, 2020 3:30 PM Status Check Status Check Re:
Setting of
Evidentiary Hearing**

HEARD BY: Adair, Valerie **COURTROOM:** RJC Courtroom 11C

COURT CLERK: April Watkins

RECORDER: Robin Page

REPORTER:

PARTIES

PRESENT: Villani, Jacob J. Attorney

JOURNAL ENTRIES

- Court noted matter is on calendar today to explain to Deft. about setting evidentiary hearing and ORDERED, matter CONTINUED. State to prepare order to transport or for Deft. to appear remotely. Mr. Villani stated there have been two separate orders done and one of those was for today's hearing.

NDC

CLERK'S NOTE: The above minute order has been distributed to: Oscar Gomez #1200302, SDCC, P.O. Box 208, Indian Springs, NV 89070. aw

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

February 12, 2021

A-20-815035-W Oscar Gomez, Plaintiff(s)
vs.
State of Nevada, Defendant(s)

February 12, 2021	1:30 PM	Status Check	Status Check Re: Setting of Evidentiary Hearing
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HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Kory Schlitz

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT: Gomez, Oscar Plaintiff

JOURNAL ENTRIES

- Deputy District Attorney Chris Hamner present on behalf of the State.

COURT STATED there was a Petition for Writ of Habeas Corpus and Request for Evidentiary hearing that was addressed in September of 2020, and there was another Writ filed. Upon Court's inquiry, Defendant stated with regards to the September hearing, he was never transported, and he submitted another Petition, and there is a third one. COURT ADVISED the Defendant the original Petition is still pending, and ORDERED, the Motion to Join filed on February 4, 2021 STRICKEN. COURT FURTHER STATED the original Petition was never addressed by the previous Judge. COURT STATED the matter was taken under advisement with Judge Adair, and then a decision was made on October 13, 2020 that a limited evidentiary hearing would be set regarding whether or not the Defendant was informed he would be sentenced to consecutive time for the deadly weapon portion, and the matter was supposed to be set for hearing and the Defendant was never transported. COURT STATED the question of whether or not the Defendant needed an attorney appointed has also never been addressed. COURT ORDERED, matter REFERRED to the Office of Appointed Counsel for an appointment of counsel; matter SET for status check; matter CONTINUED. COURT DIRECTED the State to file a Transport Order.

NDC

3/5/2021 11:00 A.M. STATUS CHECK: CONFIRMATION OF COUNSEL... STATUS CHECK RE:
SETTING OF EVIDENTIARY HEARING..

4/7/221 11:00 A.M. PETITION FOR WRIT OF HABEAS CORPUS

CLERK'S NOTE: A copy of this Minute Order has been e-mailed to the Office of Appointed Counsel
(2-16-2021 ks)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

March 05, 2021

A-20-815035-W Oscar Gomez, Plaintiff(s)
vs.
State of Nevada, Defendant(s)

March 05, 2021 1:30 PM All Pending Motions

HEARD BY: Silva, Cristina D.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Kory Schlitz

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:	Gomez, Oscar	Plaintiff
	Hoffman, James I.	Attorney
	Palal, Binu G.	Attorney

JOURNAL ENTRIES

- STATUS CHECK RE: SETTING OF EVIDENTIARY HEARING... STATUS CHECK:
CONFIRMATION OF COUNSEL: JIM HOFFMAN...

Monti Levi Esq. also present.

Upon Court's inquiry, Mr. Hoffman stated he can confirm as counsel of record. COURT STATED their inclination is to set this matter for a status check in two weeks to set an evidentiary hearing. Mr. Hoffman stated that would be enough time. Mr. Palal stated he contacted Ms. Levy to be present today to expedite the process of setting the hearing. COURT ADVISED a status check will need to be set due to the mater needing to be calendared for a special setting through CCDC, and DIRECTED parties to meet and figure out dates they would be available to have the limited hearing and contact Chambers once done. Mr. Hoffman stated he reviewed the minutes, and inquired if this hearing only pertained to the first Petition the Defendant filed. COURT STATED it would be helpful and necessary to address the other pending Petitions, and suggested Mr. Hoffman look at the Petitions to see if there are grounds for them to be considered, and to meet and confer with the State. COURT ORDERED, Status Check CONTINUED.

NDC

3/19/2021 11:00 A.M. STATUS CHECK RE: SETTING OF EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

April 07, 2021

A-20-815035-W Oscar Gomez, Plaintiff(s)
vs.
State of Nevada, Defendant(s)

April 07, 2021 11:00 AM All Pending Motions

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Kory Schlitz

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT: Hoffman, James I. Attorney
Palal, Binu G. Attorney

JOURNAL ENTRIES

- PETITION FOR WRIT OF HABEAS CORPUS... PLAINTIFF'S MOTION TO JOIN...

Defendant not present and in custody in the Nevada Department of Corrections.

COURT STATED since the documents were filed Pro Per they are considered rouge documents. Mr. Hoffman informed the Court the Defendant filed the Petitions before he was appointed as counsel of record, adding he was going to submit on the pleadings, and not have any oral argument. Mr. Palal stated he did file a response that addressed both Petitions, and parties are ready to have a hearing. Mr. Hoffman informed the Court the Defendant's mother and sister may want to testify during the hearing, and he is ready to proceed. COURT ORDERED, Evidentiary Hearing set for April 27, 2021 STANDS. Mr. Palal informed the Court they filed a transport order when the hearing was set. COURT SO NOTED.

NDC

4/27/2021 1:30 P.M. EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

May 14, 2021

A-20-815035-W Oscar Gomez, Plaintiff(s)
vs.
State of Nevada, Defendant(s)

May 14, 2021 1:30 PM Status Check

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Teri Berkshire

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT: Hoffman, James I. Attorney
Palal, Binu G. Attorney

JOURNAL ENTRIES

- APPEARANCES CONTINUED: Counsel present via video, through bluejeans technology.

Mr. Gomez not present. Colloquy regarding evidentiary hearing date, and transporting defendants for in-person hearings. COURT ORDERED, the tentative hearing date will be 7-20-21. Further, the dept. will reach out to counsel to confirm the date evidentiary hearing date. Mr. Palal will confirm with the attorney witness. Mr. Hoffman advised Mr. Gomez is okay with appearing via video, from the prison. Court so noted.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

May 27, 2021

A-20-815035-W Oscar Gomez, Plaintiff(s)
vs.
State of Nevada, Defendant(s)

May 27, 2021 12:00 AM Minute Order

HEARD BY: Silva, Cristina D. **COURTROOM:** Chambers

COURT CLERK: Kory Schlitz

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Counsel for Petitioner was instructed to prepare an Order for Production of Inmate for Video Appearance and submit it to the department for signature. The order has not been received. Petitioner is hereby ordered to submit an Order for Production of Inmate for Video Appearance to the DC9 inbox.

CLERK S NOTE: Counsel are to ensure a copy of the forgoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the registered service recipients via Odyssey eFileNV E-Service (5/27/2021 ks).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

August 10, 2021

A-20-815035-W	Oscar Gomez, Plaintiff(s)
	vs.
	State of Nevada, Defendant(s)

August 10, 2021 9:00 AM Evidentiary Hearing

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Kory Schlitz

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:	Hoffman, James I.	Attorney
	Palal, Binu G.	Attorney

JOURNAL ENTRIES

- Monti Levy Esq. also present as prior counsel; Defendant not present and in custody in the Nevada Department of Corrections.

COURT ADVISED this matter was set for a special evidentiary hearing at 9:00 a.m., and the time is now 9:50 a.m., adding the Court has spent almost the last hour trying to get in contact with NDOC, who informed them they did not set up the video conference, and now it is too late to transport the Defendant to the room. COURT FURTHER STATED the Defendant did not want to be transported to CCDC for this hearing, and requested Mr. Hoffman speak with the Defendant, adding they will not reset this hearing today, however directed parties to meet and confer to figure out a new time to set this hearing for, and then to reach out to chambers. COURT FURTHER ORDERED, matter OFF CALENDAR.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

August 20, 2021

A-20-815035-W	Oscar Gomez, Plaintiff(s)
	vs.
	State of Nevada, Defendant(s)

August 20, 2021 11:00 AM Evidentiary Hearing

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Kory Schlitz

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:	Gomez, Oscar	Plaintiff
	Hoffman, James I.	Attorney
	Palal, Binu G.	Attorney

JOURNAL ENTRIES

- COURT STATED the matter is set for an evidentiary hearing regarding whether or not the Defendant understood if he was pleading to consecutive or concurrent time between the counts. EXCLUSIONARY RULE INVOKED. Testimony and exhibits presented. (See Worksheets). Mr. Hoffman argued that the relationship between Ms. Levy and the Defendant's family was difficult, and Ms. Levy was eager to be completed with case, and didn't thoroughly explain the offer to the Defendant and requested the Defendant's sentence be vacated. Upon Court's inquiry, Mr. Hoffman stated with regards to the entry of plea the Defendant felt rushed and pressured to entering into it. Mr. Palal argued what there is an implication the Defendant was rushed, the deal that was conveyed to the Defendant was the same offer from October 17, 2017 and then was accepted on 10/17/2017 was same offer on April 19, 2018. Mr. Palal further argued Ms. Levy testified she reviewed the length of the sentence with the Defendant multiple times. COURT STATED they would like to review the information provided through the Petition and testimony today, and ORDERED, matter SET for Decision. COURT ADVISED the Defendant's presence can be waived at the continued hearing date.

NDC

9/17/2021 1:30 P.M. DECISION RE: PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

September 17, 2021

A-20-815035-W Oscar Gomez, Plaintiff(s)
vs.
State of Nevada, Defendant(s)

September 17, 2021 1:30 PM Decision

HEARD BY: Silva, Cristina D.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Kory Schlitz

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT: Hoffman, James I. Attorney

JOURNAL ENTRIES

- Defendant not present and in custody in the Nevada Department of Corrections; Deputy District Attorney Michelle Fleck present on behalf of the State.

COURT ORDERED, Defendant's presence WAIVED as he requested not to be transported for the hearing. COURT STATED a hearing was conducted regarding the Petition for Writ of Habeas Corpus, and the Court heard testimony in regards to whether the Defendant understood the terms of his negotiations, specifically the consecutive time to follow the second with use, and consecutive time with regards to the deadly weapon enhancement. COURT FURTHER STATED there was testimony from his prior attorney Monti Levy who testified she visited the Defendant over twenty times, discussed the sentence with the Defendant multiple times, and discussed sentencing ranges, adding she testified she wrote down the sentencing ranges in order to explain the consequences of the plea, and the explanation of the deadly weapon, and the consequences of the enhancement. COURT ADDITIONALLY STATED there was representations there was not a good relationship between Ms. Levy and the Defendant's family, however it did not impact her conveyance of offer; adding testimony was heard from Defendant, who testified Ms. Levy did not explain what the deadly weapon enhancement meant, and what it could run consecutive or concurrent, adding the sentence was no explained to Defendant. COURT ORDERED, Post Conviction Petition for Writ of Habeas Corpus DENIED, and FINDS Ms. Levy's testimony to be credible, that the sentence and the

consequences of the sentence were explained to the Defendant, not only prior to change of plea, however by Mr. Palal as well in terms of how the sentences would run. Mr. Hoffman stated the Defendant filed three Post Conviction Petitions and requested the Court include their rulings on the other aspects of the Petition when they prepare the order, not just regarding the evidentiary hearing.

NDC

EXHIBIT(S) LIST

Case No.: A-20-815035-W

Hearing / Trial Date: 8/20/2021

Dept. No.: 9

Judge: Cristina D. Silva

Court Clerk: Kory Schlitz

Plaintiff: Oscar Gomez

Recorder / Reporter: Gina Villani

Counsel for Plaintiff: James Hoffman

VS.

Defendant: State of Nevada

Counsel for Defendant: Binu Palal

HEARING / TRIAL BEFORE THE COURT

State's EXHIBITS

[illegible]



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

JIM HOFFMAN, ESQ.
P.O. BOX 231246
LAS VEGAS, NV 89105

DATE: October 22, 2021
CASE: A-20-815035-W

RE CASE: OSCAR GOMEZ vs. STATE OF NEVADA

NOTICE OF APPEAL FILED: October 21, 2021

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

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

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

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

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

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

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

Certification of Copy

State of Nevada }
County of Clark } SS:

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

NOTICE OF APPEAL; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

OSCAR GOMEZ,

Plaintiff(s),

vs.

STATE OF NEVADA,

Defendant(s),

Case No: A-20-815035-W

Dept No: IX

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 22 day of October 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

