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NOV 18 2021

Douglas County
District Court Clerk

ED

NOV 18 AM 10:45

Electronically Filed
Dec 21 2021 09:24 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

NINTH JUDICIAL DISTRICT COURT
DOUGLAS COUNTY NEVADA

NAME, STATE OF NEVADA

Plaintiff(s),

-VS-

CASE NO.

NAME, MICHAEL COTA

Defendant(s).

18-CR-0084

18-CR-0116 ✓

NOTICE OF APPEAL

COMES NOW, Michael COTA, in PRO PER and herein above respectfully

Moves this Honorable Court for a NOTICE OF APPEAL ON THIS COURTS
DENIAL OF PREEMPTORY Challenge MOTION FILED BY
MR COTA

The above is made and based on the following Memorandum of Points and Authorities.

DATED THIS 14TH DAY OF NOVEMBER 2021

x MCOTA II

Form 2. Case Appeal Statement

No. 2018-CR-00116

Dept. No. II

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE
OF NEVADA IN AND FOR THE COUNTY OF DOUGLAS

STATE OF NEVADA,

Plaintiff,

VS

MICHAEL COTA,

Defendant.

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:
Michael Cota.
2. Identify the judge issuing the decision, judgment, or order appealed from:
Honorable Thomas W. Gregory.
3. Identify each appellant and the name and address of counsel for each appellant:
Michael Cota #1206075, Ely State Prison, P.O Box 1989, Ely, NV 89301– In Proper Person.
4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):
The State of Nevada, represented by the Douglas County Attorney's Office, P.O. Box 218, Minden, NV 89423.
5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):
N/A.
6. Indicate whether appellant was represented by appointed or retained counsel in the district court: The defendant was represented by appointed John Malone, the Court discharged John Malone on 5/21/2020. The defendant is now representing himself.
7. Indicate whether appellant is represented by appointed or retained counsel on appeal:
John Malone represented the defendant for the Notice of Appeal of the Judgment of Conviction only.
8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:
The appellant has not been granted leave to proceed in forma pauperis.
9. Indicate the date the proceedings commenced in the district court (e.g., date complaint, indictment, information, or petition was filed): The information was filed on 7/25/2018.

FILED

2021 DEC 14 PM 4:38

DOUGLAS COUNTY
CLERK

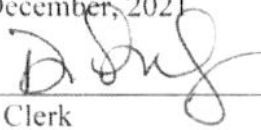
BY *[Signature]* DEPUTY
RECEIVED

DEC 14 2021

Douglas County
District Court Clerk

10. Provide a brief description of the nature of the action and result in the District Court, including the type of judgment or order being appealed and the relief granted by the court: The defendant is appealing the Court's Order Denying Peremptory Challenge entered on 11/10/2021.
11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:
No. 83842, 83841, 83775, 83773
12. Indicate whether this appeal involves child custody or visitation:
No.
13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:
No.

Dated this 14th day of December, 2021



Deputy Clerk
P.O. Box 218
Minden, Nevada 89423
775-782-9820

Douglas County District Court

Case Summary Report

Case #: 2018-CR-00116

Case Title: State Of Nevada vs. Michael L Cota Jr.

Filed: 07/23/2018

Cause: Felony: Crimes Against Persons

DV: N

Case Status: Disposed

Date: 11/06/2018

Parties

<u>Party</u>	<u>Name</u>	<u>Status</u>		
Plaintiff	State Of Nevada			
Petitioner	Cota Jr., Michael Luis			
Defendant	Cota Jr., Michael Luis			
<u>Party</u>	<u>Name</u>	<u>Bar #</u>	<u>Status</u>	<u>Representing</u>
Attorney	ATTORNEY, DISTRICT	9999	Current	
Attorney	Malone, John	5706	Current	

Charge/Sentence Information

<u>CNT</u>	<u>Section Code</u>	<u>Charge Description</u>
1	200.481.1A	Battery by prsnr/PnP
2	200.481.1A	Battery by prsnr/PnP

Events

<u>Date/Time</u>	<u>Type</u>	<u>Result</u>	<u>Reason</u>
07/30/2018	Arraignment	Continued	Other
08/06/2018	Arraignment	Concluded	
09/10/2018	Sentencing Hearing	Concluded	
10/08/2018	Sentencing Hearing	Concluded	
06/07/2021	Order to Show Cause	Vacated	

Documents

2018-CR-00116

<u>Date</u>	<u>Code</u>	<u>Description</u>
07/23/2018	DOCO	Order and Commitment - Order and Commitment
07/25/2018	DINF	Information - Information
07/30/2018	DORD	Order - Order to Continue Arraignment
07/30/2018	DSTI	Stipulation - Stipulation to Continue Arraignment Filed by PLT001-State Of Nevada, , DEF001-Cota Jr., Michael Luis
08/01/2018	DGPA	Guilty Plea Agreement - Guilty Plea Agreement Filed by PLT001-State Of Nevada, , DEF001-Cota Jr., Michael Luis
08/06/2018	DORD	Order - Order Setting Hearing
08/06/2018	DORD	Order - Order Concerning Bail
08/09/2018	DTRN	Transcript of Proceedings - Transcript of Proceedings (Arraignment 8/6/18)
08/23/2018	MMOT	Motion - Motion to File Sentencing Memorandum and/or Exhibits Under Seal
08/23/2018	DCSM	Sentencing Memorandum - (SEALED) Sentencing Memorandum
08/27/2018	DPIR	(Sealed) - CONFIDENTIAL Pre-Sent. Investigation - (SEALED) CONFIDENTIAL Pre-Sent. Invest
08/29/2018	DORD	Order - Order Sealing Exhibits to Sentencing Memorandum
09/06/2018	MMOT	Motion - (SEALED) Motion to Strike the State's Sentencing Memorandum and Attached Exhibits
09/06/2018	DORD	Order - Order to File Under Seal
09/06/2018	MMOT	Motion - Motion to File Under Seal
09/07/2018	DOPP	Opposition to Motion - Opposition to Motion to Strike the State's Sentencing Memorandum and Attached Exhibits

09/10/2018	DORD	Order - Order Setting Hearing
09/13/2018	DDCL	Disclosure - Disclosure
09/13/2018	DORD	Order - (SEALED) Order
09/25/2018	DTRN	Transcript of Proceedings - Transcript of Proceedings (Sentencing9/10/18)
10/04/2018	DCSM	Sentencing Memorandum - Defendant's Submission of DocumentationIn Mitigation of Sentencing
10/10/2018	DJOC	Judgment of Conviction - Judgment of Conviction
10/24/2018	DTRN	Transcript of Proceedings - Transcript of Proceedings (Sentencing10/8/18)
11/06/2018	MMOT	Motion - Request for Transcripts of Proceedings
11/06/2018	DCAP	Case Appeal Statement - Case Appeal Statement
11/06/2018	DNOA	Notice of Appeal - Notice of Appeal
11/19/2018	DRFD	Receipt for Documents (Supreme Court) - Receipt for Documents (Supreme Court)
10/04/2019	DORD	Order - Order for Payment
03/20/2020	DSCO	Supreme Court Order - Order of Affirmance
03/20/2020	DN	Notice of - Judge Disqualification (Supreme Court)
04/29/2020	MMOT	Motion - for Withdrawal of Attorney of Record or in the Alternative, Request for Records/Court Case Documents
05/21/2020	DORD	Order - Discharging Counsel and Ordering Counsel to Provide Defendant with Case File
04/23/2021	MCOP	Motion to Compel
05/19/2021	DOSC	Order to Show Cause
05/26/2021	DAFF	Affidavit of - Attorney John E. Malone in Support of the Response to Order to Show Cause
05/26/2021	DRES	Response to - Order to Show Cause
05/28/2021	DODE	Order Denying - Motion to Compel, Vacating OSC Hearing
07/28/2021	DMOF	Motion for - Modification of Sentence
08/12/2021	DORD	Order
08/16/2021	DICO	Contempt Petition - Motion to Hold John Malone in Contempt
09/23/2021	MMOT	Motion - for Order for Complete Docket Sheet
09/23/2021	DRSU	Request for Submission - of Pleading
10/12/2021	MOVA	Motion to Vacate - Illegal Sentence
10/12/2021	MOVA	Motion to Vacate - Illegal Sentence
10/15/2021	DODE	Order Denying - Motion for Modification of Sentence
10/15/2021	DODE	Order Denying - Motion to Hold John Malone in Contempt
10/15/2021	DORD	Order - Regarding Motion For Complete Docket Sheet
10/15/2021	DCOS	Certificate of Service
10/20/2021	DOPP	Opposition to Motion - to Vacate Illegal Sentence
10/20/2021	DMOF	Motion for - Change of Venue
10/20/2021	DN	Notice of - Non-Compliance by State of Nevada. Request to Grant Habeas
10/28/2021	MMOT	Motion - To Hold John Malone in Contempt/Show Cause
10/28/2021	DNOA	Notice of Appeal
11/08/2021	DPCH	Peremptory Challenge - of Judge
11/10/2021	DODE	Order Denying - Motion to Change Venue
11/10/2021	DODE	Order Denying - Motion to Hold Counsel in Contempt and Directing Counsel to Resend Portions of Case File
11/10/2021	DODE	Order Denying - Motion to Vacate Sentence
11/15/2021	DCAP	Case Appeal Statement
11/17/2021	DRFD	Receipt for Documents (Supreme Court)
11/18/2021	DNOA	Notice of Appeal
11/18/2021	DNOA	Notice of Appeal
11/18/2021	DNOA	Notice of Appeal
11/18/2021	DNOA	Notice of Appeal
12/01/2021	DORD	Order - (Supreme Court - 83775)
12/01/2021	DORD	Order - (Supreme Court - 83773)
12/07/2021	DORD	Order - Order Dismissing Appeals (Supreme Court)
12/08/2021	DORD	Order - Order Directing Transmission of Record and Regarding Briefing (Supreme Court)
2018-CR-00116B		
<u>Date</u>	<u>Code</u>	<u>Description</u>
08/09/2021	PWPOST	Petition for Writ of Habeas Corpus (Post Conviction)
08/12/2021	DORD	Order

08/19/2021	DN	Notice of - Counsel
08/20/2021	DN	Notice of - Compliance
09/15/2021	DASR	Answer - to Petition for Writ of Habeas Corpus (Post-Conviction)
09/20/2021	DRFD	Receipt for Documents (Supreme Court)
09/23/2021	MMOT	Motion - for Order for Complete Docket Sheet
09/27/2021	MMOT	Motion - to Submit for Decision
09/27/2021	MMOT	Motion - to Submit for Decision (Juvenile Court Records)
10/15/2021	DORD	Order - Regarding Motion For Complete Docket Sheet
10/15/2021	WMDT	Petition for Writ of Mandate - Petition for Writ of Mandamus
10/18/2021	DODE	Order Denying - Petition (Supreme Court)
10/19/2021	WHDPOST	Order Denying Writ of Habeas Corpus - Post Conviction
10/22/2021	DNEO	Notice of Entry of Order
10/22/2021	DNEO	Notice of Entry of Order - Amended Notice of Entry of Order
10/25/2021	DRFD	Receipt for Documents (Supreme Court)
10/28/2021	DNOA	Notice of Appeal
11/09/2021	DODE	Order Denying - Rehearing
11/15/2021	DCAP	Case Appeal Statement
11/16/2021	DRFD	Receipt for Documents (Supreme Court)
11/23/2021	DODE	Order Denying - Order Denying Petition (Supreme Court)
12/02/2021	DRCP	Receipt - for Documents (Nevada Supreme Court)
12/02/2021	DRFD	Receipt for Documents (Supreme Court)
12/02/2021	DN	Notice of - Notice in Lieu of Remittitur (Supreme Court)

1 Case No. 2018-CR-00084/2018-CR-00116

2 Dept. No. II

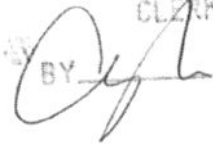
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NOV 10 2021

Douglas County
District Court Clerk

BOBBIE R. WILLIAMS
CLERK

BY  DEPUTY

6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF DOUGLAS

9 THE STATE OF NEVADA,
10 Plaintiff,

11 vs.

12 MICHAEL COTA,

13 Defendant.

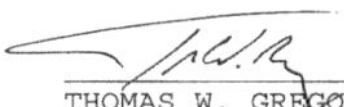
ORDER DENYING
PEREMPTORY CHALLENGE

15 THIS MATTER comes before the Court on Defendant's *Preemptory*
16 *Challenge* of Judge filed in each of the above cases. These are
17 criminal cases wherein judgments of conviction have already been
18 entered and for which the Court has entered multiple orders. SCR
19 48.1, cited by Defendant, is inapplicable.

20 Defendant's *Preemptory Challenge of Judge* is DENIED.

21 IT IS SO ORDERED.

22 DATED this 10th day of November, 2021.

23
24 
25 THOMAS W. GREGORY
26 DISTRICT JUDGE
27
28

1 Copies served by mail/hand delivery on November 10th, 2021,
2 addressed to:

3 Douglas County District Attorney's Office (Hand Delivery)
4 1038 Buckeye Road
5 Minden, Nevada 89423

6 Michael Cota (Mail)
7 #1206075
8 Ely State Prison
9 P.O. Box 1989
Ely, Nevada 89301

10
11 Erin C. Plante
Erin C. Plante

CASE NO. 18-CR-0116

DEPT NO. II

THE STATE OF NEVADA,

v.

MICHEL LUIS COTA, JR.,

DATE: 8/6/18

PLAINTIFFS COUNSEL:
Tina Russom

JUDGE: THOMAS W. GREGORY

CLERK: Mary Biaggini

DEFENDANTS COUNSEL:
John Malone

COURT REPORTER: Christy Joyce

LAW CLERK: Not Present

BAILIFFS: Les Vido/Eric Lindsay/David Nishikida

PAROLE & PROBATION: Kayla Burt

The above-entitled matter was before the court this being the time set for ARRAIGNMENT. The defendant was present in court and represented by counsel.

The Information was filed with the Court on July 25, 2018; copies were received and acknowledged and the defendant waived the formal reading thereof. The Information charges the defendant with BATTERY BY A PRISONER IN CUSTODY, a violation of NRS 200.481(2)(f), a category B felony.

The Guilty Plea Agreement is on file with the Court. The defendant advised that he understands its contents and that he entered into the agreement freely and voluntarily.

To the Information, the defendant entered a plea of GUILTY.

The Court advised the defendant of all his legal and constitutional rights, and of the elements of the offense. The defendant understands the maximum penalty as outlined in the Plea Agreement and that sentencing lies solely with the Court. The Court advised the defendant that it can consider all original charges when determining the appropriate sentence in this matter. The Court advised the defendant that payment of restitution may be ordered if deemed appropriate by the Court. The defendant

stated his involvement in the matter.

The Court accepted the plea of the defendant as having been freely, voluntarily and intelligently made and ordered it entered on the record.

Sentencing is set for Monday, September 10, 2018 at 9:00 a.m., and the matter was referred to the Division of Parole and Probation for a pre-sentence report. The Court ordered the defendant to appear at the time set for sentencing, and advised the defendant that failure to appear would result in the issuance of a bench warrant and the filing of additional charges.

The Court entered an Order Concerning Bail.

The defendant was remanded to the custody of the Douglas County Sheriff.

CASE NO. 2018-CR-00084 & 2018-CR-00116

DEPT NO. I

THE STATE OF NEVADA,

v.

Michael L. Cota, Jr.,

DATE: September 10, 2018

JUDGE: Thomas W. Gregory

CLERK: Mary Biaggini

COURT REPORTER: Shelly Loomis - Capital Reporters

PLAINTIFFS COUNSEL: Matthew Johnson

DEFENDANTS COUNSEL: John Malone

LAW CLERK: Sidney Wells

BAILIFFS: David Nishikida/Les Vido

PAROLE & PROBATION: Heather Hardy

The above-entitled matter was before the Court this being the time set for SENTENCING. The defendant was present in court (in custody) and represented by counsel.

Mr. Malone requested the Court close the courtroom.

Mr. Johnson offered no objection.

The Court denied the request to close the courtroom.

MOTION TO STRIKE THE STATE'S SENTENCING MEMORANDUM AND ATTACHED EXHIBITS:

Mr. Malone presented argument.

Mr. Johnson presented argument.

The Court took the motion under submission and will prepare a written order.

Mr. Malone requested a continuance.

Mr. Johnson opposed the request.

The Court finds good cause to continue this matter to October 8, 2018 at 9:00 a.m.

Mr. Malone requested the Court impose a gag order.

The Court denied the request.

CASE NO. 18-CR-0116

DEPT NO. II

THE STATE OF NEVADA,

v.

MICHAEL LUIS COTA,

DATE: 10/8/18

PLAINTIFFS COUNSEL:
Matthew Johnson

JUDGE: THOMAS W. GREGORY

CLERK: Mary Biaggini

DEFENDANTS COUNSEL:
John Malone

COURT REPORTER: Kathy Jackson

LAW CLERK: Sydnie Wells

BAILIFFS: Les Vido/David Nishikida

PAROLE & PROBATION: Pat Cerniglia

The above-entitled matter was before the court this being the time set for SENTENCING. The defendant was present in court and represented by counsel.

WITNESSES SWORN AND TESTIFIED:

Deputy Francisco Torres
Mika Cota

STATE'S EXHIBIT'S MARKED AND ADMITTED:

17, 18, 19, 20, 21, 22, 23, 24, 25

The Pre-sentence Report is on file with the Court; copies were received and acknowledged. There were no factual errors contained in the report.

Mr. Malone requested that the Court sentence the defendant to the Regimental Discipline Program.

Mr. Johnson requested that the Court impose 28-72 month sentence to run consecutive to case no. 17-CR-0084.

Finding no legal cause why judgment should not be pronounced, judgment was rendered as follows: BATTERY BY A PRISONER IN CUSTODY, a violation of NRS 200.481(2)(f), a category B felony,

imprisonment in the state prison for a maximum term of seventy-two (72) months and a minimum term of twenty-four (24) months to run consecutive to the Ninth Judicial District Court Case Number 18-CR-0084. Defendant is granted zero (0) days credit for time served.

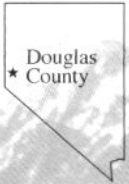
Defendant shall pay statutory fees and assessments of \$25.00 (NRS 176.062), and \$3.00 (NRS 176.0623).

This judgment constitutes a lien in like manner as a judgment rendered in a civil action. NRS 176.275.

The defendant was remanded to the custody of the Douglas County Sheriff.

PURPOSE OF HEARING: SENTENCING

[illegible]



BOBBIE R. WILLIAMS
CLERK OF COURT
COURT ADMINISTRATOR
JURY COMMISSIONER

District Court Clerk's Office
(775) 782-9820
Tahoe Justice Court
(775) 586-7200
East Fork Justice Court
(775) 782-9955

Transmittal to the Supreme Court

To: Nevada Supreme Court
210 South Carson Street
Carson City, Nevada 89710

Date: December 15, 2021

Re: District Court Case #: 2018-CR-00116
District Court Case Name: State of Nevada v Michael Cota

The following documents are transmitted to the Supreme Court pursuant to the July 22, 1996 revisions to the Nevada Rules of Appellate Procedure. Checked items are **NOT** included in this appeal:

- ☐ Notice of Appeal
- ☐ Case Appeal Statement
- ☒ Certificate That No Transcript Is Being Requested
- ☒ Defendant's Request for Transcript of Proceedings
- ☒ Notice of Posting of Appeal Bond
- ☐ District Court Docket entries
- ☐ Judgment(s) or order(s) appealed from
- ☒ Order (NRAP FORM 4)
- ☒ Notice of entry of the judgment(s) or order(s) appealed from
- ☒ Certification order directing entry of judgment pursuant to NRCP 54(b)
- ☐ District Court Minutes
- ☐ Exhibit Lists
- ☒ Supreme Court filing fee (\$250.00), if applicable

Respectfully,
BOBBIE WILLIAMS
CLERK OF THE COURT

By: 
Deputy Court Clerk

1 STATE OF NEVADA)

2) ss

3 COUNTY OF DOUGLAS)
4
5

6 I, BOBBIE R. WILLIAMS, Clerk of the Ninth Judicial
7 District Court, State of Nevada, in and for the said County of
8 Douglas; said Court being a Court of Record, having common law
9 jurisdiction, and a Clerk and a Seal, do hereby certify that the
10 foregoing are the full, true copies of the original pleadings
11 filed in Case No. 2018-CR-00116 State of Nevada v Michael Cota:
12 Notice of Appeal; Case Appeal Statement; District Court Docket
13 Entries; Order Denying Peremptory Challenge; District Court
14 Minutes.
15

16 IN TESTIMONY WHEREOF, I have hereunto set my hand and
17 affixed my Official Seal at Minden, in said County and State this
18 15th day of December, 2021.
19

20 
Clerk of the Court

21 
22 Deputy Clerk
23
24
25
26
27
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