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2021 DEC -2 PM 2:28
Speno
JUDICIAL DISTRICT COURT

Electronically Filed
Dec 09 2021 10:01 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

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6 IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF HUMBOLDT

8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

Case No. CR0905709

11
12 DAVID CRAIG MORTON,

Dept. No. 2

13 Defendant.

14 NOTICE OF APPEAL

15 NOTICE IS HEREBY GIVEN that David Craig Morton, the Defendant
16 above-named, hereby appeals to the Supreme Court of Nevada, from
17 the Judgment of Conviction dated January 20, 2011. This appeal is
18 being filed by the Clerk of the Court in compliance with the terms
19 of the order and NRAP 4(C) because the District Court found an
20 appeal deprivation claim valid after a timely post conviction case
21 was heard by the Court with an Order Partially Granting
22 Petitioner's Petition for Writ of Habeas Corpus and Staying
23 Decision Pending Belated Appeal dated November 30, 2021 with Notice
24 of Entry of Order dated November 30, 2021.

25 DATED this 2nd day of December, 2024.

26
27 
Humboldt County Clerk

HUMBOLDT COUNTY DISTRICT ATTORNEY
P.O. Box 909
Winnemucca, Nevada 89446

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Case No. CR09-5709

Dept. No. 1

2011 JUN 20 AM 10:57

David

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF HUMBOLDT.

-oOo-

THE STATE OF NEVADA,

Plaintiff,

vs.

JUDGMENT OF CONVICTION

DAVID CRAIG MORTON
DOB: 10/12/1959,

Defendant. /

WHEREAS, on the 2nd day of November, 2009, the Defendant entered his plea of not guilty to the charges of OPEN MURDER, WITH THE USE OF A DEADLY WEAPON, a Category A Felony, in violation of NRS 200.010, NRS 200.020, NRS 200.030, NRS 200.033 and NRS 193.165, and DISCHARGING A FIREARM FROM WITHIN OR FROM A STRUCTURE, a Category B Felony, in violation of NRS 202.287(b), and the matter having been tried before the Honorable Judge Richard A. Wagner.

At the time Defendant entered the plea of not guilty, this Court informed the Defendant of the privilege against compulsory self-incrimination, the right to a speedy trial, the right to a

1 trial by jury, the right to compulsory process to compel witnesses
2 to testify on behalf of the Defendant and the right to confront the
3 accusers. That after being so advised, the Defendant stated that
4 these rights were understood and still desired this Court to accept
5 the plea of not guilty.
6

7 The Court having accepted Defendant's plea of not guilty, set
8 the date of September 13-24, 2010, at the hour of 9:00 a.m. as the
9 date and time for jury trial. On the 22nd day of September, 2010,
10 Defendant was found guilty of Open Murder in the Second Degree With
11 the Use of a Deadly Weapon and Discharging a Firearm From Within or
12 From a Structure.
13

14 Furthermore, at the time Defendant entered the plea of not
15 guilty and at the time of sentencing, Defendant was represented by
16 attorney, RICHARD A. MOLEZZO, Esq.; also present in Court were TAMI
17 RAE SPERO, Humboldt County Court Clerk or her designated agent; ED
18 KILGORE, Sheriff of Humboldt County or his designated agent; DEBBIE
19 OKUMA, representing the Division of Parole and Probation; and BRIAN
20 WILLIAMS, Humboldt County Deputy District Attorney representing the
21 State of Nevada.
22

23
24 Defendant appeared on January 14, 2011 represented by counsel,
25 and Defendant having been given the opportunity to exercise the
26 right of allocution and having shown no legal cause why judgment
27 should not be pronounced at this time.
28

The above-entitled Court having accepted the jury's verdict of

HUMBOLDT COUNTY DISTRICT ATTORNEY
P.O. Box 909
Winnemucca, Nevada 89446

1 guilty on September 22, 2010, of OPEN MURDER IN THE SECOND DEGREE
2 WITH THE USE OF A DEADLY WEAPON, a Category A Felony, in violation
3 of NRS 200.010, NRS 200.020, NRS 200.030, NRS 200.033, and NRS
4 193.165, and DISCHARGING A FIREARM FROM WITHIN OR FROM A STRUCTURE,
5 a Category B Felony, in violation of NRS 202.287(b), the Defendant
6 was thereby ordered by the Court to pay an administrative
7 assessment fee of \$25 to the Clerk of the above entitled Court. In
8 addition, the Defendant must, pursuant to NRS 176.0913, submit a
9 biological specimen under the direction of the Nevada Department of
10 Corrections to determine the Defendant's genetic markers. Further,
11 pursuant to NRS 716.0915, in addition to any other penalty the
12 Defendant must pay a \$150 DNA fee, payable to the Humboldt County
13 Clerk of the Court and may not be deducted from any other fines or
14 fees imposed by the Court.
15
16
17

18 After making a specific findings of fact pursuant to NRS
19 193.165, the Court sentenced the Defendant, DAVID CRAIG MORTON, as
20 follows:

21 Count I: Open Murder in the Second Degree with the Use of
22 a Deadly Weapon, a Category A Felony - imprisonment in the Nevada
23 Department of Corrections for a minimum term of one hundred twenty
24 (120) months and a maximum term of three hundred (300) months, with
25 eligibility for parole beginning when a minimum of 10 years has
26 been served, with credit for time of 526 days, in addition to time
27 served from January 14, 2011 until transfer to the Nevada
28

1 Department of Corrections;

2 Additional penalty: In addition to the foregoing term of
3 imprisonment, by imprisonment in the Nevada Department of
4 Corrections for a minimum term of ninety-six (96) months and a
5 maximum term of two hundred forty (240) months. Further, that the
6 sentence run consecutive to the sentence imposed in Count I; and
7

8 Count II: Discharging a Firearm From Within or From a
9 Structure - imprisonment in the Nevada Department of Corrections
10 for a minimum term of seventy-two (72) months and a maximum term of
11 one hundred eighty (180) months. Further, that the sentence in
12 Count II run concurrent to the sentences imposed in Count I and the
13 additional penalty.
14

15 Furthermore, bail, if any, is hereby exonerated.

16 RICHARD A. MOLEZZO, Esq., represented the Defendant
17 during all stages of the proceedings.
18

19 BRIAN WILLIAMS, Deputy District Attorney, represented the
20 State of Nevada during all stages of these proceedings.

21 DEBBIE OKUMA, represented the Division of Parole and
22 Probation during all stages of these proceedings.
23

24 Therefore, the clerk of the above-entitled Court is
25 hereby directed to enter this Judgment of Conviction as a part of
26 the record in the above-entitled matter.

27 Furthermore, pursuant to NRS 239B.030., the undersigned
28 hereby affirms this document does not contain the social security

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number of any person.

DATED this 19th day of January, 2011, in the City of
Winnemucca, County of Humboldt, State of Nevada.


DISTRICT JUDGE

HUMBOLDT COUNTY DISTRICT ATTORNEY
P.O. Box 909
Winnemucca, Nevada 89446

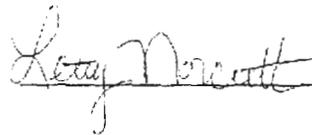
CERTIFICATE OF SERVICE

Pursuant to NRCF 5(b), I certify that I am an employee of the Humboldt County District Attorney's Office, and that on the 20th day of January, 2011, I delivered at Winnemucca, Nevada, by the following means, a copy of the JUDGMENT OF CONVICTION to:

Richard A. Molezzo, Esq.
96 & 98 Winter Street
Reno, Nevada 89503

Division of Parole and Probation
3505 Construction Way
Winnemucca, Nevada 89445

- U.S. Mail
- Certified Mail
- Hand-delivered
- Placed in box at DCT
- Via Fax



HUMBOLDT COUNTY DISTRICT ATTORNEY
P.O. Box 909
Winnemucca, Nevada 89446

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1 Case No. CV 18,803

2 Dept. No. 2

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7 DAVID MORTON,

8 Petitioner,

9 vs.

10 STATE OF NEVADA,
11 Et al,

12 Respondent.

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FILED
2021 NOV 30 PM 4:08
MM
TIM GABRIEL
DIST. COURT CLERK

**IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF HUMBOLDT**

**ORDER PARTIALLY GRANTING
PETITIONER'S PETITION FOR
WRIT OF HABEAS CORPUS &
STAYING DECISION PENDING
BELATED APPEAL**

This matter came before the Court on October 6 & 7, 2021, on Petitioner's Writ of Habeas Corpus (postconviction) and the Supplemental Petition for Writ of Habeas Corpus (postconviction). The Petition appeared with retained counsel, Karla K. Butko, Esq. and Anthony Gordon, Deputy District Attorney for Humboldt County appeared representing the interest of Respondent and the State of Nevada. This Court has reviewed the pleading on file, considered the evidence and arguments of the Parties presented at the evidentiary hearing and incorporates the entirety of the record in Case Number CR09-5709. The Court issues its findings and Order.

CASE HISTORY.

This case proceeded to jury trial with the Honorable Judge Richard Wagner presiding over the trial. David Morton, petitioner herein, was represented by appointed counsel, Richard Molezzo. During the trial, Mr. Molezzo was assisted by pro bono counsel, Del Hardy. The State was represented by Russell Smith, then District Attorney of Humboldt County and Brian Williams, then Chief Deputy District Attorney of Humboldt County. The jury convicted Mr.

1 Morton of second degree murder with the use of a deadly weapon. Judge Wagner sentenced Mr.
2 Morton to a term of 25 years in prison with parole eligibility after service of ten years + a term of
3 8-20 years for the deadly weapon enhancement term. A concurrent term of 6-15 years was
4 imposed on a felony charge of discharging a firearm within a structure. The judgment of
5 conviction was entered on January 20, 2011. There was no direct appeal.

6 Mr. Morton filed a notice of appeal in Docket 60625 which was dismissed by the Nevada
7 Supreme Court on May 22, 2012, on the basis that the Court did not have jurisdiction to handle
8 the appeal as it was deemed to be a postconviction matter.

9 Mr. Morton filed an initial and timely petition for writ of habeas corpus (postconviction)
10 on December 29, 2011. Counsel Hy Forgeron was then appointed to represent Mr. Morton. No
11 action was taken by Mr. Forgeron to pursue the writ. Ultimately, Mr. Morton contacted the
12 Court by letter seeking the status of his postconviction. The court removed Mr. Forgeron as
13 counsel and appointed counsel Lockie and MacFarlan of Elko to represent Mr. Morton. No
14 action was taken by their firm to pursue the writ so Mr. Morton retained counsel Karla K. Butko
15 to represent him. Ms. Butko filed a supplemental petition for writ of habeas corpus
16 (postconviction) on Mr. Morton's behalf on September 10, 2019.

17 The parties stipulated to allow the State additional time to respond to the petition and
18 supplemental petition but the State did not file its response. Ms. Butko sought an evidentiary
19 hearing and the court granted that request. The hearing was set for October 6 & 7, 2021. On
20 October 1, 2021, the State filed its responsive pleading.

21 The case proceeded to evidentiary hearing on October 6 & 7, 2021. The Court heard
22 evidence and argument of the parties.

23 LEGAL STANDARDS.

24 A district court reviews claims of ineffective assistance of counsel under *Strickland v.*
25 *Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). Under *Strickland*, to prevail
26 upon a claim of ineffective assistance of trial counsel, a defendant must establish two elements:

1 (1) counsel provided deficient performance and (2) the deficient performance prejudiced the
2 defense. *Kirksey v. State*, 112 Nev. 980, 987, 923 P.2d 1102, 1107 (Nev. 1996). To prove
3 deficient performance, a defendant must show counsel's performance fell below and objective
4 standard of reasonableness. To prove prejudice, a defendant must demonstrate a reasonable
5 probability that, but for counsel's errors, the result of the trial would have been different.

6 A petition must demonstrate the facts underlying a claim of ineffective assistance of
7 counsel by a preponderance of the evidence, and a district court's factual findings regarding a
8 claim of ineffective assistance of counsel are entitled to deference on appeal. *Riley v. State*, 110
9 Nev. 638, 878 P.2d 272 (1994) and *Means v. State*, 120 Nev. 1001, 1012, 103 P.3d 25, 33
10 (2004).

11 The constitutional right to effective assistance of counsel extends to a direct appeal.
12 *Burke v. State*, 110 Nev. 1366, 1368, 887 P.2d 267, 268 (1994). A claim of ineffective assistance
13 of appellate counsel is reviewed under the "reasonably effective assistance" test set forth in
14 *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984) and *Kirksey v.*
15 *State*, 112 Nev. 980, 923 P.2d 1102 (Nev. 1996).

16 Counsel must consult with the client about the procedures for and advantages and
17 disadvantages of an appeal, and counsel's failure to do so is deficient performance for purposes
18 of proving an ineffective assistance of counsel claim. U.S. Const. amend., VI; *Roe v. Flores-*
19 *Ortega*, 528 U.S. 470, 477-81; *Thomas v. State*, 115 Nev. 148, 150, 979 P.2d 222, 223 (1999);
20 and *Davis v. State*, 115 Nev. 17, 20, 974 P.2d 658, 659-60 (1999) and *Toston v. State*, 127 Nev.
21 971, 267 P.3d 795 (2011).

22 Further, the Court notes the application of NRAP 4 (c) which provides:

23 An untimely notice of appeal from a judgment of conviction and sentence may be filed
24 only under the following circumstances:

25 (A) A postconviction petition for a writ of habeas corpus has been timely and
26 properly filed in accordance with the provisions of NRS 34.720 to 34.830,
27 asserting a viable claim that the petitioner was unlawfully deprived of the right to
28 a timely direct appeal from a judgment of conviction and sentence; and

1 (B) The district court in which the petition is considered enters a written order
2 containing:

3 (i) specific findings of fact and conclusions of law finding that the petitioner has
4 established a valid appeal-deprivation claim and is entitled to a direct appeal with
5 the assistance of appointed or retained appellate counsel;

6 (ii) if the petitioner is indigent, directions for the appointment of appellate
7 counsel, other than counsel for the defense in the proceedings leading to the
8 conviction, to represent the petitioner in the direct appeal from the conviction and
9 sentence; and

10 (iii) directions to the district court clerk to prepare and file—within 5 days of the
11 entry of the district court's order—a notice of appeal from the judgment of
12 conviction and sentence on the petitioner's behalf in substantially the form
13 provided in Form 1 in the Appendix of Forms.

14 FINDINGS OF FACT

15 1. The Petitioner was convicted by jury verdict of second degree murder with the use of
16 a deadly weapon and discharging a firearm within a structure for a shooting incident which took
17 the life of his wife, Cindy Morton. The Petitioner was sentenced by Judge Richard Wagner to
18 serve 25 years in prison with parole eligibility after service of 10 years + a term of 8-20 years for
19 the deadly weapon enhancement term. A concurrent term of 6-15 years was imposed on a felony
20 charge of discharging a firearm within a structure. The judgment of conviction entered on
21 January 20, 2011. See case number CR09-5709.

22 2. The petitioner filed a first and timely Petition for Writ of Habeas Corpus
23 (postconviction). Counsel was retained and filed a Supplemental Petition for Writ of Habeas
24 Corpus (postconviction).

25 3. The State filed a Response to the Petition & Supplemental Petition for Writ of Habeas
26 Corpus (postconviction).

27 4. The Court held an evidentiary hearing on the Petition & Supplemental Petition for
28 Writ of Habeas Corpus (postconviction) on October 6 & 7, 2021.

1 Trial counsel Richard Molezzo and Del Hardy testified at the hearing. The Court also
2 heard testimony from Dustin Grate, defense investigator, Brian Williams, prosecutor at the trial
3 stage, Michael Smock, Dave Milton, Dave Garrison, Mitchell Hinton, Beverly Upshaw, Royce

1 Upshaw, and Terry Morton. Sheri Hixon-Brenenstall, Ph.D. a psychologist and defense expert
2 witness, testified concerning a psychological evaluation report that she recently prepared
3 regarding Petitioner. David Morton, Petitioner testified in support of his petition for writ of
4 habeas corpus.

5 6. The Court also considered the exhibits offered during the evidentiary hearing on this
6 matter.

7 7. The Court considered the testimony at the evidentiary hearing and makes the
8 following findings:

9 a. The Petitioner established and proved by a preponderance of the evidence a valid
10 appeal deprivation claim under NRAP 4 (c) and is entitled to representation by counsel on a
11 belated appeal.

12 b. Mr. Molezzo testified that he did speak with Mr. Morton about a direct appeal but that
13 the conversation would have only been a ten to thirty second conversation with Mr. Morton
14 directly after the conclusion of the sentencing proceeding. Mr. Molezzo did not recall a lengthy
15 discussion of any type after the date of the sentencing hearing. Mr. Molezzo testified it was his
16 practice to prepare a written letter to defendants advising them of their right to appeal but no such
17 letter was brought forth as evidence at this proceeding. There was no testimony by Mr. Molezzo
18 that he recalled having a discussion with Mr. Morton which included appellate issues or the pros
19 or cons of a direct appeal. Mr. Molezzo advised the Court that he is not an appellate attorney and
20 would not have handled the direct appeal himself but could have sought appointment of alternate
21 counsel for Mr. Morton.

22 c. During the hearing, issues that were properly the subject of direct appeal became the
23 subject of testimony, which were contested by the parties to the proceeding. Those issues were
24 as follows:

25 -- Failure to instruct the jury on the accurate definition of homicide, as agreed by the court.

26 — The improper *Kazalyn* instruction provided to the jury by the court

1 Failure to instruct the jury that the State had to prove beyond a reasonable doubt that the
2 defendant was not adequately provoked by actions of the victim to reduce the charge to
3 manslaughter
4 bias of the trial court against trial counsel Hardy
5 suspect evidence and findings of the district court at the sentencing stage of the case/
6 findings of the sentencing court that were unsupported by the trial record
7 suspect evidence and argument in the presentence report
8 unsworn victim evidence testimony at the sentencing hearing
9 failure of the sentencing court to allow Mr. Morton to maintain his innocence at the
10 sentencing stage of the case
11 attempt by the court to impose an illegal sentence in excess of that available at law for the
12 deadly weapon enhancement
13 admission of bad act evidence of prior domestic battery by the defendant but failure to
14 admit domestic battery evidence of the victim
15 cumulative graphic photographs admitted (50+ pictures)
16 admission of statement of defendant when it was proven he had a 0.276 blood alcohol
17 hours after the shooting and at the time of the confession/admission

18 d. Mr. Molezzo admitted that the failure to appeal was not tactical but rather an error on
19 his part. Mr. Morton testified that he spoke with Mr. Molezzo about two weeks after the
20 sentencing hearing and requested that Mr. Molezzo file a direct appeal on his behalf, but that
21 during the conversation, Mr. Molezzo advised him that he could end up worse off by appealing
22 his conviction.

23 8. Postconviction counsel Karla K. Butko indicated that she sought a remedy of a
24 belated appeal on behalf of her client, David Morton.

25 9. The Court believes that it is appropriate to stay its decision on the remaining
26 allegations of the Petition & Supplemental Petition for Writ of Habeas Corpus (postconviction)

1 pending the results of the belated appeal which is granted herein, and that the appellate courts
2 should first address petitioner's appellate as the Court would not want to address in the Writ any
3 claims that were properly raised on direct appeal. Hence, all remaining claims before the district
4 court are stayed pending appeal.

5 **ORDER**

6 The Court applies the legal standards to the facts in this case. The Court concludes that
7 Petitioner met his burden to prove beyond a preponderance of the evidence that he lost his direct
8 appellate rights due to counsel's error, and that he has met his burden under NRAP 4 (c) of
9 being deprived of his right to a timely direct appeal. As a result, this Court grants Mr. Morton a
10 belated appeal pursuant to the remedy found in NRAP 4 (c). The Court has been advised that
11 Karla K. Butko will remain as counsel of record to represent Mr. Morton on the belated appeal.

12 The district court clerk is ordered to prepare and file—within 5 days of the entry of this
13 Order—a notice of appeal from the judgment of conviction and sentence on the petitioner's
14 behalf in substantially the form provided in Form 1 in the Appendix of Forms.

15 The remaining postconviction claims raised in the Petition & Supplemental Petition for
16 Writ of Habeas Corpus (postconviction) are stayed by the Court pending the results of the belated
17 appeal which was granted herein.

18 GOOD CAUSE APPEARING, and based on the foregoing, the Petition & Supplemental
19 Petition for Writ of Habeas Corpus (postconviction) is partially granted and partially stayed,
20 pending the results of the belated appeal, which was granted herein.

21 DATED this 30th day of November, 2021.

22
23
24 

25 _____
26 DISTRICT JUDGE
27
28

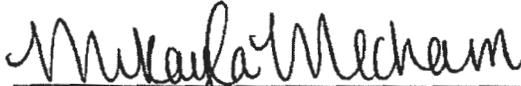
1 CERTIFICATE OF SERVICE

2 I hereby certify that I am an employee of the Humboldt County Clerk's office for the
3 Sixth Judicial District Court, and am not a party to, nor interested in, this action; and that
4 on the 30th day of NOVEMBER 2021, I caused to be served a true and correct
5 copy of the enclosed **ORDER PARTIALLY GRANTING PETITIONER'S**
6 **PETITION FOR WRIT OF HABEAS CORPUS & STAYING DECISION**
7 **PENDING BELATED APPEAL** upon the following parties:
8

9
10 KARLA K. BUTKO, ESQ.
11 P.O. Box 1249
12 Verdi, Nevada 89439
13 *Via US Mail*

14 MICHAEL MACDONALD
15 HUMBOLDT COUNTY DISTRICT ATTORNEY
16 P.O. Box 909
17 Winnemucca, Nevada 89445
18 *Via DCT box*

19 AARON FORD
20 Nevada Attorney General
21 100 N. Carson Street
22 Carson City, Nevada 89701
23 *Via US Mail*

24
25
26
27
28 
29 MIKAYLA MECHAM
30 Deputy Clerk
31 Sixth Judicial District Court

1 **DECLARATION OF SERVICE**

2 I am a citizen of the United States, over the age of 18 years, and not a party to or
3 interested in this action. I am an employee of the Humboldt County Clerk's Office, and my
4 business address is 50 W 5th Street, Winnemucca, NV 89445. On this day I caused to be served
5 the following document(s):

6 **NOTICE OF APPEAL**

7 X By placing in a sealed envelope, with postage fully prepaid, in the United States Post
8 Office, Winnemucca, Nevada, persons addressed as set forth below. I am familiar with this
9 office's practice whereby the mail, after being placed in a designated area, is given the
10 appropriate postage and is deposited in the designated area for pick up by the United States
11 Postal Service.

12 X By personal delivery of a true copy to the person(s) set forth below by placement in the
13 designated area in the Humboldt County Clerk's Office for pick up by the person(s) or
14 representative of said person(s) set forth below.

15 Michael Macdonald
16 Humboldt County District Attorney
17 501 S. Bridge Street
18 Winnemucca NV 89445
19 (Personal delivery)

20 David Morton #1062758
21 Lovelock Correctional Center
22 1200 Prison Road
23 Lovelock NV 89419
24 (Regular mail)

25 Karla K. Butko, Esq.
26 PO Box 1249
27 Verdi NV 89439
(Regular mail)

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

Executed on December 2, 2021 at Winnemucca, Nevada.



HUMBOLDT COUNTY CLERK



1 Case No. CR0905709
2 Dept. No. 02

FILED
2021 DEC -2 PM 2:28
Spuro
TAMI RAE SPURO
DIST. COURT CLERK

6 IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF HUMBOLDT

10 David Craig Morton,)
11 Defendant.)
12 -vs-)
13 The State of Nevada,)
14 Plaintiff,)

15 **CASE APPEAL STATEMENT**

- 16 1. Name of appellant filing this case appeal statement: David Craig Morton
- 17 2. Identify the judge issuing the decision, judgment, or order appealed from: Richard A. Wagner
- 18 3. Identify each appellant and the name and address of counsel for each appellant: David Craig Morton
19 represented by Karla K. Butko, Esq. PO Box 1249 Verdi, NV 89439
- 20 4. Identify each respondent and the name and address of appellate counsel, if known, for each
21 respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and
22 provide the name and address of that respondent's trial counsel): The State of Nevada represented
23 by Humboldt County District Attorney Michael Macdonald PO Box 909 Winnemucca, NV 89446
- 24 5. Indicate whether any attorney identified above in response to question 3 or 4 Is not licensed to
25 practice law in Nevada and, if so, whether the district court granted that attorney permission to
26 appear under SCR 42 (attach a copy of any district court order granting such permission): N/A
- 27 6. Indicate whether appellant was represented by appointed or retained counsel in the district court:
28 Appointed

- 1 7. Indicate whether appellant is represented by appointed or retained counsel on appeal: Appointed
- 2 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date entry of the
3 district court order granting such leave: Yes - January 13, 2012 for the Criminal matter
- 4 9. Indicate the date the proceedings commenced in the district court (e.g. date complaint, indictment,
5 information, or petition was filed): October 20, 2009
- 6 10. Provide a brief description of the nature of the action and result in the district court, including the
7 type of judgment or order being appealed and the relief granted by the district court: Defendant
8 Morton was found guilty by jury verdict of Count I - Open Murder in the Second Degree with Use
9 of a Deadly Weapon, a Category A Felony, in violation of NRS 200.010/020/030/033 and 193.165
10 and Count II - Discharging a Firearm from Within a Structure, a Category B Felony, in violation of
11 NRS 202.287(b) and the Judgment of Conviction was entered by Judge Wagner on January 20, 2011
12 sentencing Defendant Morton on Count I to imprisonment in the Nevada Department of Corrections
13 for a minimum term of one hundred twenty months and a maximum term of three hundred months
14 with eligibility for parole beginning when a minimum of ten years had been served including time-
15 served and associated fines and fees with an additional penalty of imprisonment in the Nevada
16 Department of Corrections for a minimum term of ninety-six months and a maximum term of two
17 hundred forty months with the sentence running consecutive to the sentence imposed in Count I and,
18 for Count II to imprisonment in the Nevada Department of Corrections for a minimum term of
19 seventy-two months and a maximum term of one hundred eighty months with the sentence for Count
20 II running concurrent to the sentences imposed in Count I and the additional penalty. Following said
21 sentencing this matter was appealed by the Defendant to the Nevada Supreme Court with said appeal
22 being dismissed as it was filed well after the expiration of the 30-day appeal period prescribed by
23 NRAP 4(b). Subsequently Defendant Morton filed a Petition for Writ of Habeas Corpus (Post
24 Conviction) which ultimately resulted in an Order being issued by Judge Michael R. Montero
25 entitled Order Partially Granting Petitioner's Petition for Writ of Habeas Corpus & Staying Decision
26 Pending Belated in which the Court concluded that Petitioner had met his burden to prove beyond
27 a preponderance of the evidence that he lost his direct appellate rights due to counsel's error, and
28 that he had met his burden under NRAP 4 (c) of being deprived of his right to a timely direct appeal

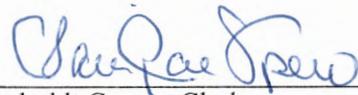
1 and directed the District Court Clerk to prepare and file an appeal from the original Judgment of
2 Conviction.

3 11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding
4 in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior
5 proceeding: Yes - David Craig Morton, Appellant, vs. The State of Nevada, Respondent. - No. 60624

6 12. Indicate whether this appeal involves child custody or visitation: No

7 13. If this is a civil case, indicate whether this appeal involves the possibility of settlement: No

8 Dated this 2nd day of December, 2021..

9 

10 Humboldt County Clerk
11 50 W. 5th St. #207
12 Winnemucca, NV 89445
13 (775) 623-6343
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1 **DECLARATION OF SERVICE**

2 I am a citizen of the United States, over the age of 18 years, and not a party to or
3 interested in this action. I am an employee of the Humboldt County Clerk’s Office, and my
4 business address is 50 W 5th Street, Winnemucca, NV 89445. On this day I caused to be served
5 the following document(s):

6 **CASE APPEAL STATEMENT**

7 X By placing in a sealed envelope, with postage fully prepaid, in the United States Post
8 Office, Winnemucca, Nevada, persons addressed as set forth below. I am familiar with this
9 office’s practice whereby the mail, after being placed in a designated area, is given the
10 appropriate postage and is deposited in the designated area for pick up by the United States
11 Postal Service.

12 X By personal delivery of a true copy to the person(s) set forth below by placement in the
13 designated area in the Humboldt County Clerk’s Office for pick up by the person(s) or
14 representative of said person(s) set forth below.

13 Michael Macdonald
14 Humboldt County District Attorney
15 501 S. Bridge Street
16 Winnemucca NV 89445
(Personal delivery)

David Morton #1062758
Lovelock Correctional Center
1200 Prison Road
Lovelock NV 89419
(Regular mail)

17 Karla K. Butko, Esq.
18 PO Box 1249
19 Verdi NV 89439
20 (Regular mail)

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

23 Executed on December 2, 2021 at Winnemucca, Nevada.

24 

25 _____
HUMBOLDT COUNTY CLERK

26
27


Sixth Judicial District Court - Humboldt County

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15:01:06

Case Summary

Page 1

Case #: CR0905709
Judge: MONTERO, MICHAEL R.
Date Filed: 01/20/2011 **Department:**
Case Type: FELONY/PERSON

Plaintiff(s)	Attorney(s)
NEVADA, THE STATE	DISTRICT ATTORNEY
Defendant(s)	Attorney(s)
MORTON, DAVID CRAIG	BUTKO, KARLA

Fees:

Date Assessed:	Fee	Total	Paid	Waived	Outstanding
10/20/2009	DNA	\$150.00	\$75.50	\$0.00	\$74.50

Charge: NRS:202.287(B) DISCHRG/FIRARM W/IN FROM A STRUCTUR F/B Count 1
Sent: NDOC MIN 120MTHS MAX 300MTHS W/MIN PAROLE 10YRS W/C/T/S 526DYS.

Disp/Judgment: GUI **Date:** 01/14/2011

Hearings:

Date	Time	Hearing
11/02/2009	1:15PM	ARRAIGNMENT
05/17/2010	1:30PM	PRE-TRIAL CONFERENCE
06/21/2010	2:30PM	SENTENCING HEARING
08/16/2010	2:00PM	PRE-TRIAL CONFERENCE
09/09/2010	1:30PM	HEARING
09/13/2010	9:00AM	JURY TRIAL
01/14/2011	1:30PM	SENTENCING HEARING

Filings:

Date	Filing
10/20/2009	JUSTICE COURT PROCEEDINGS (09 CR 00802)
10/21/2009	Legacy Images
10/22/2009	INFORMATION
10/23/2009	Legacy Images
10/28/2009	TRANSCRIPT OF PROCEEDINGS - PRELIMINARY HEARING
10/29/2009	EX PARTE MOTION FOR INVESTIGATIVE FEES FILED UNDER SEAL
11/02/2009	EX PARTE ORDER AUTHORIZING EMPLOYMENT OF PRIVATE INVESTIGATO
11/16/2009	TRANSCRIPT OF PROCEEDINGS - ARRAIGNMENT
11/16/2009	TRANSCRIPT OF PROCEEDINGS - IN CAMERA HEARING
11/18/2009	Legacy Images
11/18/2009	Legacy Images
01/05/2010	NOTICE OF WITNESSES

Run: 12/02/2021
15:01:09

Case Summary

Page 2

01/06/2010 Legacy Images
02/18/2010 STIPULATION & ORDER TO CONTINUE
02/19/2010 Legacy Images
04/08/2010 NOTICE OF EXPERT WITNESSES &/OR OTHER PERSON
04/08/2010 Legacy Images
05/13/2010 MOTION FOR RELEASE WITHOUT BAIL OR IN THE ALTERNATIVE A RED
05/14/2010 Legacy Images
05/19/2010 Legacy Images
05/20/2010 TRANSCRIPT OF PROCEEDINGS - PRE-TRIAL CONFERENCE
05/21/2010 Legacy Images
05/24/2010 REQUEST FOR SUBMISSION
05/24/2010 EX-PARTE MOTION FOR AN ORDER FOR APPROVAL OF PYMT OF ATTY FE
05/24/2010 ORDER OF APPROVAL OF PAYMENT OF ATTORNEY'S FEES AND COSTS (P
05/25/2010 Legacy Images
05/25/2010 Legacy Images
05/25/2010 Legacy Images
06/01/2010 ORDER REDUCING BAIL
06/02/2010 Legacy Images
06/21/2010 MINUTES - STATUS HEARING - 06/21/10
06/22/2010 Legacy Images
06/25/2010 AMENDED NOTICE OF EXPERT WITNESSES &/OR OTHER PERSON
06/25/2010 TRANSCRIPT OF PROCEEDINGS - STATUS HEARING
06/25/2010 Legacy Images
07/02/2010 EX-PARTE MOTION FOR TRANSFERRING FIREARM FOR INDEPENDENT EXP
07/02/2010 EX-PARTE MOTION FOR INDEPENDENT FIREARM EXPERT FEES FILED UN
07/06/2010 Legacy Images
07/06/2010 Legacy Images
07/08/2010 STATE'S MOTION IN LIMINE TO ADMIT ADMISSIONS & CONFESSION OF
07/09/2010 Legacy Images
07/16/2010 NOTICE OF PROSPECTIVE WITNESSES PURSUANT TO NRS 174.234
07/19/2010 Legacy Images
07/23/2010 MOTION FOR DISCOVERY
07/23/2010 Legacy Images
07/27/2010 EX PARTE MOTION FOR AN ORDER FOR APPROVAL OF PAYMENT OF ATTO
07/29/2010 ORDER OF APPROVAL OF PYMT OF ATTY FEES & COSTS
07/30/2010 Legacy Images
07/30/2010 Legacy Images
08/13/2010 STATE'S MOTION IN LIMINE TO ADMIT STATEMENTS OF THE VICTIM
08/16/2010 MINUTES - PRE-TRIAL CONFERENCE - 08/16/10
08/16/2010 Legacy Images
08/18/2010 Legacy Images
08/23/2010 TRANSCRIPT OF PROCEEDINGS - PRETRIAL CONFERENCE
08/23/2010 Legacy Images
08/25/2010 SECOND AMENDED NOTICE OF EXPERT WITNESSES &/OR OTHER PERSON
08/26/2010 Legacy Images
08/27/2010 MOTION IN LIMINE RE: ALLEGED OTHER BAD ACTS NRS 48.045

08/30/2010 Legacy Images
09/02/2010 AMENDED NOTICE OF WITNESSES
09/03/2010 Legacy Images
09/08/2010 MOTION IN LIMINE TO REFER TO THE DEFENDANT BY HIS CHRISTIAN
09/08/2010 STATE'S ADDITION TO MOTION IN LIMINE TO ADMIT STATEMENTS OF
09/08/2010 DEF. RESPONSES/SUPPRESSION TO THE STATE'S MOTION TO ADMIT DE
09/08/2010 Legacy Images
09/08/2010 Legacy Images
09/08/2010 Legacy Images
09/09/2010 MINUTES - MOTIONS HEARING - 09/09/10
09/13/2010 Legacy Images
09/15/2010 EX PARTE MOTION FOR ADDITIONAL INVESTIGATIVE FEES FILED UNDE
09/15/2010 TRANSCRIPT OF PROCEEDINGS - JURY TRIAL - VOLUME I
09/15/2010 EX-PARTE MOTION FOR EXPERT WITNESS FEES DURING TRIAL
09/15/2010 EX-PARTE MOTION FOR AN ORDER FOR APPROVAL OF PAYMENT OF ATTO
09/15/2010 STATE'S MOTION TO ADMIT CHARACTER TESTIMONY UNDER NRS 48.045
09/16/2010 TRANSCRIPT OF PROCEEDINGS - JURY TRIAL - VOLUME II
09/17/2010 EXPARTE ORDER AUTHORIZING EXPERT WITNESS FEES DURING TRIAL
09/17/2010 SUBPOENA DUCES TECUM - WASHOE DIST. HEALT DEPT.
09/17/2010 ORDER OF APPROVAL OF PAYMENT OF ATTY FEES & COSTS (PHASE 3)
09/17/2010 TRANSCRIPT OF PROCEEDINGS - JURY TRIAL - VOLUME III
09/17/2010 EXPARTE ORDER AUTHORIZING ADDITIONAL INVESTIGATIVE FEES
09/20/2010 TRANSCRIPT OF PROCEEDINGS - JURY TRIAL - VOLUME IV
09/20/2010 Legacy Images
09/20/2010 Legacy Images
09/20/2010 Legacy Images
09/20/2010 Legacy Images
09/21/2010 TRANSCRIPT OF PROCEEDINGS - JURY TRIAL - OPENING STATEMENTS
09/21/2010 TRANSCRIPT OF PROCEEDINGS - JURY TRIAL - VOLUME V
09/22/2010 INSTRUCTIONS TO THE JURY
09/22/2010 VERDICT -(COUNT II - GUILTY)
09/22/2010 VERDICT -(COUNT I - GUILTY 2ND DEGREE)
09/23/2010 Legacy Images
09/27/2010 EXPARTE MOTION FOR AN ORDER FOR APPROVAL OF PAYMENT OF ATTY
09/30/2010 Legacy Images
11/29/2010 ORDER OF APPROVAL OF PAYMENT OF ATTORNEY'S FEES AND COSTS
11/30/2010 Legacy Images
11/30/2010 Legacy Images
12/09/2010 PRESENTENCE INVESTIGATION REPORT (CONFIDENTIAL)
12/17/2010 SENTENCING MEMORANDUM
12/20/2010 TRANSCRIPT OF PROCEEDINGS - SENTENCING CONTINUANCE HEARING
12/20/2010 Legacy Images

12/23/2010 Legacy Images
01/14/2011 LETTER TO SUPREME COURT RE: APPEAL
01/14/2011 MINUTES - SENTENCING PROCEEDING - 01/14/11
01/18/2011 Legacy Images
01/19/2011 ORDER OF APPROVAL
01/19/2011 EX-PARTE MOTION FOR AN ORDER FOR APPROVAL OF PAYMENT OF ATTO
01/19/2011 Legacy Images
01/20/2011 JUDGMENT OF CONVICTION
01/20/2011 TRANSCRIPT OF PROCEEDINGS - SENTENCING HEARING
01/20/2011 Legacy Images
01/20/2011 Legacy Images
01/21/2011 Legacy Images
01/21/2011 Legacy Images
01/27/2011 NEVADA SHERIFF'S RETURN (TRANSPORT TO NDOC)
01/28/2011 Legacy Images
11/28/2011 MOTION TO WITHDRAW COUNSEL (MOLEZZO, RICHARD)
11/28/2011 NOTICE OF MOTION
11/29/2011 Legacy Images
11/29/2011 Legacy Images
12/02/2011 ORDER (MOTION FOR WITHDRAWAL OF COUNSEL GRANTED)
12/05/2011 Legacy Images
12/15/2011 NOTICE OF MOTION & MOTION FOR TRANSCRIPT AT STATE EXPENSE
12/15/2011 Legacy Images
12/19/2011 ORDER TO TRANSMIT
12/20/2011 Legacy Images
12/29/2011 MOTION TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE
01/05/2012 NON-OPPOSITION TO DEFENDANT'S MOTION FOR TRANSCRIPTS AT STAT
01/13/2012 ORDER APPOINTING COUNSEL & ORDER TO RESPOND
04/06/2012 NOTICE OF INTENT TO APPEAL VERDICT
04/06/2012 CASE APPEAL STATEMENT
04/10/2012 RECEIPT FOR DOCUMENTS (SC #60624)
04/18/2012 ORDER DISMISSING APPEAL (SC #60624)
05/15/2012 CLERK'S CERTIFICATE (SC #60624)
05/15/2012 ORDER DISMISSING APPEAL (SC #60624)
05/15/2012 REMITTITUR (SC60624)
08/15/2012 ORDER FOR PRODUCTION OF INMATE
08/31/2012 HCSO P.C. AFFIDAVIT
09/10/2012 FIRST AMENDED ORDER FOR PRODUCTION OF INMATE (SEE CV18,803)
05/02/2013 ORDER TO TRANSPORT PRISONER
05/03/2013 NEVADA SHERIFF'S RETURN
05/03/2013 Legacy Images
05/06/2013 Legacy Images
03/30/2015 MOTION TO WITHDRAW AND FOR APPOINTMENT OF SUBSTITUTE COUNSEL
03/30/2015 ORDER ALLOWING WITHDRAWAL & APPOINTING SUBSTITUTE COUNSEL
03/31/2015 Legacy Images
04/01/2015 Legacy Images
09/20/2017 Legacy Images

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Case Summary

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07/03/2019 APPLICATION FOR PAYMENT OF ATTY FEES/COSTS (SMM)
07/19/2019 ORDER FOR PAYMENT OF EXCESS ATTORNEYS FEES/COSTS
07/22/2019 Legacy Images
07/22/2019 Legacy Images
07/22/2019 Legacy Images
04/15/2021 EMAIL SENT TO REGARDING SERVICE OF COURT DOCUMENT - CR0905709,
THE STATE OF NEVADA VS. MORTON, DAVID CRAIG WITH 1 ATTACHMENTS
FROM DOCKETS LEGIM-9/23/2010 JURY INSTRUCTIONS TO DDA GORDON
10/07/2021 JUDGE MONTERO, MICHAEL R.: ASSIGNED
12/02/2021 DEFENSE ATTORNEY: BUTKO, KARLA ASSIGNED
12/02/2021 PROSECUTOR: DISTRICT ATTORNEY ASSIGNED
12/02/2021 NOTICE OF APPEAL
12/02/2021 CASE APPEAL STATEMENT

HUMBOLDT COUNTY DISTRICT ATTORNEY
P.O. Box 909
Winnemucca, Nevada 89446

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Case No. CR09-5709

Dept. No. 1

FILED
2011 JAN 20 AM 10:57

TAMI RAE SPERO
DIST. COURT CLERK
T. Spero

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF HUMBOLDT.

-oOo-

THE STATE OF NEVADA,

Plaintiff,

vs.

JUDGMENT OF CONVICTION

DAVID CRAIG MORTON
DOB: 10/12/1959,

Defendant. _____/

WHEREAS, on the 2nd day of November, 2009, the Defendant entered his plea of not guilty to the charges of OPEN MURDER, WITH THE USE OF A DEADLY WEAPON, a Category A Felony, in violation of NRS 200.010, NRS 200.020, NRS 200.030, NRS 200.033 and NRS 193.165, and DISCHARGING A FIREARM FROM WITHIN OR FROM A STRUCTURE, a Category B Felony, in violation of NRS 202.287(b), and the matter having been tried before the Honorable Judge Richard A. Wagner.

At the time Defendant entered the plea of not guilty, this Court informed the Defendant of the privilege against compulsory self-incrimination, the right to a speedy trial, the right to a

1 trial by jury, the right to compulsory process to compel witnesses
2 to testify on behalf of the Defendant and the right to confront the
3 accusers. That after being so advised, the Defendant stated that
4 these rights were understood and still desired this Court to accept
5 the plea of not guilty.
6

7 The Court having accepted Defendant's plea of not guilty, set
8 the date of September 13-24, 2010, at the hour of 9:00 a.m. as the
9 date and time for jury trial. On the 22nd day of September, 2010,
10 Defendant was found guilty of Open Murder in the Second Degree With
11 the Use of a Deadly Weapon and Discharging a Firearm From Within or
12 From a Structure.
13

14 Furthermore, at the time Defendant entered the plea of not
15 guilty and at the time of sentencing, Defendant was represented by
16 attorney, RICHARD A. MOLEZZO, Esq.; also present in Court were TAMI
17 RAE SPERO, Humboldt County Court Clerk or her designated agent; ED
18 KILGORE, Sheriff of Humboldt County or his designated agent; DEBBIE
19 OKUMA, representing the Division of Parole and Probation; and BRIAN
20 WILLIAMS, Humboldt County Deputy District Attorney representing the
21 State of Nevada.
22

23
24 Defendant appeared on January 14, 2011 represented by counsel,
25 and Defendant having been given the opportunity to exercise the
26 right of allocution and having shown no legal cause why judgment
27 should not be pronounced at this time.
28

The above-entitled Court having accepted the jury's verdict of

1 guilty on September 22, 2010, of OPEN MURDER IN THE SECOND DEGREE
2 WITH THE USE OF A DEADLY WEAPON, a Category A Felony, in violation
3 of NRS 200.010, NRS 200.020, NRS 200.030, NRS 200.033, and NRS
4 193.165, and DISCHARGING A FIREARM FROM WITHIN OR FROM A STRUCTURE,
5 a Category B Felony, in violation of NRS 202.287(b), the Defendant
6 was thereby ordered by the Court to pay an administrative
7 assessment fee of \$25 to the Clerk of the above entitled Court. In
8 addition, the Defendant must, pursuant to NRS 176.0913, submit a
9 biological specimen under the direction of the Nevada Department of
10 Corrections to determine the Defendant's genetic markers. Further,
11 pursuant to NRS 716.0915, in addition to any other penalty the
12 Defendant must pay a \$150 DNA fee, payable to the Humboldt County
13 Clerk of the Court and may not be deducted from any other fines or
14 fees imposed by the Court.
15
16
17

18 After making a specific findings of fact pursuant to NRS
19 193.165, the Court sentenced the Defendant, DAVID CRAIG MORTON, as
20 follows:

21 Count I: Open Murder in the Second Degree with the Use of
22 a Deadly Weapon, a Category A Felony - imprisonment in the Nevada
23 Department of Corrections for a minimum term of one hundred twenty
24 (120) months and a maximum term of three hundred (300) months, with
25 eligibility for parole beginning when a minimum of 10 years has
26 been served, with credit for time of 526 days, in addition to time
27 served from January 14, 2011 until transfer to the Nevada
28

1 Department of Corrections;

2 Additional penalty: In addition to the foregoing term of
3 imprisonment, by imprisonment in the Nevada Department of
4 Corrections for a minimum term of ninety-six (96) months and a
5 maximum term of two hundred forty (240) months. Further, that the
6 sentence run consecutive to the sentence imposed in Count I; and
7

8 Count II: Discharging a Firearm From Within or From a
9 Structure - imprisonment in the Nevada Department of Corrections
10 for a minimum term of seventy-two (72) months and a maximum term of
11 one hundred eighty (180) months. Further, that the sentence in
12 Count II run concurrent to the sentences imposed in Count I and the
13 additional penalty.
14

15 Furthermore, bail, if any, is hereby exonerated.

16 RICHARD A. MOLEZZO, Esq., represented the Defendant
17 during all stages of the proceedings.
18

19 BRIAN WILLIAMS, Deputy District Attorney, represented the
20 State of Nevada during all stages of these proceedings.
21

22 DEBBIE OKUMA, represented the Division of Parole and
23 Probation during all stages of these proceedings.
24

25 Therefore, the clerk of the above-entitled Court is
26 hereby directed to enter this Judgment of Conviction as a part of
27 the record in the above-entitled matter.
28

Furthermore, pursuant to NRS 239B.030., the undersigned
hereby affirms this document does not contain the social security

HUMBOLDT COUNTY DISTRICT ATTORNEY

P.O. Box 909

Winnemucca, Nevada 89446

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number of any person.

DATED this 19th day of January, 2011, in the City of
Winnemucca, County of Humboldt, State of Nevada.


DISTRICT JUDGE

HUMBOLDT COUNTY DISTRICT ATTORNEY
P.O. Box 909
Winnemucca, Nevada 89446

CERTIFICATE OF SERVICE

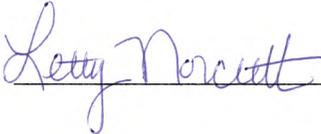
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Pursuant to NRCF 5(b), I certify that I am an employee of the Humboldt County District Attorney's Office, and that on the 20th day of January, 2011, I delivered at Winnemucca, Nevada, by the following means, a copy of the **JUDGMENT OF CONVICTION** to:

Richard A. Molezzo, Esq.
96 & 98 Winter Street
Reno, Nevada 89503

Division of Parole and Probation
3505 Construction Way
Winnemucca, Nevada 89445

- U.S. Mail
- Certified Mail
- Hand-delivered
- Placed in box at DCT
- Via Fax



IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF HUMBOLDT.

THE STATE OF NEVADA,

NO. CR 09-5709

Plaintiff,

Monday, November 2, 2009

vs.

1:15 p.m.

DAVID CRAIG MORTON,

Defendant.

_____/

PRESENT: Honorable Richard A. Wagner, District Judge presiding; Laura Lecumberry, Deputy Court Clerk; Zoie Williams, Court Reporter; Jeff Casalez, Bailiff.

ARRAIGNMENT PROCEEDINGS

Brian Williams, Deputy District Attorney, present on behalf of the State.

Bryan Waters, Adult Parole & Probation Officer, present on behalf of the Division of Parole & Probation.

Defendant (custody) present with counsel, Richard A. Molezzo.

Information No. CR 09-5709, charging the crime of Count I - Open Murder, With The Use Of A Deadly Weapon, a Category A Felony, in violation of NRS 200.010, NRS 200.020, NRS 200.030, NRS 200.033 and NRS 193.165 and Count II - Discharging A Firearm From Within Or From A Structure, a Category B Felony, in violation of NRS 202.287(b), has been filed against the Defendant. Defendant's true and correct name stated.

The Court interrogated the Defendant. A Preliminary Hearing had been held on October 20, 2009. Copies of the Information had been received and formal reading was waived. The Court stated the Defendant's Constitutional Rights.

The Defendant entered pleas of Not Guilty to both counts.

Molezzo stated that the Defendant will waive the right to speedy trial.

The Court set this matter to begin Jury Trial on June 9, 2010 at 9:00 a.m. to continue for eight days. A Pre-Trial Hearing is set for Monday, May 17, 2010 at 1:30 p.m. for one (1) hour.

Molezzo asked that the Defendant be moved to somewhere closer to Reno so that he could have easier access to the Defendant.

The Court directed Molezzo to write a letter when the time is closer for the Defendant to be moved.

The Court further stated that he would like to sit down with counsel to go over a few issues that he sees.

The Court met with counsel in chambers at 1:45 p.m. The Defendant was not present.

The Court stated that he has issues that after reading the Preliminary Transcript, he had concerns with.

Molezzo addressed the Court regarding the issue of the cause of death.

The Court responded.

Williams addressed the Court regarding discovery.

The Court stated further issues that he is concerned with.

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF HUMBOLDT.

THE STATE OF NEVADA,

NO. CR 09-5709

Plaintiff,

Monday, May 17, 2010

vs.

1:30 p.m.

DAVID CRAIG MORTON,

Defendant.

_____/
PRESENT: Honorable Richard A. Wagner, District Judge presiding; Laura Lecumberry, Deputy Court Clerk; Zoie Williams, Court Reporter; Jeff Casalez, Bailiff.

PRE-TRIAL CONFERENCE

Brian Williams, Deputy District Attorney, present on behalf of the State.

Bryan Waters, Adult Parole & Probation Officer, present on behalf of the Division of Parole & Probation.

Defendant (custody) present with counsel, Richard Molezzo.

The record reflected that this matter is set to begin Jury Trial on June 14, 2010. On May 13, 2010, a Motion For Release Without Bail Or In The Alternative, A Reduction To A Less Excessive Bail Amount, has been filed by the Defense.

Williams addressed the Court. State's exhibit "1", Letter from the Washoe Crime Lab, offered and admitted. Exhibit "2", Memorandum, offered.

The Court made the suggestion of finding another crime lab.

Molezzo addressed the Court.

Williams addressed the Court.

Molezzo stated that it is vital that he have the weapon. He would like the trial continued to September.

Williams agreed that a continuance is necessary.

The Court examined the Defendant.

The Defendant concurred with Molezzo.

The Court ordered that the trial date of June 14, 2010 be vacated and set the matter for Jury Trial to begin on September 13, 2010 at 9:00 a.m. A Status hearing is set for July 19, 2010 at 2:00 p.m.

Williams stated that counsel had agreed that he would do oral argument to the Motion.

Scott Randall Upshaw, duly sworn, testified under the direct examination of Molezzo. Cross examination by Williams followed by re-direct.

Williams asked the Court to take Judicial Notice of the Preliminary Transcript.

Molezzo concurred.

The Court took Judicial Notice.

Argument by Molezzo.

The Court addressed Molezzo.

Molezzo responded.

Argument by Williams.

The Court addressed Williams.

Williams continued.

Final by Molezzo.

The Court ordered that bail be set at \$400,000.00. The Court has considered the factors.

Molezzo addressed the Court.

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF HUMBOLDT.

THE STATE OF NEVADA,

NO. CR 09-5709

Plaintiff,

Monday, June 21, 2010

vs.

2:06 p.m.

DAVID CRAIG MORTON,

Defendant.

_____/
PRESENT: Honorable Richard A. Wagner, District Judge presiding; Laura Lecumberry, Deputy Court Clerk; Zoie Williams, Court Reporter; Dan Shea, Bailiff.

STATUS HEARING

Russell Smith, District Attorney, present on behalf of the State of Nevada.

Mary Close, Adult Parole & Probation Officer, present on behalf of the Division of Parole & Probation.

Defendant not present, represented by Richard Molezzo.

The record reflected that this matter is set to begin Jury Trial on September 13, 2010 and continue for two (2) weeks.

Smith addressed the Court. Smith stated that the rifle is ready to be transferred to the Defense's expert.

Counsel and the Court discussed the chain of custody.

The Court stated that he has been doing research on some of the issues.

Molezzo addressed the Court.

The Court ordered that he will allow not more than \$3,000.00 for the Defense's expert. The Court further addressed the matter of the Defense's Investigative expert and his fees. The Court will order not more than \$10,000.00.

The Court further stated that the experts must be disclosed to each other.

Smith addressed the Court.

Molezzo addressed the Court regarding Motions.

The Court set this matter for a Pre-Trial Conference on August 16, 2010 at 2:00 p.m. for ½ hour.

The Court further vacated the status hearing on July 19, 2010.

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF HUMBOLDT.

THE STATE OF NEVADA,

NO. CR 09-5709

Plaintiff,

Monday, August 16, 2010

vs.

2:24 p.m.

DAVID CRAIG MORTON,

Defendant.

_____/
PRESENT: Honorable Richard A. Wagner, District Judge presiding; Laura Lecumberry, Deputy Court Clerk; Zoie Williams, Court Reporter; Dave Milton, Bailiff.

PRE-TRIAL CONFERENCE

Russell Smith, District Attorney, present on behalf of the State of Nevada.

Debbie Okuma, DPS Specialist III, present on behalf of the Division of Parole and Probation.

Defendant (custody) present with counsel, Richard Molezzo.

The record reflected that this matter is set to begin Jury Trial on September 13, 2010.

Molezzo addressed the Court.

The Court set this matter for a Motions Hearing on September 9, 2010 at 1:30 p.m. for ½ day.

The Court directed the Clerk to serve ninety (90) potential jurors from #5.

Smith addressed the Court.

The Court asked about discovery.

Molezzo responded and stated that discovery has been exchanged.

The Court asked about expert witnesses.

Smith stated that he has noticed his.

Molezzo doesn't know yet.

The Court asked for proposed instruction on the first day of trial.

The Court addressed the Defendant.

The Defendant responded.

The Court Reporter will furnish dailies and furnish real time for counsel.

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF HUMBOLDT.

THE STATE OF NEVADA,

NO. CR 09-5709

Plaintiff,

Thursday, September 9, 2010

vs.

1:30 a.m.

DAVID CRAIG MORTON,

Defendant.

_____/
PRESENT: Honorable Richard A. Wagner, District Judge presiding; Laura Lecumberry, Deputy Court Clerk; Zoie Williams, Court Reporter; Curtis Kull, Bailiff.

MOTIONS HEARING

Russell Smith, District Attorney and Brian Williams, Deputy District Attorney, present on behalf of the State.

Defendant (custody) present with counsel, Richard Molezzo.

The record reflected that this matter is set to begin Jury Trial on September 13, 2010 at 9:00 a.m. The Court went over the scheduling for the trial.

The record further reflected that discovery has been completed.

Williams addressed the Court.

Molezzo will not stipulate to anything at this time.

Williams addressed the Court.

Molezzo addressed the Court.

The Court will not direct the Sheriff's Deputies to dress in plain clothes.

Molezzo moved for the rule of exclusion.

The Court so ordered.

State's Motion In Limine To Admit Admissions And Confession Of Defendant And Request For Evidentiary Hearing, filed July 8, 2010.

David Garrison, duly sworn, testified under the direct examination of Williams. State's exhibit "1", Miranda Warning and Waiver, offered and admitted. Cross examination by Molezzo.

The Court addressed counsel. Voluntary statements are not necessarily considered hearsay.

Argument by Williams.

Argument by Molezzo.

The Court ordered that the first statements out of the Defendants mouth can be used. After Miranda is given.

The Court granted the Motion In Limine and will allow the statements of the Defendant. Counsel is not to mention the statement where the Defendant refused to be photographed.

State's Motion In Limine To Admit Statements Of The Victim Made To Detective Garrison and Robert Morton, filed August 13, 2010 and State's Addition To Motion In Limine To Admit Statements Of The Victim Made To Officer Jeff Murdock, filed September 8, 2010.

The Court addressed Counsel.

Williams moved to withdraw the portion of the Motion as to the statement made to Detective Garrison.

Molezzo addressed the Court and stated that he is not objecteing to statments being brought in through Garrison.

The Court asked for an offer of proof as to statements made to Officer Murdock and Robert Morton.

Williams made an offer of proof.

Argument by Molezzo.

The Court will allow the one statement, "My husband shot me".

Williams asked about Robert.

The Court will allow Roberts testimony.

Defendant's Motion In Limine Re: Alleged Other Bad Acts, NRS 48.045, filed August 17, 2010.

Argument by Molezzo. He does not feel that this needs to be argued at this time.

The Court explained the purpose of a Petrocelli hearing.

Response by Williams.

The Court will not rule on that at this time, just cautioned counsel.

Defendant's Motion In Limine To Refer To The Defendant By His Christian Name, filed September 8, 2010.

Argument by Molezzo.

The Court will not instruct anyone to do so.

The Court directed Williams to prepare the orders from today's hearing.

The Court and counsel went over the needs of counsel for the trial.

The Court further addressed counsel as to the Jury Instructions.

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF HUMBOLDT.

THE STATE OF NEVADA,

NO. CR 09-5709

Plaintiff,

Monday, September 13, 2010

vs.

DAVID C. MORTON,

Defendant.

_____/
PRESENT: Honorable Richard A. Wagner, District Judge presiding; Laura Lecumberry, Deputy Court Clerk; Zoie Williams and Denise Phipps, Court Reporters; Jeff Casalez, Bailiff.

JURY TRIAL

Brian Williams, Deputy District Attorney and Russell Smith, District Attorney, present on behalf of the State.

Defendant (custody) present with counsel, Richard Molezzo and Del Hardy.

Court convened on Monday, September 13, 2010 at 9:15 a.m. in the presence of the prospective jurors. The Court stated that this was the time set for the trial of David C. Morton in the matter of the State of Nevada versus David C. Morton, Case No. CR 09-5709.

Counsel stipulated the Court could proceed in the absence of the four (4) prospective jurors that were served but failed to appear.

Williams stated that nature of the case and introduced himself and his staff.

Molezzo introduced himself and the Defendant.

The prospective jurors were duly sworn to answer all questions put to them touching upon their qualifications to serve as trial jurors.

Jury selection commenced. After voir dire examination and counsel exercising their peremptory challenges, the following persons were seated on the Jury: Patricia Jackson, William Pellersels, Jerald Marcuerquiaga, Nancy Blattman, Marcia Key, Jason Van der Veen, Gregory Lynch, Kimberley Arms, Kirk Allred, Valarie Phillips, Stephanie Dins, Stephen Hall and Alternates, Peter Gula and Tina Shephard.

The Jury and Alternates were duly sworn by the Clerk to try this case.

Outside of the presence Jury.

The Court went on the record regarding the conversation that counsel and the court had with prospective juror, Jerald Marcuerquiaga during voir dire.

Molezzo went on the record regarding his expert.

Williams addressed the Court.

Tuesday, September 14, 2010

Court reconvened on Tuesday, September 14, 2010 at 1:58 p.m. in the presence of the Jury.

The Clerk read aloud the Felony Information charging the crime of Count I - Open Murder, With The Use Of A Deadly Weapon, a Category A Felony, in violation of NRS 200.010, 200.020, NRS 200.030, NRS 200.033 and NRS 193.165 and Count II - Discharging A Firearm From Within Or From A Structure, a Category B Felony, in violation of NRS 202.287(b), aloud and stated that the Defendant had entered a plea of not guilty.

Williams commenced opening statement at 2:02 p.m. and concluded at 2:16 p.m.

Molezzo commenced opening statement at 2:16 p.m. and concluded at 2:31 p.m.

Smith invoked the rule of exclusion.

Molezzo joined in the motion.

The Court so ordered.

Robert James Morton, duly sworn, testified under the direct examination of Smith. State's exhibit "1", Death Certificate, offered and admitted. Exhibit "2", Diagram of Basement, marked by the witness, offered and admitted. Exhibit "3", Diagram of 1st floor, marked by the witness, offered and admitted. Exhibit "4", CD of 911 call, offered and admitted. Exhibit "5", Diagram of 1st floor, marked by the witness, offered and admitted. Cross examination by Molezzo. Defendant's exhibit "A", Diagram of 1st floor, offered and admitted. Exhibit "B", Statement of Robert Morton, offered and admitted.

Wednesday, September 15, 2010

Outside the presence of the Jury.

Court reconvened on Wednesday, September 15, 2010 at 9:11 a.m. outside the presence of the Jury.

The record reflected that the State had filed a Motion To Admit Character Testimony.

Argument by Williams.

Response by Molezzo.

Response by Williams.

The Court stated that the State has a right to ask, "Have you seen anything personally between your mother and father?"

Williams asked for clarification.

The Court will not rule at this time.

In the presence of the Jury.

Court reconvened at 9:25 a.m. in the presence of the Jury.

Robert James Morton, previously sworn, continued testimony under the re-direct examination of Smith followed by re-cross by Molezzo.

Anastasia Merie Barsness, duly sworn, testified under the direct examination of Williams. State's exhibit "10", Diagram of basement, marked by witness, offered and admitted. Cross examination by Molezzo. Defendant's exhibit "C", Statement of Anastasia Barsness, offered and admitted. Re-direct examination by Williams followed by re-cross by Molezzo.

Jessica Morton, duly sworn, testified under the direct examination of Smith. Cross examination by Molezzo followed by re-direct by Smith. State's exhibit "7", Diagram of Basement, marked by the witness, offered and admitted. Exhibit "13", Statement of Jessica Morton, offered and admitted. Jury Questions were asked by the Court.

Jeff Murdock, duly sworn, testified under the direct examination of Williams.

Outside the presence of the Jury.

Williams addressed the Court regarding the photographs.

Molezzo stated that he did not object to exhibits "8-1" and "8-2".

The Court admitted "8-1" and "8-2".

Molezzo objected to exhibits "9-1" through "9-6".

The Court finds that the Jury has a right to see.

Molezzo asked that the photos be shown in black and white.

The Court will not order that and admitted photos "9-3" and "9-5".

In the presence of the Jury.

Continued direct examination of Murdock by Williams. Exhibit "14", Diagram of 1st floor, marked by the witness, offered and admitted. Cross examination by Molezzo followed by re-direct by Williams and re-cross by Molezzo.

David Garrison, duly sworn, testified under the direct examination of Williams. State's exhibits "9-3" and "9-5", offered and admitted. Exhibit "17", Piece of Formica, offered and admitted. Exhibit "15", Miranda Warning and Waiver, offered and admitted. Exhibit "12-1" through "12-234", Photographs, offered and admitted. Exhibit "11-1" through "11-28", Photographs, offered and admitted. Exhibit "6", Rifle, bolt and clip, offered and admitted. Exhibit "20", Six swabs with red stains and 1 control swab, offered. Exhibit "26", White box containing two bags, marked for identification. Exhibit "26-1", Green Pajama Top, offered and admitted. Exhibit "23", Torn Divorce Papers, offered and admitted. Exhibit "22", Shell Casing and Swab, offered and admitted. Exhibit "24", .303 Rounds, offered and admitted. Cross examination by Molezzo.

Outside of the presence of the Jury.

The Court sua sponte stopped question and went over the law with counsel.

Thursday, September 16, 2010

In the presence of the Jury.

Court reconvened on Thursday, September 16, 2010 at 9:03 a.m. in the presence of the Jury.

Counsel agreed to take the witness out of order.

Dr. Ellen Clark, duly sworn, testified under the direct examination of Smith. Smith moved to have the witness recognized as an expert in forensic pathology. Hardy did not object. The Court so acknowledged. Continued direct examination by Smith. State's exhibit "27", Report of Dr. Ellen Clark, offered and admitted. Cross examination by Hardy followed by re-direct by Smith.

Continued cross examination of David Garrison by Molezzo. Defendant exhibit "D", Prescription bottles, marked and offered. Exhibit "E", Diagram of 1st floor, marked by witness, offered and admitted.

Outside of the presence of the Jury.

The Court addressed counsel and put on the record his concerns.

Molezzo responded.

Hardy addressed the Court regarding audience members.

The Court addressed the audience.

Hardy addressed the Court.

The Court responded.

Hardy stated his concerns.

The Court will correct with instructions to the Jury.

In the presence of the Jury.

The Court addressed the Jury and corrected his earlier statement.

Re-direct of David Garrison by Williams. Re-cross by Molezzo. The Court asked questions from the Jury.

Outside the presence of the Jury.

Smith addressed the Court regarding exhibit "12". In the marking of the photographs, the Clerk miss marked and instead of 234 there are 244.

The Court so ordered the exhibit be corrected.

Molezzo requested a limited instruction regarding Chad Morton.

Smith responded.

The Court finds the testimony relevant.

The Court addressed counsel regarding Jury Instructions.

In the presence of the Jury.

Chad Allen Morton, duly sworn, testified under the direct examination of Smith. Cross examination by Molezzo.

Outside the presence of the Jury.

Smith addressed the Court.

Molezzo addressed the Court and presented the Court with prospective jury instructions.

The Court addressed the matter of Instructions.

Friday, September 17, 2010

In the presence of the Jury.

Court reconvened on Friday, September 17, 2010, at 9:08 a.m. in the presence of the Jury.

Monica Siewertsen, duly sworn, testified under the direct examination of Williams. Williams moved to qualify the witness as a DNA expert. Molezzo did not object. The Court so recognized. Continued direct examination by Williams. State's exhibit "30", Report of Monica Siewertsen, offered and admitted. Exhibit "20", Six swabs of red stains and one control swab, offered. Voir dire by Molezzo. Argument by Williams. Continued direct examination. The Witness identified with a red marker the two (2) that were analyzed. Those two (2) are admitted. The Court directed the Clerk to place the others in a separate envelope. Exhibit "25", Swab from Robert J. Morton, offered and admitted. Exhibit "19", Swab from David Morton, offered and admitted. Cross examination by Molezzo.

Outside the presence of the Jury.

Williams asked for permission to call Jesse Phillips, the father of the victim.

The Court will not allow withing their case-in-chief as Mr. Phillips has been sitting in the courtroom for the entire trial.

Molezzo objected.

Argument by Williams.

The Court will not allow at this time.

In the presence of the Jury.

Kevin Byrne, duly sworn, testified under the direct examination of Williams. Molezzo stipulated to the witness being a fingerprint expert. The Court so recognized. Continued direct examination. State's exhibit "29", Report of Kevin J. Byrne, offered and admitted. Exhibit "28", Fingerprint Cards (6), offered and admitted. Cross examination by Molezzo followed by re-direct by Williams and re-cross by Molezzo.

Kerri Heward, duly sworn, testified under the direct examination of Smith. Smith moved to qualify the witness as an expert in firearms. Voir dire by Molezzo. The Court so recognized. Continued direct examination by Smith. State's exhibit "31", Report of Kerri Heward, offered and admitted. Cross examination by Molezzo. Defendant's exhibit "F", Letter from Kerri Heward to the District Attorney, offered admitted.

State rested their case-in-chief.

Outside the presence of the Jury.

Molezzo requested that the matter of the Jury Instructions be put on the record.

The Court has received Instructions from both the State and Defense. The Court has also prepared some Instruction and went over them with counsel.

Molezzo addressed the Court.

Smith addressed the Court.

Molezzo asked that that all be laid out.

Smith responded.

The Court stated that evidence needs to be put on to get the possible verdicts.

The Court stated that there is another Instruction he is working on with the elements and possible verdicts.

Further, the Court stated that the Defense proposed Instructions are pretty much included in the Instructions already with the court.

Molezzo addressed the Court regarding Involuntary Manslaughter.

The Court asked about self-defense or spousal abuse.

Molezzo responded.

Smith addressed the Court.

Molezzo addressed the Court.

The Court addressed counsel as to the possible verdicts.

Williams responded.

Smith addressed the Court.

Monday, September 20, 2010

In the presence of the Jury.

Phillip Simpson, duly sworn, testified under the direct examination of Molezzo. Cross examination by Smith.

Scott Randall Upshaw, duly sworn, testified under the direct examination of Molezzo. Cross examination by Smith.

Outside the presence of the Jury.

The Court noted that he had spoke with counsel in chambers on how they intended to proceed. Molezzo had stated that this client intends to testify.

The Court addressed the Defendant as to his Constitutional Rights.

The Defendant stated that he understands.

In the presence of the Jury.

David Craig Morton, duly sworn, testified under the direct examination of Molezzo. Cross examination by Williams.

Robert Venkus, duly sworn, testified under the direct examination of Molezzo. Molezzo moved to qualify the witness as an expert in firearms. Voir dire by Smith. Smith objected to the witness being qualified. The Court directed Molezzo to go into more depth. Examination by the Court. Continued examination by Molezzo. Smith still objected. The Court will allow the witness to give opinion testimony. Continued direct examination by Molezzo. Defendant's exhibit "G-1" through "G-23", Photographs, offered and admitted. Cross examination by Smith. State's exhibit "32", Letter from Molezzo to the witness, marked for identification. Exhibit "33", Report of Robert Venkus, marked for identification. Re-direct examination by Molezzo. Smith offered State's exhibits "32" and "33". Exhibit "33" admitted. Questions of the Jury asked by the Court.

David Craig Morton, previously sworn, testified under the direct examination of Molezzo. Defendant's exhibit "H", Diagram of first floor, offered. Exhibit "I", marked by the witness, offered and admitted. Cross examination by Williams.

Defense rested their case.

Smith stated that they have no rebuttal evidence.

Outside of the presence of the Jury.

The Court met outside the presence of the Jury to put on the record the discussion the Court and counsel had at a side bar.

Smith placed his objection as to the Defense witness Venkus on the record.

The Court allowed the Defendant expert to testify.

Tuesday, September 21, 2010

Outside the presence of the Jury.

The Court reconvened on Tuesday, September 21, 2010 at 10:00 a.m. outside the presence of the Jury for the purpose of settling Jury Instructions.

The Court offered Jury Instructions 1 through 45.

Smith did not object to the Jury Instructions and had none to offer. He further approved the Verdict forms.

Molezzo did not object to the Jury Instructions and had none to offer. He further approved the Verdict forms.

Smith asked that the Court instruct the Jury before closing arguments.

Molezzo submitted.

The Court will instruct the Jury before closings.

Counsel both stated that they are satisfied to the conditions of the Instructions and Verdicts.

In the presence of the Jury.

Court reconvened at 10:20 a.m. in the presence of the Jury.

The Court commenced the reading of the Jury Instructions at 10:20 a.m. and concluded at 11:07 a.m.

Smith commenced closing argument at 11:28 a.m. and concluded at 12:16 p.m.

Molezzo commenced closing argument at 12:30 p.m. and concluded at 1:11 p.m.

Smith commenced final argument at 1:12 p.m. and concluded at 1:30 p.m.

The Bailiff was duly sworn to take charge of the Jury and the Alternates.

The Jury retired to deliberate at 1:39 p.m. on Tuesday, September 21, 2010.

The Jury returned with a verdict at 6:38 p.m. The Clerk called roll and all of the jurors were present. The Foreperson of the Jury stated that they had reached a Verdict and the Verdict was presented to the Court to check for form. The Court ordered the Clerk to read the Verdicts aloud.

The Clerk read the Verdicts and the Court inquired of the Jury if that was their true and correct verdict as read. The Jury replied that that was their Verdict. Neither the State or the Defendant asked that the Jury be polled. The Court ordered the Clerk to record the Verdicts in the Court Minutes, the Verdicts being:

“We, the jury in the above-entitled action, do find the Defendant, David Craig Morton, Guilty in Count I of Open Murder In The Second Degree With the Use of a Deadly Weapon.

“Dated this 21st day of September, 2010.

“/s/ Jerald Marcuerquiaga
“FOREPERSON”

“We, the jury in the above-entitled action, do find the Defendant, David Craig Morton, Guilty in Count II of Discharging A Firearm From Within Or From A Structure.

“Dated this 21st day of September, 2010.

“/s/ Jerald Marcuerquiaga
“FOREPERSON”

The Court thanked and excused the Jury.

The Court referred the matter to the Division of Parole & Probation for the preparation of a Pre-Sentence Investigation Report and set this matter for sentencing on December 17, 2010 at 1:30 p.m.

Defendant is remanded to the custody of the Sheriff.

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF HUMBOLDT.

THE STATE OF NEVADA,

NO. CR 09-5709

Plaintiff,

Friday, January 14, 2011

vs.

1:30 p.m.

DAVID CRAIG MORTON,

Defendant.

_____/
PRESENT: Honorable Richard A. Wagner, District Judge presiding; Laura Lecumberry, Deputy Court Clerk; Zoie Williams, Court Reporter; Randy Close, Bailiff.

SENTENCING PROCEEDINGS

Brian Williams, Deputy District Attorney, present on behalf of the State.

Debbie Okuma, DPS Specialist III, present on behalf of the Division of Parole and Probation.

Defendant (custody) present with counsel, Richard Molezzo.

The Court addressed the Defendant.

The Defendant stated that he is still satisfied with his counsel.

The Defendant was previously found guilty by a jury to the charge of Count I - Open Murder In The Second Degree With The Use Of A Deadly Weapon; and Count II - Discharging A Firearm From Within Or From A Structure. Copies of the Pre-Sentence Report had been received.

Williams addressed the Court and stated that he had two exhibits that would assist the Pre-Sentence Report. State's exhibit "1", Additional Information, offered and admitted. Exhibit "6", Utah case information, offered and admitted.

State's exhibits "2", "3", and "4", Utah Police Reports, and exhibit "5", Winnemucca Police Department Report, offered and admitted.

Molezzo addressed the Court regarding procedure.

The Court will take judicial notice of the previous pleadings and transcripts in this matter.

Williams addressed the Court regarding the Defenses evidence.

The Court addressed Molezzo.

Molezzo responded.

The Court will consider the letters as evidence.

Corrections to the Pre-Sentence Report offered by Williams.

Molezzo did not object.

The Court made the corrections.

Argument as to sentencing by Molezzo.

Beverly Upshaw, duly sworn, gave a statement to the Court.

Continued argument by Molezzo.

Williams concurred with the recommendations of the Pre-Sentence Report.

The Court addressed the matter of the additional penalty.

Continued argument by Williams.

The Defendant exercised the right of allocution.

Jesse Phillips, gave a victim impact statement.

The Court stated the facts as he sees them. The human life is valuable.

The Court ordered the Defendant to pay a \$25.00 Administrative Assessment fee.

On Count I, the Court ordered the Defendant be imprisoned in the Nevada Department of Corrections for a period of twenty-five (25) years with eligibility for parole after ten (10) years. For the additional penalty, the Court has considered the factors and ordered the Defendant serve a consecutive sentence of a minimum of ninety-six (96) months in the Nevada Department of Corrections with a maximum of two-hundred forty (240) months.

On Count II, the Court ordered the Defendant serve a concurrent term of a minimum term of seventy-two (72) months with a maximum of one-hundred eighty (180) months to Count I.

The Defendant is given credit for time served of five-hundred twenty-six (526) days to be credited on the first part of the sentence.

The Defendant is further ordered to submit to genetic testing to determine the Defendant's

genetic markers and to pay a \$150.00 DNA fee, payable to the Clerk of Court.

The Defendant was remanded to the custody of the Sheriff to carry out the sentence.

The State of Nevada,

vs. David Craig Morton

PLAINTIFF'S/PETITIONER'S EXHIBITS: CASE NO.

CR 09-5709

Date: 05/17/10

	I.D.	MARKED	OFFERED	ADMITTED
1 Letter from Washoe Crime Lab	1	05/17/10	05/17/10	05/17/10
2 Memorandum	2	05/17/10	05/17/10	
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The State of Nevada,

vs.

David Craig Morton

PLAINTIFF'S/PETITIONER'S EXHIBITS: CASE NO.

CR 09-5709

Date:

09/09/10

	I.D.	MARKED	OFFERED	ADMITTED
1 <u>Miranda Warning and Waiver</u>	<u>1</u>	<u>09/09/10</u>	<u>09/09/10</u>	<u>09/09/10</u>
2 _____	_____	_____	_____	_____
3 _____	_____	_____	_____	_____
4 _____	_____	_____	_____	_____
5 _____	_____	_____	_____	_____
6 _____	_____	_____	_____	_____
7 _____	_____	_____	_____	_____
8 _____	_____	_____	_____	_____
9 _____	_____	_____	_____	_____
10 _____	_____	_____	_____	_____
11 _____	_____	_____	_____	_____
12 _____	_____	_____	_____	_____
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14 _____	_____	_____	_____	_____
15 _____	_____	_____	_____	_____
16 _____	_____	_____	_____	_____
17 _____	_____	_____	_____	_____
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23 _____	_____	_____	_____	_____
24 _____	_____	_____	_____	_____
25 _____	_____	_____	_____	_____
26 _____	_____	_____	_____	_____

The State of Nevada,

vs. David C. Morton

PLAINTIFF'S/PETITIONER'S EXHIBITS: CASE NO.

CR 09-5709

Date: 09/13/10

	<u>I.D.</u>	<u>MARKED</u>	<u>OFFERED</u>	<u>ADMITTED</u>
1 <u>Death Certificate</u>	<u>1</u>	<u>09/14/10</u>	<u>09/14/10</u>	<u>09/14/10</u>
2 <u>Basement Diagram</u>	<u>2</u>	<u>09/14/10</u>	<u>09/14/10</u>	<u>09/14/10</u>
3 <u>Upstairs Diagram, marked by Robert Morton</u>	<u>3</u>	<u>09/14/10</u>	<u>09/14/10</u>	<u>09/14/10</u>
4 <u>CD of 911 Call</u>	<u>4</u>	<u>09/14/10</u>	<u>09/14/10</u>	<u>09/14/10</u>
5 <u>Upstairs Diagram, marked by Robert Morton</u>	<u>5</u>	<u>09/14/10</u>	<u>09/14/10</u>	<u>09/14/10</u>
6 <u>Rifle & boldt & clip</u>	<u>6</u>	<u>09/14/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
7 <u>Diagram of Basement</u>	<u>7</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
8 <u>Photograph</u>	<u>8-1</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
9 <u>Photograph</u>	<u>8-2</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
10 <u>Photograph</u>	<u>8-3</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
11 <u>Photograph</u>	<u>8-4</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
12 <u>Photograph</u>	<u>8-5</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
13 <u>Photograph</u>	<u>8-6</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
14 <u>Photograph</u>	<u>8-7</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
15 <u>Photograph</u>	<u>8-8</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
16 <u>Photograph</u>	<u>8-9</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
17 <u>Photograph</u>	<u>8-10</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
18 <u>Photograph</u>	<u>8-11</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
19 <u>Photograph</u>	<u>8-12</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
20 <u>Photograph</u>	<u>8-13</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
21 <u>Photograph</u>	<u>8-14</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
22 <u>Photograph</u>	<u>8-15</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
23 <u>Photograph</u>	<u>8-16</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
24 <u>Photograph</u>	<u>8-17</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
25 <u>Photograph</u>	<u>8-18</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
26 <u>Photograph</u>	<u>8-19</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>

PLAINTIFF'S/PETITIONER'S EXHIBITS: CASE NO.

CR 09-5709

Date: 09/13/10

	I.D.	MARKED	OFFERED	ADMITTED
1 Photograph	8-20	09/15/10	09/15/10	09/15/10
2 Photograph	8-21	09/15/10	09/15/10	09/15/10
3 Photograph	8-22	09/15/10	09/15/10	09/15/10
4 Photograph	8-23	09/15/10	09/15/10	09/15/10
5 Photograph	8-24	09/15/10	09/15/10	09/15/10
6 Photograph	8-25	09/15/10	09/15/10	09/15/10
7 Photograph	8-26	09/15/10	09/15/10	09/15/10
8 Photograph	8-27	09/15/10	09/15/10	09/15/10
9 Photograph	8-28	09/15/10	09/15/10	09/15/10
10 Photograph	8-29	09/15/10	09/15/10	09/15/10
11 Photograph	8-30	09/15/10	09/15/10	09/15/10
12 Photograph	8-31	09/15/10	09/15/10	09/15/10
13 Photograph	8-32	09/15/10	09/15/10	09/15/10
14 Photograph	8-33	09/15/10	09/15/10	09/15/10
15 Photograph	8-34	09/15/10	09/15/10	09/15/10
16 Photograph	8-35	09/15/10	09/15/10	09/15/10
17 Photograph	8-36	09/15/10	09/15/10	09/15/10
18 Photograph	8-37	09/15/10	09/15/10	09/15/10
19 Photograph	8-38	09/15/10	09/15/10	09/15/10
20 Photograph	8-39	09/15/10	09/15/10	09/15/10
21 Photograph	8-40	09/15/10	09/15/10	09/15/10
22 Photograph	8-41	09/15/10	09/15/10	09/15/10
23 Photograph	8-42	09/15/10	09/15/10	09/15/10
24 Photograph	8-43	09/15/10	09/15/10	09/15/10
25 Photograph	8-42	09/15/10	09/15/10	09/15/10
26 Photograph	8-43	09/15/10	09/15/10	09/15/10

PLAINTIFF'S/PETITIONER'S EXHIBITS: CASE NO.

CR 09-5709Date: 09/13/10

	<u>I.D.</u>	<u>MARKED</u>	<u>OFFERED</u>	<u>ADMITTED</u>
1 <u>Photograph</u>	<u>8-44</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
2 <u>Photograph</u>	<u>8-45</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
3 <u>Photograph</u>	<u>8-46</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
4 <u>Photograph</u>	<u>8-47</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
5 <u>Photograph</u>	<u>8-48</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
6 <u>Photograph</u>	<u>8-49</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
7 <u>Photograph</u>	<u>8-50</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
8 <u>Photograph</u>	<u>8-51</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
9 <u>Photograph</u>	<u>8-52</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
10 <u>Photograph</u>	<u>8-53</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
11 <u>Photograph</u>	<u>8-54</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
12 <u>Photograph</u>	<u>8-55</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
13 <u>Photograph</u>	<u>8-56</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
14 <u>Photograph</u>	<u>8-57</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
15 <u>Photograph</u>	<u>9-1</u>	<u>09/15/10</u>	<u> </u>	<u> </u>
16 <u>Photograph</u>	<u>9-2</u>	<u>09/15/10</u>	<u> </u>	<u> </u>
17 <u>Photograph</u>	<u>9-3</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
18 <u>Photograph</u>	<u>9-4</u>	<u>09/15/10</u>	<u> </u>	<u> </u>
19 <u>Photograph</u>	<u>9-5</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
20 <u>Photograph</u>	<u>9-6</u>	<u>09/15/10</u>	<u> </u>	<u> </u>
21 <u>Basement Diagram - Anastaisa Barsness</u>	<u>10</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
22 <u>Photograph</u>	<u>11-1</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
23 <u>Photograph</u>	<u>11-2</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
24 <u>Photograph</u>	<u>11-3</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
25 <u>Photograph</u>	<u>11-4</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
26 <u>Photograph</u>	<u>11-5</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>

PLAINTIFF'S/PETITIONER'S EXHIBITS: CASE NO.

CR 09-5709

Date: 09/13/10

	<u>I.D.</u>	<u>MARKED</u>	<u>OFFERED</u>	<u>ADMITTED</u>
1 <u>Photograph</u>	<u>11-6</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
2 <u>Photograph</u>	<u>11-7</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
3 <u>Photograph</u>	<u>11-8</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
4 <u>Photograph</u>	<u>11-9</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
5 <u>Photograph</u>	<u>11-10</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
6 <u>Photograph</u>	<u>11-11</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
7 <u>Photograph</u>	<u>11-12</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
8 <u>Photograph</u>	<u>11-13</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
9 <u>Photograph</u>	<u>11-14</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
10 <u>Photograph</u>	<u>11-15</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
11 <u>Photograph</u>	<u>11-16</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
12 <u>Photograph</u>	<u>11-17</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
13 <u>Photograph</u>	<u>11-18</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
14 <u>Photograph</u>	<u>11-19</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
15 <u>Photograph</u>	<u>11-20</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
16 <u>Photograph</u>	<u>11-21</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
17 <u>Photograph</u>	<u>11-22</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
18 <u>Photograph</u>	<u>11-23</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
19 <u>Photograph</u>	<u>11-24</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
20 <u>Photograph</u>	<u>11-25</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
21 <u>Photograph</u>	<u>11-26</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
22 <u>Photograph</u>	<u>11-27</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
23 <u>Photograph</u>	<u>11-28</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
24 <u>Photograph</u>	<u>12-1</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
25 <u>Photograph</u>	<u>12-2</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
26 <u>Photograph</u>	<u>12-3</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>

PLAINTIFF'S/PETITIONER'S EXHIBITS: CASE NO.

CR 09-5709Date: 09/13/10

	<u>I.D.</u>	<u>MARKED</u>	<u>OFFERED</u>	<u>ADMITTED</u>
1 <u>Photograph</u>	<u>12-4</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
2 <u>Photograph</u>	<u>12-5</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
3 <u>Photograph</u>	<u>12-6</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
4 <u>Photograph</u>	<u>12-7</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
5 <u>Photograph</u>	<u>12-8</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
6 <u>Photograph</u>	<u>12-9</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
7 <u>Photograph</u>	<u>12-10</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
8 <u>Photograph</u>	<u>12-11</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
9 <u>Photograph</u>	<u>12-12</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
10 <u>Photograph</u>	<u>12-13</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
11 <u>Photograph</u>	<u>12-14</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
12 <u>Photograph</u>	<u>12-15</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
13 <u>Photograph</u>	<u>12-16</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
14 <u>Photograph</u>	<u>12-17</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
15 <u>Photograph</u>	<u>12-18</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
16 <u>Photograph</u>	<u>12-19</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
17 <u>Photograph</u>	<u>12-20</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
18 <u>Photograph</u>	<u>12-21</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
19 <u>Photograph</u>	<u>12-22</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
20 <u>Photograph</u>	<u>12-23</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
21 <u>Photograph</u>	<u>12-24</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
22 <u>Photograph</u>	<u>12-25</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
23 <u>Photograph</u>	<u>12-26</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
24 <u>Photograph</u>	<u>12-27</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
25 <u>Photograph</u>	<u>12-28</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
26 <u>Photograph</u>	<u>12-29</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>

PLAINTIFF'S/PETITIONER'S EXHIBITS: CASE NO.

CR 09-5709

Date: 09/13/10

	I.D.	MARKED	OFFERED	ADMITTED
1 <u>Photograph</u>	<u>12-30</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
2 <u>Photograph</u>	<u>12-31</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
3 <u>Photograph</u>	<u>12-32</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
4 <u>Photograph</u>	<u>12-33</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
5 <u>Photograph</u>	<u>12-34</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
6 <u>Photograph</u>	<u>12-35</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
7 <u>Photograph</u>	<u>12-36</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
8 <u>Photograph</u>	<u>12-37</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
9 <u>Photograph</u>	<u>12-38</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
10 <u>Photograph</u>	<u>12-39</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
11 <u>Photograph</u>	<u>12-40</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
12 <u>Photograph</u>	<u>12-41</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
13 <u>Photograph</u>	<u>12-42</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
14 <u>Photograph</u>	<u>12-43</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
15 <u>Photograph</u>	<u>12-44</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
16 <u>Photograph</u>	<u>12-45</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
17 <u>Photograph</u>	<u>12-46</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
18 <u>Photograph</u>	<u>12-47</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
19 <u>Photograph</u>	<u>12-48</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
20 <u>Photograph</u>	<u>12-49</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
21 <u>Photograph</u>	<u>12-50</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
22 <u>Photograph</u>	<u>12-51</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
23 <u>Photograph</u>	<u>12-52</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
24 <u>Photograph</u>	<u>12-53</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
25 <u>Photograph</u>	<u>12-54</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
26 <u>Photograph</u>	<u>12-55</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>

PLAINTIFF'S/PETITIONER'S EXHIBITS: CASE NO.

CR 09-5709

Date: 09/13/10

	<u>I.D.</u>	<u>MARKED</u>	<u>OFFERED</u>	<u>ADMITTED</u>
1 <u>Photograph</u>	<u>12-56</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
2 <u>Photograph</u>	<u>12-57</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
3 <u>Photograph</u>	<u>12-58</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
4 <u>Photograph</u>	<u>12-59</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
5 <u>Photograph</u>	<u>12-60</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
6 <u>Photograph</u>	<u>12-61</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
7 <u>Photograph</u>	<u>12-62</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
8 <u>Photograph</u>	<u>12-63</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
9 <u>Photograph</u>	<u>12-64</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
10 <u>Photograph</u>	<u>12-65</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
11 <u>Photograph</u>	<u>12-66</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
12 <u>Photograph</u>	<u>12-67</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
13 <u>Photograph</u>	<u>12-68</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
14 <u>Photograph</u>	<u>12-69</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
15 <u>Photograph</u>	<u>12-70</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
16 <u>Photograph</u>	<u>12-71</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
17 <u>Photograph</u>	<u>12-72</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
18 <u>Photograph</u>	<u>12-73</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
19 <u>Photograph</u>	<u>12-74</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
20 <u>Photograph</u>	<u>12-75</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
21 <u>Photograph</u>	<u>12-76</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
22 <u>Photograph</u>	<u>12-77</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
23 <u>Photograph</u>	<u>12-78</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
24 <u>Photograph</u>	<u>12-79</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
25 <u>Photograph</u>	<u>12-80</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
26 <u>Photograph</u>	<u>12-81</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>

PLAINTIFF'S/PETITIONER'S EXHIBITS: CASE NO.

CR 09-5709

Date: 09/13/10

	I.D.	MARKED	OFFERED	ADMITTED
1 Photograph	12-82	09/15/10	09/15/10	09/15/10
2 Photograph	12-83	09/15/10	09/15/10	09/15/10
3 Photograph	12-84	09/15/10	09/15/10	09/15/10
4 Photograph	12-85	09/15/10	09/15/10	09/15/10
5 Photograph	12-86	09/15/10	09/15/10	09/15/10
6 Photograph	12-87	09/15/10	09/15/10	09/15/10
7 Photograph	12-88	09/15/10	09/15/10	09/15/10
8 Photograph	12-89	09/15/10	09/15/10	09/15/10
9 Photograph	12-90	09/15/10	09/15/10	09/15/10
10 Photograph	12-91	09/15/10	09/15/10	09/15/10
11 Photograph	12-92	09/15/10	09/15/10	09/15/10
12 Photograph	12-93	09/15/10	09/15/10	09/15/10
13 Photograph	12-94	09/15/10	09/15/10	09/15/10
14 Photograph	12-95	09/15/10	09/15/10	09/15/10
15 Photograph	12-96	09/15/10	09/15/10	09/15/10
16 Photograph	12-97	09/15/10	09/15/10	09/15/10
17 Photograph	12-98	09/15/10	09/15/10	09/15/10
18 Photograph	12-99	09/15/10	09/15/10	09/15/10
19 Photograph	12-100	09/15/10	09/15/10	09/15/10
20 Photograph	12-101	09/15/10	09/15/10	09/15/10
21 Photograph	12-102	09/15/10	09/15/10	09/15/10
22 Photograph	12-103	09/15/10	09/15/10	09/15/10
23 Photograph	12-104	09/15/10	09/15/10	09/15/10
24 Photograph	12-105	09/15/10	09/15/10	09/15/10
25 Photograph	12-106	09/15/10	09/15/10	09/15/10
26 Photograph	12-107	09/15/10	09/15/10	09/15/10

PLAINTIFF'S/PETITIONER'S EXHIBITS: CASE NO.

CR 09-5709

Date: 09/13/10

	<u>I.D.</u>	<u>MARKED</u>	<u>OFFERED</u>	<u>ADMITTED</u>
1 <u>Photograph</u>	<u>12-108</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
2 <u>Photograph</u>	<u>12-109</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
3 <u>Photograph</u>	<u>12-110</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
4 <u>Photograph</u>	<u>12-111</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
5 <u>Photograph</u>	<u>12-112</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
6 <u>Photograph</u>	<u>12-113</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
7 <u>Photograph</u>	<u>12-114</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
8 <u>Photograph</u>	<u>12-115</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
9 <u>Photograph</u>	<u>12-116</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
10 <u>Photograph</u>	<u>12-117</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
11 <u>Photograph</u>	<u>12-118</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
12 <u>Photograph</u>	<u>12-119</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
13 <u>Photograph</u>	<u>12-120</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
14 <u>Photograph</u>	<u>12-121</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
15 <u>Photograph</u>	<u>12-122</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
16 <u>Photograph</u>	<u>12-123</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
17 <u>Photograph</u>	<u>12-124</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
18 <u>Photograph</u>	<u>12-125</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
19 <u>Photograph</u>	<u>12-126</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
20 <u>Photograph</u>	<u>12-127</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
21 <u>Photograph</u>	<u>12-128</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
22 <u>Photograph</u>	<u>12-129</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
23 <u>Photograph</u>	<u>12-130</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
24 <u>Photograph</u>	<u>12-131</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
25 <u>Photograph</u>	<u>12-132</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
26 <u>Photograph</u>	<u>12-133</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>

PLAINTIFF'S/PETITIONER'S EXHIBITS: CASE NO.

CR 09-5709

Date: 09/13/10

	<u>I.D.</u>	<u>MARKED</u>	<u>OFFERED</u>	<u>ADMITTED</u>
1 <u>Photograph</u>	<u>12-134</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
2 <u>Photograph</u>	<u>12-135</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
3 <u>Photograph</u>	<u>12-136</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
4 <u>Photograph</u>	<u>12-137</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
5 <u>Photograph</u>	<u>12-138</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
6 <u>Photograph</u>	<u>12-139</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
7 <u>Photograph</u>	<u>12-140</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
8 <u>Photograph</u>	<u>12-141</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
9 <u>Photograph</u>	<u>12-142</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
10 <u>Photograph</u>	<u>12-143</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
11 <u>Photograph</u>	<u>12-144</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
12 <u>Photograph</u>	<u>12-145</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
13 <u>Photograph</u>	<u>12-146</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
14 <u>Photograph</u>	<u>12-147</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
15 <u>Photograph</u>	<u>12-148</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
16 <u>Photograph</u>	<u>12-149</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
17 <u>Photograph</u>	<u>12-150</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
18 <u>Photograph</u>	<u>12-151</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
19 <u>Photograph</u>	<u>12-152</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
20 <u>Photograph</u>	<u>12-153</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
21 <u>Photograph</u>	<u>12-154</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
22 <u>Photograph</u>	<u>12-155</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
23 <u>Photograph</u>	<u>12-156</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
24 <u>Photograph</u>	<u>12-157</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
25 <u>Photograph</u>	<u>12-158</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
26 <u>Photograph</u>	<u>12-159</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>

PLAINTIFF'S/PETITIONER'S EXHIBITS: CASE NO.

CR 09-5709

Date: 09/13/10

	<u>I.D.</u>	<u>MARKED</u>	<u>OFFERED</u>	<u>ADMITTED</u>
1 <u>Photograph</u>	<u>12-160</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
2 <u>Photograph</u>	<u>12-161</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
3 <u>Photograph</u>	<u>12-162</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
4 <u>Photograph</u>	<u>12-163</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
5 <u>Photograph</u>	<u>12-164</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
6 <u>Photograph</u>	<u>12-165</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
7 <u>Photograph</u>	<u>12-166</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
8 <u>Photograph</u>	<u>12-167</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
9 <u>Photograph</u>	<u>12-168</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
10 <u>Photograph</u>	<u>12-169</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
11 <u>Photograph</u>	<u>12-170</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
12 <u>Photograph</u>	<u>12-171</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
13 <u>Photograph</u>	<u>12-172</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
14 <u>Photograph</u>	<u>12-173</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
15 <u>Photograph</u>	<u>12-174</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
16 <u>Photograph</u>	<u>12-175</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
17 <u>Photograph</u>	<u>12-176</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
18 <u>Photograph</u>	<u>12-177</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
19 <u>Photograph</u>	<u>12-178</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
20 <u>Photograph</u>	<u>12-179</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
21 <u>Photograph</u>	<u>12-180</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
22 <u>Photograph</u>	<u>12-181</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
23 <u>Photograph</u>	<u>12-182</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
24 <u>Photograph</u>	<u>12-183</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
25 <u>Photograph</u>	<u>12-184</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
26 <u>Photograph</u>	<u>12-185</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>

PLAINTIFF'S/PETITIONER'S EXHIBITS: CASE NO.

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Date: 09/13/10

	<u>I.D.</u>	<u>MARKED</u>	<u>OFFERED</u>	<u>ADMITTED</u>
1 <u>Photograph</u>	<u>12-186</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
2 <u>Photograph</u>	<u>12-187</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
3 <u>Photograph</u>	<u>12-188</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
4 <u>Photograph</u>	<u>12-189</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
5 <u>Photograph</u>	<u>12-190</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
6 <u>Photograph</u>	<u>12-191</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
7 <u>Photograph</u>	<u>12-192</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
8 <u>Photograph</u>	<u>12-193</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
9 <u>Photograph</u>	<u>12-194</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
10 <u>Photograph</u>	<u>12-195</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
11 <u>Photograph</u>	<u>12-196</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
12 <u>Photograph</u>	<u>12-197</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
13 <u>Photograph</u>	<u>12-198</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
14 <u>Photograph</u>	<u>12-199</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
15 <u>Photograph</u>	<u>12-200</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
16 <u>Photograph</u>	<u>12-201</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
17 <u>Photograph</u>	<u>12-202</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
18 <u>Photograph</u>	<u>12-203</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
19 <u>Photograph</u>	<u>12-204</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
20 <u>Photograph</u>	<u>12-205</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
21 <u>Photograph</u>	<u>12-206</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
22 <u>Photograph</u>	<u>12-207</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
23 <u>Photograph</u>	<u>12-208</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
24 <u>Photograph</u>	<u>12-209</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
25 <u>Photograph</u>	<u>12-210</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
26 <u>Photograph</u>	<u>12-211</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>

PLAINTIFF'S/PETITIONER'S EXHIBITS: CASE NO.

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	<u>I.D.</u>	<u>MARKED</u>	<u>OFFERED</u>	<u>ADMITTED</u>
1 <u>Photograph</u>	<u>12-212</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
2 <u>Photograph</u>	<u>12-213</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
3 <u>Photograph</u>	<u>12-214</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
4 <u>Photograph</u>	<u>12-215</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
5 <u>Photograph</u>	<u>12-216</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
6 <u>Photograph</u>	<u>12-217</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
7 <u>Photograph</u>	<u>12-218</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
8 <u>Photograph</u>	<u>12-219</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
9 <u>Photograph</u>	<u>12-220</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
10 <u>Photograph</u>	<u>12-221</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
11 <u>Photograph</u>	<u>12-222</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
12 <u>Photograph</u>	<u>12-223</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
13 <u>Photograph</u>	<u>12-224</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
14 <u>Photograph</u>	<u>12-225</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
15 <u>Photograph</u>	<u>12-226</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
16 <u>Photograph</u>	<u>12-227</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
17 <u>Photograph</u>	<u>12-228</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
18 <u>Photograph</u>	<u>12-229</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
19 <u>Photograph</u>	<u>12-230</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
20 <u>Photograph</u>	<u>12-231</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
21 <u>Photograph</u>	<u>12-232</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
22 <u>Photograph</u>	<u>12-233</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
23 <u>Photograph</u>	<u>12-234</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
24 <u>Photograph</u>	<u>12-235</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
25 <u>Photograph</u>	<u>12-236</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
26 <u>Photograph</u>	<u>12-237</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>

PLAINTIFF'S/PETITIONER'S EXHIBITS: CASE NO.

CR 09-5709Date: 09/13/10

	<u>I.D.</u>	<u>MARKED</u>	<u>OFFERED</u>	<u>ADMITTED</u>
1 <u>Photograph</u>	<u>12-238</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
2 <u>Photograph</u>	<u>12-239</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
3 <u>Photograph</u>	<u>12-240</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
4 <u>Photograph</u>	<u>12-241</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
5 <u>Photograph</u>	<u>12-242</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
6 <u>Photograph</u>	<u>12-243</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
7 <u>Photograph</u>	<u>12-244</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
8 <u>Statement of Jessica Morton</u>	<u>13</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
9 <u>Diagram of 1st Floor - Jeff Murdock</u>	<u>14</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
10 <u>Miranda Warning and Waiver</u>	<u>15</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
11 <u>Diagram of 1st Floor - David Garrison</u>	<u>16</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
12 <u>Piece of Formica</u>	<u>17</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
13 <u>Piece of Drywall with hole</u>	<u>18</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
14 <u>Swab from David Morton</u>	<u>19</u>	<u>09/15/10</u>	<u>09/17/10</u>	<u>09/17/10</u>
15 <u>6 Swabs of Red Stains & 1 Control Swab</u>	<u>20</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/17/10</u>
16 <u>White & Green Flowered Underwear</u>	<u>21</u>	<u>09/15/10</u>		
17 <u>Shell Casing & Swab</u>	<u>22</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
18 <u>Torn Divorce Papers</u>	<u>23</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
19 <u>.303 Rounds (4)</u>	<u>24</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
20 <u>Swab from Robert J. Morton</u>	<u>25</u>	<u>09/15/10</u>	<u>09/17/10</u>	<u>09/17/10</u>
21 <u>White Box with 2 bags</u>	<u>26</u>	<u>09/15/10</u>		
22 <u>Green Pajama Top</u>	<u>26-1</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
23 <u>Report of Dr. Ellen Clark</u>	<u>27</u>	<u>09/16/10</u>	<u>09/16/10</u>	<u>09/16/10</u>
24 <u>Fingerprint Cards (6)</u>	<u>28</u>	<u>09/17/10</u>	<u>09/17/10</u>	<u>09/17/10</u>
25 <u>Report of Kevin J. Byrne</u>	<u>29</u>	<u>09/17/10</u>	<u>09/17/10</u>	<u>09/17/10</u>
26 <u>Report of Monica Siewertsen</u>	<u>30</u>	<u>09/17/10</u>	<u>09/17/10</u>	<u>09/17/10</u>

DEFENDANT'S/RESPONDENT'S EXHIBITS: CASE NO.

CR 09-5709Date: 09/13/10

	<u>I.D.</u>	<u>MARKED</u>	<u>OFFERED</u>	<u>ADMITTED</u>
A <u>Upstairs Diagram</u>	<u>A</u>	<u>09/14/10</u>	<u>09/14/10</u>	<u>09/14/10</u>
B <u>Statement of Robert Morton</u>	<u>B</u>	<u>09/14/10</u>	<u>09/14/10</u>	<u>09/14/10</u>
C <u>Statement of Anastasia Barsness</u>	<u>C</u>	<u>09/15/10</u>	<u>09/15/10</u>	<u>09/15/10</u>
D <u>Perscription Bottles mounted on a board</u>	<u>D</u>	<u>09/16/10</u>		
E <u>Diagram 1st Floor - David Garrison</u>	<u>E</u>	<u>09/16/10</u>	<u>09/16/10</u>	<u>09/16/10</u>
F <u>Letter from Kerri Heward to the District Attorney</u>	<u>F</u>	<u>09/17/10</u>	<u>09/17/10</u>	<u>09/17/10</u>
G <u>Photograph</u>	<u>G-1</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
H <u>Photograph</u>	<u>G-2</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
I <u>Photograph</u>	<u>G-3</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
J <u>Photograph</u>	<u>G-4</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
K <u>Photograph</u>	<u>G-5</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
L <u>Photograph</u>	<u>G-6</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
M <u>Photograph</u>	<u>G-7</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
N <u>Photograph</u>	<u>G-8</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
O <u>Photograph</u>	<u>G-9</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
P <u>Photograph</u>	<u>G-10</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
Q <u>Photograph</u>	<u>G-11</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
R <u>Photograph</u>	<u>G-12</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
S <u>Photograph</u>	<u>G-13</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
T <u>Photograph</u>	<u>G-14</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
U <u>Photograph</u>	<u>G-15</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
V <u>Photograph</u>	<u>G-16</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
W <u>Photograph</u>	<u>G-17</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
X <u>Photograph</u>	<u>G-18</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
Y <u>Photograph</u>	<u>G-19</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
Z <u>Photograph</u>	<u>G-20</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>

DEFENDANT'S/RESPONDENT'S EXHIBITS: CASE NO.

CR 09-5709

Date: 09/13/10

	<u>I.D.</u>	<u>MARKED</u>	<u>OFFERED</u>	<u>ADMITTED</u>
A <u>Photograph</u>	<u>G-21</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
B <u>Photograph</u>	<u>G-22</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
C <u>Photograph</u>	<u>G-23</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
D <u>Diagram of 1st Floor</u>	<u>H</u>	<u>09/20/10</u>	<u>09/20/10</u>	
E <u>Diagram of 1st Floor</u>	<u>I</u>	<u>09/20/10</u>	<u>09/20/10</u>	<u>09/20/10</u>
F _____	_____	_____	_____	_____
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The State of Nevada,

vs.

David Craig Morton

PLAINTIFF'S/PETITIONER'S EXHIBITS: CASE NO.

CR 09-5709

Date: 01/14/11

	I.D.	MARKED	OFFERED	ADMITTED
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1	David Morton Information	1	01/14/11	01/14/11	01/14/11
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2	Utah Police Report	2	01/14/11	01/14/11	01/14/11
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3	Utah Police Report	3	01/14/11	01/14/11	01/14/11
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4	Utah Police Report	4	01/14/11	01/14/11	01/14/11
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5	Winnemucca Police Department Report	5	01/14/11	01/14/11	01/14/11
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6	Utah Conviction	6	01/14/11	01/14/11	01/14/11
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CERTIFICATION OF COPY

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STATE OF NEVADA,
COUNTY OF HUMBOLDT,

I, TAMI RAE SPERO, the duly elected, qualifying and acting Clerk of Humboldt County, in the State of Nevada, and Ex-Officio Clerk of the District Court, do hereby certify that the foregoing is a true , full and correct copy of the original: Notice of Appeal; Case Appeal Statement; District Court Docket Entries; Judgment of Conviction; District Court Minutes; Exhibit Lists;

The State of Nevada,)
)
 Plaintiff,)
)
 vs.)
)
 David Craig Morton,)
)
 Defendant.)
 _____)

CASE NO. CR 0905709

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, Winnemucca, Nevada, this 2nd day of December, 2022, A.D.


TAMI RAE SPERO, CLERK