

Barron Hamm Jr. 1052277

Defendant in Proper Person

P.O. Box H.D.S.P.

Indian Springs, Nevada 89070

Electronically Filed
Jun 21 2021 03:20 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

District Court

Clark County Nevada

STATE OF Nevada

Plaintiff

Case No C256384

Dept No: XXV III

v

Barron Hamm Jr. 1052277

Defendant

notice of appeal

notice is hereby given that the Defendant, Barron Hamm Jr.

By and through himself in proper person, does now appeal
to the Supreme Court of the State of Nevada, the Decision of
the District Court. Petition of writ of Habeas corpus

Decision / Petition requesting that the Defendant sentencing be
set aside and my guilty plea agreement be withdrawn from record.

Dated this date, ~~5th~~ 8th of June 2021.

RECEIVED
JUN 17 2021
CLERK OF THE COURT

Affirmation
Pursuant to NRS. 239B.030

The undersigned does hereby affirm that the preceding _____
Notice of appeal Petition of writ of Habeas corpus
& Petition requesting the defendant ~~seating~~ sentencing
Be set aside and his guilty plea & agreement Be withdrawn
From record:

Filed in District Court case number C 256384.

☒ ~~Does~~ Does not contain the social security number of any
Person.

- or

☐ contains the social security number of any Person.

A. A specific state or federal law to wit

state specific law)

or

B. For the administration of a Public program or For an application
For a federal or state grant

Barron Hamm Jr
(signature)

~~June 8, 2021~~ June 8, 2021

Barron Hamm Jr
(Print Name)

Defendant Prose
Title

BORRSON HAMM JR
[HARRIS P.O. Box 650]
Indian Springs Nevada 89070

LAS VEGAS NV 890
14 JUN 2021 PM 5 L

RECEIVED

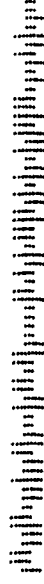
JUN 17 2021

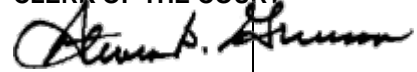
CLERK OF THE COURT

STEVEN D. GRIESON CLERK OF THE
COURTS.
200 LEWIS AVENUE
LAS VEGAS NEVADA 89155

3762

89101-630000





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6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**
9

10 STATE OF NEVADA,

11 Plaintiff(s),

12 vs.

13 BARRON HAMM,

14 Defendant(s),
15

Case No: 09C256384

Dept No: XXVIII

16
17 **CASE APPEAL STATEMENT**
18

19 1. Appellant(s): Barron Hamm

20 2. Judge: Ronald J. Israel

21 3. Appellant(s): Barron Hamm

22 Counsel:

23 Barron Hamm #1052277
24 P.O. Box 650
Indian Springs, NV 89070

25 4. Respondent: The State of Nevada

26 Counsel:

27 Steven B. Wolfson, District Attorney
28 200 Lewis Ave.
Las Vegas, NV 89101

(702) 671-2700

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: Yes

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

9. Date Commenced in District Court: July 22, 2009

10. Brief Description of the Nature of the Action: Criminal

Type of Judgment or Order Being Appealed: Post-Conviction Relief

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 56559, 62688, 63467, 68661, 74096

12. Child Custody or Visitation: N/A

Dated This 18 day of June 2021.

Steven D. Grierson, Clerk of the Court

/s/ Amanda Hampton

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

cc: Barron Hamm

CASE SUMMARY**CASE No. 09C256384****The State of Nevada vs Barron Hamm**§
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Location: **Department 28**
 Judicial Officer: **Israel, Ronald J.**
 Filed on: **07/22/2009**
 Case Number History:
 Cross-Reference Case Number: **C256384**
 ITAG Booking Number: **900025456**
 ITAG Case ID: **1047597**
 Lower Court Case # Root: **09F09275**
 Lower Court Case Number: **09F09275X**
 Supreme Court No.: **56559**
62688
68661
74096

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON <i>Filed As:</i> BURGLARY.	200.030 F	F 7/22/2009	01/01/1900	Case Status:	02/12/2013 Closed
2. ASSAULT WITH A DEADLY WEAPON (5024)	200.471-2B	F	01/01/1900		
3. MURDER.	200.010	F	01/01/1900		
3. DEGREES OF MURDER	200.030	F	01/01/1900		
3. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.	193.165	F	01/01/1900		
4. A PERSON SHALL NOT CARRY CONCEALED UPON HIS PERSON ANY PISTOL, REVOLVER,	202.350-1D3	F	01/01/1900		

Statistical Closures

02/12/2013 Other Manner of Disposition - Criminal
 07/11/2012 Jury Trial - Conviction - Criminal

Warrants

Bench Warrant - Hamm, Barron (Judicial Officer: Bell, Linda Marie)

07/24/2009 Quashed

07/22/2009 Issued

Fine: \$0

Bond: \$0

DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number 09C256384
 Court Department 28
 Date Assigned 07/02/2018
 Judicial Officer Israel, Ronald J.

PARTY INFORMATION

		<i>Lead Attorneys</i>
Defendant	Hamm, Barron	Pro Se
Plaintiff	State of Nevada	Wolfson, Steven B 702-671-2700(W)

DATE**EVENTS & ORDERS OF THE COURT****INDEX**

CASE SUMMARY

CASE NO. 09C256384

EVENTS

07/22/2009	 Indictment
07/22/2009	 Warrant <i>Indictment Warrant</i>
07/23/2009	 Indictment Warrant Return
07/27/2009	 Media Request and Order <i>Media Request and Order for Camera Access to Court Proceedings</i>
07/27/2009	 Notification of Media Request
08/03/2009	 Reporters Transcript <i>Transcript of Hearing Held on July 14, 2009</i>
08/03/2009	 Reporters Transcript <i>Transcript of Hearing Held on July 21, 2009</i>
08/06/2009	 Receipt for Grand Jury Transcript <i>Receipt for Grand Jury Transcript(s)</i>
08/24/2009	 Petition for Writ of Habeas Corpus
08/31/2009	 Return to Writ of Habeas Corpus
08/31/2009	 Order
09/01/2009	 Writ of Habeas Corpus
09/08/2009	 Motion to Dismiss Counsel <i>"Motion to Dismiss Counsel"</i>
09/14/2009	 Order Denying <i>Order Denying Defendant's Petition for Writ of Habeas Corpus</i>
11/03/2009	 Notice of Expert Witnesses <i>Notice of Expert Witnesses [NRS 174.234(2)]</i>
12/11/2009	 Motion to Dismiss Counsel <i>Motion to Dismiss Counsel and Appointment of Alternative Counsel</i>
02/09/2010	 Notice of Expert Witnesses <i>Notice of Expert Witnesses [NRS 174.234(2)]</i>
03/08/2010	 Notice of Witnesses <i>Notice of Witnesses [NRS 174.234(1)(a)]</i>
03/10/2010	 Supplemental Witness List

CASE SUMMARY

CASE NO. 09C256384


Supplemental Notice of Witnesses [NRS 174.234(1)(a)]

03/12/2010	 Guilty Plea Agreement
03/12/2010	 Amended Indictment
03/23/2010	 Media Request and Order <i>Media Request and Order for Camera Access to Court Proceedings</i>
03/23/2010	 Notification of Media Request
05/07/2010	 PSI <i>Pre-Sentence Investigation Report (Unfiled) Confidential</i>
05/20/2010	 Judgment of Conviction <i>Judgment of Conviction (Plea of Guilty)</i>
07/21/2010	 Motion to Withdraw As Counsel Filed By: Defendant Hamm, Barron <i>Motion to Withdraw as Attorney of Record</i>
07/26/2010	 Motion to Withdraw As Counsel Filed By: Defendant Hamm, Barron <i>Motion to Withdraw Counsel</i>
08/05/2010	 Notice of Appeal (Criminal) Party: Defendant Hamm, Barron <i>Notice of Appeal</i>
08/09/2010	 Case Appeal Statement Filed By: Plaintiff State of Nevada
08/12/2010	 Request Filed by: Defendant Hamm, Barron <i>Request of Status of Motions</i>
08/18/2010	 Ex Parte Motion Filed By: Defendant Hamm, Barron <i>"Ex Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing"</i>
08/27/2010	 Opposition to Motion Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Ex Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing</i>
09/28/2010	 Decision and Order
10/14/2010	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate Judgment - Dismissed</i>
07/29/2011	 Motion for Order Filed By: Defendant Hamm, Barron

CASE SUMMARY


CASE NO. 09C256384

Motion for Order Granting Request for Sentencing Transcripts

08/15/2011	 Opposition to Motion <i>State's Opposition to Defendant's Motion for an Order Granting Request for Sentencing Transcripts</i>
11/10/2011	 Order
02/13/2012	 Motion to Withdraw Plea Filed By: Defendant Hamm, Barron <i>Motion to Withdrawal Plea</i>
02/22/2012	 Opposition to Motion <i>State's Opposition to Defendant's Motion to Withdraw Guilty Plea</i>
05/07/2012	 Order Filed By: Plaintiff State of Nevada
07/11/2012	 Criminal Order to Statistically Close Case Filed By: Plaintiff State of Nevada
08/06/2012	Case Reassigned to Department 9 <i>Case reassigned from Judge Bell</i>
10/31/2012	 Petition for Writ of Habeas Corpus Filed by: Defendant Hamm, Barron <i>Petition for Writ of Habeas Corpus (Postconviction)</i>
10/31/2012	 Motion for Appointment of Attorney Filed By: Defendant Hamm, Barron <i>Motion for Appointment of Counsel (Habeas Corpus)</i>
11/02/2012	 Order for Petition for Writ of Habeas Corpus
11/14/2012	 Response Filed by: Plaintiff State of Nevada <i>State's Response and Motion to Dismiss Defendant's Pro Per Petition for Writ of Habeas Corpus (Post Conviction) and Motion to Appoint Counsel</i>
11/16/2012	 Motion for Clarification Filed By: Defendant Hamm, Barron
11/26/2012	 Request Filed by: Defendant Hamm, Barron <i>Request for Motion to be Immediately Heard by Court</i>
11/27/2012	 Response Filed by: Plaintiff State of Nevada <i>State's Response to Defendant's Motion for Clarification</i>
11/30/2012	 Response Filed by: Defendant Hamm, Barron <i>Defendant's Response Why Petition for Writ of Habeas Corpus (Post Conviction) and Motion to Appoint Counsel Should Issue.</i>

CASE SUMMARY

CASE NO. 09C256384

11/30/2012	 Motion Filed By: Defendant Hamm, Barron <i>Motion and Order for Transportation of Inmate for Court Appearance or, in the Alternative, for Appearance by Telephone or Video Conference</i>
11/30/2012	 Response Filed by: Plaintiff State of Nevada <i>State's Response to Defendant's Pro Per Request for Motion to be Immediately Heard by Court</i>
12/11/2012	 Opposition to Motion Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Pro Per Motion for Transportation of Inmate for Court Appearance, or in the Alternative, for Appearance by Telephone or Video Conference</i>
12/19/2012	 Response <i>Defendant's Response and Objection to State's Opposition to Defendant's Pro Per Motion for Transportation of Inmate for Court.</i>
01/17/2013	 Order Denying Motion Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Pro Per Request for Motion to be Immediately Heard by Court</i>
01/22/2013	Case Reassigned to Department 11 <i>Case reassigned from Judge Jennifer Togliatti Dept 9</i>
01/29/2013	 Order Denying Motion Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Pro Per Motion for Transportation of Inmate for Court Appearance, or in the Alternative, for Appearance by Telephone or Video Conference; Order Denying Defendant's Pro Per Motion for Clarification</i>
01/29/2013	 Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff State of Nevada
02/04/2013	 Notice of Entry Filed By: Defendant Hamm, Barron <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
02/12/2013	 Criminal Order to Statistically Close Case
02/22/2013	 Notice of Appeal (Criminal) Party: Defendant Hamm, Barron <i>Notice of Appeal</i>
02/25/2013	 Motion to Reconsider Filed By: Defendant Hamm, Barron <i>Motion for Reconsideration; and for Appointment of Counsel for "Direct Appeal"</i>
02/26/2013	 Case Appeal Statement Filed By: Defendant Hamm, Barron
03/15/2013	 Opposition to Motion Filed By: Plaintiff State of Nevada

CASE SUMMARY

CASE NO. 09C256384

State's Opposition to Defendant's Pro Per Motion for Reconsideration & Appointment of Counsel

04/19/2013



Order Denying Motion

Filed By: Plaintiff State of Nevada

Order Denying Defendant's Pro Per Motion for Reconsideration; and for Appointment of Counsel for "Direct Appeal"

10/22/2013



NV Supreme Court Clerks Certificate/Judgment - Affirmed

Nevada Supreme Court Clerk's Certificate Judgment - Affirmed

04/10/2014



Motion to Withdraw Plea

Filed By: Defendant Hamm, Barron

04/10/2014



Notice of Motion

Filed By: Defendant Hamm, Barron

05/01/2014



Opposition to Motion

Filed By: Plaintiff State of Nevada

State's Opposition to Defendant's Pro Per Motion to Withdraw Plea

05/16/2014



Order Denying Motion

Order Denying Defendant's Pro Per Motion to Withdraw Plea

10/03/2014



Motion for Order

Filed By: Defendant Hamm, Barron

Motion for and Order Granting Request for Sentencing Transcripts

10/08/2014



Opposition to Motion

State's Opposition to Defendant's Pro Per Motion for and (SIC) Order Granting Request for Sentencing (SIC) Transcripts

11/04/2014



Order Denying Motion

Filed By: Plaintiff State of Nevada

Order Denying Defendant's Pro Per Motion for and Order Granting Request for Sentencing Transcripts

03/06/2015



Motion

Filed By: Defendant Hamm, Barron

Motion Requesting of the Sentencing Court to Issue Its Order Granting the Petitioner a Copy of His Plea Canvassing and Sentencing Transcripts Pursuant to NRS 7.40 et seq. and 7.055

04/15/2015



Order Granting Motion

Filed By: Plaintiff State of Nevada

Order Granting Defendant's Pro Per Motion Requesting of the Sentencing Court to Issue Its Order Granting the Petitioner a Copy of His Plea Canvassing and Sentencing Transcripts Pursuant to NRS 7.40 et seq and 7.055

06/23/2015



Motion to Vacate Sentence

Filed by: Defendant Hamm, Barron

07/10/2015











Recorders Transcript of Hearing

Transcript of Hearing Held on May 14, 2010

CASE SUMMARY







CASE NO. 09C256384

07/10/2015	 Opposition to Motion Filed By: Plaintiff State of Nevada <i>State's Opposition to Defendant's Pro Per Motion to Vacate Sentence</i>
07/24/2015	 Order Denying Motion Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Pro Per Motion to Vacate Sentence</i>
08/19/2015	 Notice of Appeal (Criminal) Party: Defendant Hamm, Barron <i>Notice of Appeal</i>
08/20/2015	 Case Appeal Statement Filed By: Defendant Hamm, Barron
03/18/2016	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed</i>
01/02/2017	Case Reassigned to Department 1 <i>Case reassigned from Judge Elizabeth Gonzalez Dept 11</i>
05/17/2017	 Petition for Writ of Habeas Corpus <i>Petition for Writ of Habeas Corpus (Postconviction)</i>
06/06/2017	 Order for Petition for Writ of Habeas Corpus
07/11/2017	 Response <i>State's Response to Defendant's Petition for Writ of Habeas Corpus</i>
08/16/2017	 Finding of Fact and Conclusions of Law Filed By: Plaintiff State of Nevada <i>Findings of Fact, Conclusions of Law, and Order</i>
08/22/2017	 Notice of Entry <i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
09/08/2017	 Notice of Appeal (Criminal) <i>Notice of Appeal</i>
09/26/2017	 Case Appeal Statement
07/02/2018	Case Reassigned to Department 28 <i>Reassigned From Judge Cory - Dept 1</i>
09/25/2018	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed</i>
02/02/2021	 Request Filed by: Defendant Hamm, Barron <i>Petition Requesting the Defendant's Sentencing Be Set Aside and His Guilty Plea Agreement be Withdrawn From Record</i>
02/25/2021	 Order for Production of Inmate

CASE SUMMARY

CASE NO. 09C256384

Order For Production of Inmate Barron Hamm, BAC #1052277 - April 7, 2021, 11:00 a.m.

- | | |
|------------|---|
| 03/23/2021 |  Motion to Dismiss
Filed By: Plaintiff State of Nevada
<i>State's Response and Motion to Dismiss Petitioner's Third Petition for Writ of Habeas Corpus</i> |
| 03/26/2021 |  Clerk's Notice of Hearing
<i>Notice of Hearing</i> |
| 04/26/2021 | Response
Filed by: Defendant Hamm, Barron
<i>Response to State's Motion to Dismiss Petition to Set Aside Sentence</i> |
| 06/16/2021 |  Findings of Fact, Conclusions of Law and Order
<i>Findings of Fact, Conclusions of Law, and Order</i> |
| 06/17/2021 |  Notice of Appeal (Criminal)
<i>Notice of Appeal</i> |
| 06/18/2021 |  Case Appeal Statement
Filed By: Defendant Hamm, Barron
<i>Case Appeal Statement</i> |
| 06/18/2021 |  Notice of Entry
Filed By: Plaintiff State of Nevada
<i>Notice of Entry of Findings of Fact, Conclusions of Law and Order</i> |

DISPOSITIONS

- | | |
|------------|---|
| 03/12/2010 | Disposition (Judicial Officer: Bell, Linda Marie)
3. MURDER.
Amended Information Filed/Charges Not Addressed
PCN: Sequence:

3. DEGREES OF MURDER
Amended Information Filed/Charges Not Addressed
PCN: Sequence:

3. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.
Amended Information Filed/Charges Not Addressed
PCN: Sequence:

4. A PERSON SHALL NOT CARRY CONCEALED UPON HIS PERSON ANY PISTOL,
REVOLVER,
Amended Information Filed/Charges Not Addressed
PCN: Sequence: |
| 03/12/2010 | Plea (Judicial Officer: Bell, Linda Marie)
1. MURDER IN THE SECOND DEGREE WDW
Guilty
PCN: Sequence:

2. ASSAULT WITH A DEADLY WEAPON (5024)
Guilty
PCN: Sequence:

3. MURDER.
Charges Amended/Dropped |

CASE SUMMARY

CASE No. 09C256384

PCN: Sequence:

3. DEGREES OF MURDER

Charges Amended/Dropped

PCN: Sequence:

3. USE OF A DEADLY WEAPON OR TEAR GAS IN COMMISSION OF A CRIME.

Charges Amended/Dropped

PCN: Sequence:

4. A PERSON SHALL NOT CARRY CONCEALED UPON HIS PERSON ANY PISTOL, REVOLVER,

Charges Amended/Dropped

PCN: Sequence:

05/13/2010

Disposition (Judicial Officer: Bell, Linda Marie)

1. SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON

Guilty

PCN: Sequence:

2. ASSAULT WITH A DEADLY WEAPON (5024)

Guilty

PCN: Sequence:

05/13/2010

Adult Adjudication (Judicial Officer: Bell, Linda Marie)

1. SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON

01/01/1900 (F) 200.030 (4979)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Life with the possibility of parole after:10 Years

Consecutive Enhancement:Use of deadly weapon, Minimum:96 Months, Maximum:240 Months

05/13/2010

Adult Adjudication (Judicial Officer: Bell, Linda Marie)

2. ASSAULT WITH A DEADLY WEAPON (5024)

01/01/1900 (F) 200.471-2B (200.471-2B)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Minimum:24 Months, Maximum:72 Months

Consecutive: Charge 1

Credit for Time Served: 375 Days

Other Fees

1. , \$36,796.27 - To the Fleming Family

2. , \$6,000.00 - to Victims of Violent Crimes

Comment: \$25.ADM, \$150.DNAF

HEARINGS

07/22/2009

Grand Jury Indictment (11:30 AM)

GRAND JURY INDICTMENT Relief Clerk: Shelly Landwehr/sl Reporter/Recorder: Cheryl Carpenter Heard By: Linda Bell

Bench Warrant Issued; GRAND JURY INDICTMENT Relief Clerk: Shelly Landwehr/sl Reporter/Recorder: Cheryl Carpenter Heard By: Linda Bell

Journal Entry Details:

Duane Schlismann, Grand Jury Foreman, stated to the Court that at least twelve members had concurred in the return of the true bill during deliberation, but had been excused for presentation to the Court. The State presented Grand Jury Case Number 09AGJ036X to the Court. COURT ORDERED, the indictment may be filed and is assigned Case Number C256384, Department 14. Mr. Mitchell requested a bench warrant, COURT ORDERED, NO

CASE SUMMARY

CASE No. 09C256384

BAIL BENCH WARRANT. Exhibit(s) 1-34 lodged with Clerk of District Court. BW (CUSTODY) 07/29/09 09:00 AM INITIAL ARRAIGNMENT (DEPT. 14) ;

07/27/2009

Bench Warrant Return (9:00 AM)

Events: 07/23/2009 Indictment Warrant Return

BENCH WARRANT RETURN Court Clerk: Linda Skinner Reporter/Recorder: Cheryl Gardner Heard By: Donald Mosley

Matter Heard; BENCH WARRANT RETURN Court Clerk: Linda Skinner Reporter/Recorder: Cheryl Gardner Heard By: Donald Mosley

Journal Entry Details:

Mr. Coffee advised this matter was taken to the Grand Jury before the Preliminary Hearing and that the Public Defender's Office needs to be appointed. COURT SO ORDERED.

DEFENDANT ARRAIGNED, PLED NOT GUILTY AND WAIVED THE SIXTY (60) DAY RULE. COURT ORDERED, matter set for trial in ordinary course with priority. Mr. Coffee requested 21 days from the filing of the Grand Jury Transcript to file a writ. Court advised Defendants rights are reserved. CUSTODY 1/13/10 9:00 AM STATUS CHECK: DISCOVERY 3/9/10 9:00 AM CALENDAR CALL (#1) 3/15/10 1:30 PM JURY TRIAL (#1) ;

07/29/2009

CANCELED Initial Arraignment (9:00 AM)

Vacated

09/08/2009

Petition for Writ of Habeas Corpus (9:00 AM)

Events: 08/24/2009 Petition for Writ of Habeas Corpus

PTN FOR WRIT OF HABEAS CORPUS Court Clerk: Linda Skinner Reporter/Recorder: Maureen Schorn Heard By: Donald Mosley

Denied; PTN FOR WRIT OF HABEAS CORPUS Court Clerk: Linda Skinner Reporter/Recorder: Maureen Schorn Heard By: Donald Mosley

Journal Entry Details:

Court noted the issue is probable cause primarily as to Count 1, that the Defense does not feel there was enough evidence presented to the Grand Jury to support this Count. Statements by Mr. Coffee in support of the Writ. Statements by Ms. Jimenez in opposition. COURT ORDERED, Writ DENIED. Mr. Coffee requested a stay to appeal to the Supreme Court. Court DENIED request. CUSTODY ;

09/21/2009

Motion to Dismiss (9:00 AM)

Events: 09/08/2009 Motion to Dismiss Counsel

DEFT'S PRO PER MTN TO DISMISS COUNSEL/09 Court Clerk: Tina Hurd Reporter/Recorder: Renee Vincent Heard By: Linda Bell

Matter Heard; DEFT'S PRO PER MTN TO DISMISS COUNSEL/09 Court Clerk: Tina Hurd Reporter/Recorder: Renee Vincent Heard By: Linda Bell

Journal Entry Details:

Court advised she read the motion and Deft. Hamm is indicating Mr. Coffee has not been communicating with his family. Mr. Coffee advised he met with Deft's family at the time of the Preliminary Hearing, 15 people, and provided discovery to them. They have his phone number and he returns phone calls. Mr. Coffee advised the family was not present at the time of the Writ. An unidentified family member present and stated they were not aware of the hearing and have not been able to contact Mr. Coffee. Colloquy between Court and Deft. COURT ORDERED, motion DENIED. CUSTODY ;

01/06/2010

Motion to Dismiss (9:00 AM)

Events: 12/11/2009 Motion to Dismiss Counsel

DEFT' PRO PER MTN TO DISMISS COUNSEL ANDAPPOINTMENT OF ALTERNATIVE COUNSEL/10 Relief Clerk: Carol Donahoo Reporter/Recorder: Renee Vincent Heard By: Bell, Linda

Matter Continued; DEFT' PRO PER MTN TO DISMISS COUNSEL ANDAPPOINTMENT OF ALTERNATIVE COUNSEL/10 Relief Clerk: Carol Donahoo Reporter/Recorder: Renee Vincent Heard By: Bell, Linda

Journal Entry Details:

Upon Court's inquiry, Deft. Hamm stated he would like new counsel; colloquy. COURT ORDERED, matter CONTINUED. In the meantime, Mr. Coffee to meet with Deft. to try negotiate a solution. CUSTODY ;

01/13/2010

Status Check (9:00 AM)

STATUS CHECK: DISCOVERY




CASE SUMMARY

CASE No. 09C256384

01/13/2010	<p>Motion to Dismiss (9:00 AM) <i>DEFT' PRO PER MTN TO DISMISS COUNSEL AND APPOINTMENT OF ALTERNATIVE COUNSEL/10</i></p>
01/13/2010	<p>All Pending Motions (9:00 AM) <i>ALL PENDING MOTIONS (1/13/10) Relief Clerk: Susan Jovanovich /sj Reporter/Recorder: Cheryl Carpenter Heard By: Linda Bell</i> Matter Heard; ALL PENDING MOTIONS (1/13/10) Relief Clerk: Susan Jovanovich /sj Reporter/Recorder: Cheryl Carpenter Heard By: Linda Bell Journal Entry Details: <i>STATUS CHECK: DISCOVERY...DEFT'S PRO PER MOTION TO DISMISS COUNSEL AND APPOINTMENT OF ALTERNATIVE COUNSEL Mr. Coffee advised issues have been resolved between Deft. and himself, and Deft. is comfortable on having him remain in the case. Upon Court's inquiry, Mr. Coffee advised there are no remaining issues with Discovery; and requested any exculpatory information the State may have, to be provided. Ms. Jimenez advised she is aware of the obligations, and State will comply with the rules and procedures. Court so noted. COURT ORDERED, Deft's Motion is MOOT. ;</i></p>
03/09/2010	<p>Calendar Call (9:00 AM) <i>CALENDAR CALL Heard By: Linda Bell</i></p>
03/10/2010	<p>Calendar Call (9:00 AM) <i>CALENDAR CALL Court Clerk: Tina Hurd Reporter/Recorder: Cheryl Carpenter Heard By: Linda Bell</i> Matter Heard; CALENDAR CALL Court Clerk: Tina Hurd Reporter/Recorder: Cheryl Carpenter Heard By: Linda Bell Journal Entry Details: <i>Mr. Coffee announced ready for trial and advised they reviewed the State's file and will be picking up copies this morning. He does not anticipate a problem. Mr. Coffee advised he made a Brady request during the file review regarding anyone carrying a weapon at the party. Additionally, several of the witnesses have been represented by his office as juveniles. Mr. Coffee advised his review of the situation is it will not result in a conflict and they will not be using any confidential information. Mr. Coffee advised, also, he expects the issue that this was the victim's 14th birthday party to be raised and stated it does not seem to be part of the res gestae and he will be asking to remove that from the jury's consideration. Mr. Coffee requested a status check on Friday to make sure everything is set and, if there is a resolution, they will not have to scramble to be heard at the last minute. Conference at the bench. COURT ORDERED, this case will proceed to trial on Monday; matter set for status check on Friday and the Court will take up any pre-trial issues at that time. CUSTODY 3-12-10 8:45 AM STATUS CHECK: TRIAL READINESS 3-15-10 9:00 AM JURY TRIAL ;</i></p>
03/12/2010	<p>Status Check (8:45 AM) <i>STATUS CHECK: TRIAL READINESS Court Clerk: Tina Hurd Reporter/Recorder: Renee Vincent Heard By: Linda Bell</i> Matter Heard; STATUS CHECK: TRIAL READINESS Court Clerk: Tina Hurd Reporter/Recorder: Renee Vincent Heard By: Linda Bell Journal Entry Details: <i>Guilty Plea Agreement FILED IN OPEN COURT. NEGOTIATIONS: State retains full right to argue on the charge of Second Degree Murder. Parties stipulate to a sentence of 8-20 years for the deadly weapon enhancement. Parties also stipulate to a sentence of 24-72 months for the charge of Assault with a Deadly Weapon and agree to run the sentence consecutive to Count 1. Further, this agreement is conditional on the Court agreeing to and following through with the stipulated portion of the sentence. Ms. Jimenez advised, if the Court is not inclined to abide by the stipulations, either party may withdraw from the negotiations. Court acknowledged. DEFT. HAMM ARRAIGNED AND PLED GUILTY TO THE AMENDED INDICTMENT FILED IN OPEN COURT CHARGING--COUNT 1 - SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON (F) and COUNT 2 - ASSAULT WITH A DEADLY WEAPON (F). COURT ACCEPTED plea and ORDERED, matter referred to the Division of Parole and Probation (P&P) and set for sentencing. CUSTODY 5-14-10 8:45 AM SENTENCING ;</i></p>
03/15/2010	<p>CANCELED Jury Trial (9:00 AM) <i>Vacated</i></p>

CASE SUMMARY

CASE No. 09C256384

03/15/2010	CANCELED Jury Trial (9:30 AM) <i>Vacated</i>
05/14/2010	Sentencing (8:45 AM) <i>SENTENCING Court Clerk: Tina Hurd Reporter/Recorder: Renee Vincent Heard By: Linda Bell</i> Defendant Sentenced; SENTENCING Court Clerk: Tina Hurd Reporter/Recorder: Renee Vincent Heard By: Linda Bell Journal Entry Details: <i>Conference at the bench. DEFT. HAMM ADJUDGED GUILTY OF COUNT 1 - SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON (F) and COUNT 2 - ASSAULT WITH A DEADLY WEAPON (F). Matter argued and submitted. Sworn statements by Karen Kennedy Grill and the victim's mother Kimberly Brown Fleming. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee and \$150.00 DNA Analysis fee including testing to determine genetic markers, Deft. SENTENCED as follows: Count 1 - to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC) plus a CONSECUTIVE term of a MAXIMUM of TWO HUNDRED FORTY (240) MONTHS with a MINIMUM parole eligibility of NINETY SIX (96) MONTHS for use of a deadly weapon. Court stated her findings regarding the weapons enhancement. Count 2 - to a MAXIMUM term of SEVENTY TWO (72) MONTHS with a MINIMUM parole eligibility of TWENTY FOUR (24) MONTHS in the Nevada Department of Corrections (NDC), CONSECUTIVE to Count 1. 375 DAYS credit for time served. Deft. to PAY \$36,796.27 RESTITUTION to the Fleming Family and \$6,000.00 RESTITUTION to Victims of Violent Crimes. BOND, if any, EXONERATED. ;</i>
08/04/2010	 Motion to Withdraw as Counsel (8:45 AM) (Judicial Officer: Bell, Linda Marie) <i>Deft's Motion to Withdraw Attorney of Record</i> Granted; Journal Entry Details: <i>Defendant not present, incarcerated at NDC. Mr. Waters advised he will send file to Defendant. COURT ORDERED, Motion to Withdraw is GRANTED. NDC CLERK'S NOTE: A copy of the above minute order was mailed to Barron Hamm #1052277 @ High Desert State Prison PO BOX 650, Indian Springs, NV 89018./sjh;</i>
08/11/2010	CANCELED Motion to Withdraw as Counsel (8:45 AM) (Judicial Officer: Bell, Linda Marie) <i>Vacated - Moot</i> <i>VJ 8-4-10</i>
09/01/2010	 Motion for Appointment (8:45 AM) (Judicial Officer: Bell, Linda Marie) <i>Defendant's Pro Per's Motion for Appointment of Counsel and Request for Evidentiary Hearing</i> Denied; Journal Entry Details: <i>COURT FINDS, Deft. did not show a basis and did not file a petition. Further, Court noted it is unclear if Mr. Coffee will be filing an appeal. COURT ORDERED, motion, DENIED. NDC ;</i>
08/10/2011	 Motion for Order (8:45 AM) (Judicial Officer: Bell, Linda Marie) 08/10/2011, 09/14/2011 Events: 07/29/2011 Motion for Order <i>Deft's Pro Per Motion for an Order Granting Request for Sentencing Transcripts</i> Continued; Denied Without Prejudice; Journal Entry Details: <i>Brian Kochevar, DDA, present for the State of Nevada. - Deft. Hamm not present, in Proper Person. Court advised Deft. Hamm has failed to provide any reason why he needs the transcripts and ORDERED, motion DENIED WITHOUT PREJUDICE. Court advised she will reconsider if Deft. provides a reason he needs the transcripts. NDC ;</i> Continued; Denied Without Prejudice; Journal Entry Details: <i>Frank Ponticello, DDA, present for the State of Nevada. - Deft. Hamm not present, in Proper</i>

CASE SUMMARY

CASE NO. 09C256384

Person. Mr. Ponticello submitted to the Court's discretion. Court advised this is a closed appeal, however, he would prefer a written Opposition. Mr. Ponticello requested thirty days. COURT ORDERED, matter CONTINUED. NDC CONTINUED TO: 9-14-11 8:45 AM ;

02/24/2012



Motion to Withdraw Plea (8:45 AM) (Judicial Officer: Bell, Linda Marie)

Events: 02/13/2012 Motion to Withdraw Plea

Pro Se Motion to Withdrawal Plea

Denied;

Journal Entry Details:

Maria Lavell, DDA, present for the State of Nevada. - Deft. Hamm not present, in Proper Person. Court advised she read the motion and the State's opposition and no oral argument will be taken. Court stated it appears the motion would have been more properly brought as a post-conviction petition and, even then, it would be untimely. Under the circumstances of the case, there does not appear to be any basis to grant the motion. COURT ORDERED, motion DENIED. State to prepare the Order. NDC ;

12/10/2012



Motion for Clarification (9:00 AM) (Judicial Officer: Togliatti, Jennifer)

12/10/2012, 01/10/2013

Motion For Clarification

Continued;

Denied;

Continued;

Denied;

Journal Entry Details:

Jonathan Cooper, Deputy District Attorney, present for the State of Nevada. Defendant Hamm not present. Court noted the Defendant s request for counsel is premature and advised the Writ of Habeas Corpus is scheduled for 01/10/13. COURT ORDERED, matter CONTINUED. NDC CONTINUED TO: 01/10/13 9:00 AM ;

12/19/2012



Motion (9:00 AM) (Judicial Officer: Barker, David)

Request For Motion To Be Immediately Heard By Court

Denied;

Journal Entry Details:

Frank Ponticello, Deputy District Attorney, present for the State of Nevada. Defendant Hamm not present. COURT ORDERED, motion DENIED, hearing set for 01/10/13 STANDS. NDC ;

12/24/2012



Motion (9:00 AM) (Judicial Officer: Togliatti, Jennifer)

12/24/2012, 01/10/2013

Motion And Order For Transportation Of Inmate For Court Appearance Or, In The Alternative, For Appearance By Telephone Or Video Conference

Continued;

Denied;

Continued;

Denied;

Journal Entry Details:

Sam Martinez, Deputy Public Defender, present for the State of Nevada. Defendant Hamm not present. COURT noted Defendant's Motion is premature and ORDERED, matter CONTINUED. NDC CONTINUED TO: 01/10/13 9:00 AM ;

01/10/2013

Petition for Writ of Habeas Corpus (9:00 AM) (Judicial Officer: Togliatti, Jennifer)

Events: 11/02/2012 Order for Petition for Writ of Habeas Corpus

Denied;

01/10/2013



All Pending Motions (9:00 AM) (Judicial Officer: Togliatti, Jennifer)

Matter Heard;

Journal Entry Details:

Jonathan Cooper, Deputy District Attorney, present for the State of Nevada. Defendant Hamm not present. DEFENDANT'S PRO SE ORDER FOR TRANSPORTATION OF INMATE FOR COURT APPEARANCE OR, IN THE ALTERNATIVE, BY TELEPHONE OR VIDEO CONFERENCE ... PETITION FOR WRIT OF HABEAS CORPUS ... DEFENDANT'S PRO SE

CASE SUMMARY

CASE No. 09C256384

MOTION FOR CLARIFICATION COURT noted the Defendant was not transported because it does not entertain oral arguments on these matters and **ORDERED**, Defendant's presence **WAIVED**. COURT noted the Defendant requested to be transported, but as it does not entertain oral argument in these matters, **ORDERED**, Defendant's Pro Se Order for Transportation of Inmate for Court Appearance, or in the Alternative, by Telephone or Video Conference **DENIED**. With respect to the Petition for Writ of Habeas Corpus, State advised the Court of the Defendant's birth date. COURT noted the reasons listed are insufficient and the Defendant was not a minor and **ORDERED**, Motion **DENIED**. COURT **FURTHER ORDERED**, Motion for Clarification **DENIED**. NDC CLERK'S NOTE: A copy of this minute order has been mailed to: Barron Hamm #1052277 High Desert State Prison PO Box 650 HDSP Indian Springs, NV 89070 ;

03/18/2013



Motion to Reconsider (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Motion for Reconsideration; and for Appointment of Counsel for "Direct Appeal"
Denied;

Journal Entry Details:

Deft not present, in custody at the Nevada Department of Corrections. Court stated it will not be taking any argument, and ORDERED, the Court currently has no jurisdiction to entertain the Motion as the appeal has already been filed of the Order which is being sought for reconsideration. NDC CLERK'S NOTE: Minutes distributed to Barron Hamm, Defendant, ID #1052277, High Desert State Prison, P.O. Box 650, Indian Springs, NV 89070. / dr 3-20-13;

05/05/2014



Motion to Withdraw Plea (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Defendant's Pro Per Motion to Withdraw Plea
Denied;

Journal Entry Details:

Deft not present, in custody at the Nevada Department of Corrections. No oral argument taken. Court finds no cognizable claim has been presented and ORDERS, Defendant's Pro Per Motion to Withdraw Plea is DENIED. State to prepare the Order. NDC CLERK'S NOTE: A copy of the above minute order was mailed to: Barron Hamm, Deft in Pro Se, ID # 1052277, High Desert State Prison, P.O. Box 650, Indian Springs, NV 89070. / dr;

10/27/2014



Motion for Order (9:00 AM) (Judicial Officer: Togliatti, Jennifer)

Defendant's Pro Per Motion for and Order Granting Request for Sentencing Transcripts
Denied Without Prejudice;

Journal Entry Details:

Brett Keeler, Deputy District Attorney, present on behalf of the State. Defendant not present in custody with the Nevada Department of Corrections. Based on the pleadings and without argument, Court FINDS, Defendant has made a vague four (4) sentence request for transcripts, failing to make a specific claim as to what the transcripts are need for; therefore, COURT ORDERED, Motion DENIED WITHOUT PREJUDICE. Court noted Defendant will be permitted to file a new motion detailing the issues and/or claims. NDC CLERK'S NOTE: The above minute order has been distributed to: BARRON HAMM #1052277 HIGH DESERT STATE PRISON P.O. BOX 650 INDIAN SPRINGS,NV 89018 ;

03/30/2015



Motion (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Defendant's Pro Per Motion Requesting of the Sentencing Court to Issue its Order Granting the Petitioner a Copy of his Plea Canvassing and Sentencing Transcripts Pursuant to NRS 7.40 et seq and 7.055

Motion Granted; Defendant's Pro Per Motion Requesting of the Sentencing Court to Issue its Order Granting the Petitioner a Copy of his Plea Canvassing and Sentencing Transcripts Pursuant to NRS 7.40 et seq and 7.055

Journal Entry Details:

COURT ORDERED, motion GRANTED. Deft. can be provided copies of transcripts. NDC CLERK'S NOTE: The above minute order has been distributed to: Barron Hamm #1052277, High Desert State Prison, P.O. Box 650, Indian Springs, NV 89018. aw ;

07/15/2015



Motion to Vacate Sentence (9:00 AM) (Judicial Officer: Gonzalez, Elizabeth)

Defendant's Pro Per Motion to Vacate Sentence
Denied;


Journal Entry Details:

CASE SUMMARY

CASE No. 09C256384


Deft not present, in custody at the Nevada Department of Corrections. No oral argument taken. COURT FINDS no new information has been provided, and there is no reason to grant this motion; therefore, motion is DENIED on the same basis the Court denied it previously. State to prepare the order. Court further noted Ms. Renee Vincent is in the process of preparing the previously requested sentencing transcript which will be sent to the Deft. NDC CLERK'S NOTE: A copy of the above minute order was mailed to Barron Hamm, Pro Se, ID #1052277, High Desert State Prison, P.O. Box 650, Indian Springs, NV 89070. / dr 7-16-15;

07/24/2017

 **Petition for Writ of Habeas Corpus** (9:00 AM) (Judicial Officer: Cory, Kenneth)

Events: 06/06/2017 Order for Petition for Writ of Habeas Corpus
Defendant's Petition for Writ of Habeas Corpus

MINUTES


 Order for Petition for Writ of Habeas Corpus

Denied;

Journal Entry Details:

Defendant Hamm NOT PRESENT IN CUSTODY. COURT ORDERED, Defendant's Petition for Writ of Habeas Corpus DENIED for the reasons urged by the State. State to prepare the Order. CLERK'S NOTE: The above minute order has been distributed to: /mlt BARRON HAMM, BAC #1152965 HIGH DESERT STATE PRISON 22010 COLD CREEK RD P.O. BOX 650 INDIAN SPRINGS, NV, 89070;

02/24/2021

 **Motion to Withdraw Plea** (11:00 AM) (Judicial Officer: Israel, Ronald J.)

02/24/2021, 05/26/2021

Defendant's Pro Per Petition Requesting the Defendant's Sentencing Be Set Aside and His Guilty Plea Agreement be Withdrawn From Record

Matter Continued; Defendant's Pro Per Petition Requesting the Defendant's Sentencing Be Set Aside and His Guilty Plea Agreement be Withdrawn From Record

Denied;


Matter Continued; Defendant's Pro Per Petition Requesting the Defendant's Sentencing Be Set Aside and His Guilty Plea Agreement be Withdrawn From Record

Denied;

Journal Entry Details:

Deft. HAMM not present, in the Nevada Department of Corrections (NDC). There being limited time and the courts congested calendar, State requested the matter be continued 90 days. COURT ORDERED, Matter CONTINUED. State to prepare an order to transport Deft. or for a video appearance. NDC 05/26/2021 11:00 AM DEFENDANT'S PRO PER PETITION REQUESTING THE DEFENDANT'S SENTENCING BE SET ASIDE AND HIS GUILTY PLEA AGREEMENT BE WITHDRAWN FROM RECORD CLERK'S NOTE: corrected date to reflect 90 days (5/26/21). A copy of this minute order was mailed to Deft. Barron Hamm #1052277, 1200 Prison Road, Love Lock, Nv, 89419. DA- emailed. kt 2/24/21;

04/05/2021

 **Motion to Dismiss** (11:00 AM) (Judicial Officer: Israel, Ronald J.)

04/05/2021, 05/26/2021

State's Response and Motion to Dismiss Petitioner's Third Petition for Writ of Habeas Corpus

Matter Continued;

Denied;


Matter Continued;

Denied;

Journal Entry Details:

Deft. not present, in Nevada Department of Corrections. COURT ORDERED, matter CONTINUED to hear both the State and the Defendant's Motions at the same time. Court noted an order to transport the Defendant should be filed for 5/26/2021. NDC CONTINUED TO: 05/26/2021 11:00 AM CLERK'S NOTE: The above minute order has been distributed to: Barron Hamm #1052277, 1200 Prison Road, Love Lock, Nevada 89419. 4/14/21km;

05/26/2021

 **All Pending Motions** (11:00 AM) (Judicial Officer: Israel, Ronald J.)

Matter Heard;

Journal Entry Details:

STATE'S RESPONSE AND MOTION TO DISMISS PETITIONER'S THIRD PETITION FOR WRIT OF HABEAS CORPUS... DEFENDANT'S PRO PER PETITION REQUESTING THE

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE No. 09C256384

DEFENDANT'S SENTENCING BE SET ASIDE AND HIS GUILTY PLEA AGREEMENT BE WITHDRAWN FROM RECORD Upon the Court's inquiry the Defendant and Mr. Waters submitted on their pleadings. COURT stated findings and ORDERED, Defendant's Pro Per Petition Requesting the Defendant's Sentence Be Set Aside and His Guilty Plea Agreement Be Withdrawn From Record DENIED; Mr. Waters to prepare and submit the Order. NDC ;

DATE

FINANCIAL INFORMATION

Defendant Hamm, Barron

Total Charges

175.00

Total Payments and Credits

0.00

Balance Due as of 6/18/2021

175.00

Heaven S. Hamlin

CLERK OF THE COURT

FFCO
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #1565
TALEEN PANDUKHT
Chief Deputy District Attorney
Nevada Bar #5734
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,
Plaintiff,

-vs-

BARRON HAMM,
#2707761

Defendant.

CASE NO: 09C256384

DEPT NO: XXVIII

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER**

DATE OF HEARING: MAY 26, 2021
TIME OF HEARING: 11:00 A.M.

THIS CAUSE having come on for hearing before the Honorable Ronald Israel, District Judge, on the 26th day of May, 2021, the Petitioner being present, proceeding in proper person, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through Steve Waters, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

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1 On August 5, 2010, Petitioner filed an untimely Notice of Appeal from his Judgment
2 of Conviction. On September 10, 2010, the Supreme Court of Nevada dismissed Petitioner's
3 appeal for lack of jurisdiction. Remittitur issued on October 6, 2010.

4 On February 13, 2012, Petitioner filed a Motion to Withdraw Guilty Plea, which the
5 State opposed on February 22, 2012. The District Court denied Petitioner's motion on
6 February 24, 2012, and the order of denial was filed on May 7, 2012.

7 On October 31, 2012, Petitioner filed his First Petition for Writ Of Habeas Corpus
8 (Post-Conviction) (hereinafter "First Petition"). On November 14, 2012, the State filed its
9 Response and Motion to Dismiss the First Petition as time-barred with no good cause shown
10 for the delay. On January 10, 2013, the District Court denied Petitioner's First Petition,
11 entering its Findings of Fact, Conclusions of Law, and Order on January 29, 2013. Petitioner
12 filed a Notice of Appeal on February 22, 2013. On September 19, 2013, the Supreme Court
13 affirmed the District Court's denial of Petitioner's First Petition, with Remittitur issuing on
14 October 17, 2013.

15 On June 23, 2015, Petitioner filed a Motion to Vacate Sentence. The State responded
16 on July 10, 2015. This Court denied the Motion on July 15, 2015. On August 19, 2015,
17 Petitioner appealed. The Nevada Supreme Court affirmed the District Court's denial of
18 Petitioner's Motion to Vacate Sentence on February 17, 2016. Remittitur issued on March 14,
19 2016.

20 On May 17, 2017, Petitioner filed a Second Petition for Writ of Habeas Corpus (Post-
21 Conviction) (hereinafter "Second Petition"). The State filed its Response on July 11, 2017. On
22 July 24, 2017, the district court denied Petitioner's Second Petition. The Findings of Fact,
23 Conclusions of Law and Order was filed on August 16, 2017. Petitioner filed a Notice of
24 Appeal on September 8, 2017. On August 24, 2018, the Supreme Court affirmed the District
25 Court's denial of Petitioner's Second Petition, with Remittitur issuing on September 19, 2018.

26 On February 2, 2021, Petitioner filed a Third "Petition Requesting the Defendant's
27 Sentencing Be Set Aside and His Guilty Plea Agreement be Withdrawed From Record." The
28 //

1 State's Response was filed on March 23, 2021. The matter came before the Court for hearing
2 on May 26, 2021, and the Court's ruling follows.

3 **STATEMENT OF THE FACTS**

4 On May 3, 2009, officers of the Las Vegas Metropolitan Police Department received a
5 call regarding a person that had been shot. Upon arrival, the officers located a 14-year-old
6 male lying on the ground with a gunshot wound. The juvenile victim was transported to
7 Sunrise Hospital and was later pronounced dead.

8 During an investigation, officers learned that the victim's sister had thrown a birthday
9 party at her apartment for the 14-year-old victim on May 2, 2009. Approximately twenty-five
10 (25) people attended the party ranging in ages from twelve (12) to nineteen (19) and alcohol
11 was consumed by many of the attendees. During the party, several uninvited males arrived at
12 the party and claimed to be members of the street gang "ATM." One of the "ATM" members
13 was recognized by witnesses as "Burger," later identified as Petitioner, a student at Chaparral
14 High School.

15 At approximately 1:00 AM, the victim's sister returned to the party and observed the
16 "ATM" members. She decided to end the party and asked everybody to leave except the 14-
17 year-old victim and a few juveniles that were sleeping over. Petitioner and the other "ATM"
18 members left the party; however, a short time later Petitioner returned and knocked on the
19 door. The door was opened, and Petitioner walked inside. He pulled out a revolver and told
20 everybody to "Calm down" or "Get down." The 14-year-old panicked and ran out the front
21 door. Petitioner stepped out of the front door, fired the gun, and then fled the scene. The
22 witnesses exited the apartment, discovered the 14-year-old victim lying on the ground bleeding
23 from a gunshot wound and called police.

24 Several witnesses reviewed their Chaparral High School yearbook, identified Petitioner
25 as the suspect and informed police. Later, witnesses were shown a photo lineup by police and
26 positively identified Petitioner. Detectives attempted to locate Petitioner at his residence but
27 were unsuccessful. On May 4, 2009, a family member called detectives and agreed to bring
28 Petitioner in for an interview. During questioning, Petitioner admitted attending the party but

1 denied being an “ATM” gang member. He admitted to re-entering the apartment but stated
2 that he did not know how the shots were fired. A short time later, Petitioner asked for his
3 mother, and she was brought into the interview room. After a brief discussion, the detectives
4 left Petitioner and his mother in the room with the video recorder on. While speaking to his
5 mother, Petitioner lowered his voice and stated, “I did shoot the boy though, I did do that, I
6 told you I shot him and I got scared.”

7 Petitioner was arrested, transported to Clark County Juvenile Hall and booked
8 accordingly. On May 6, 2009, Petitioner was certified as an adult, transported to the Clark
9 County Detention Center, and booked accordingly.

10 **ANALYSIS**

11 **I. PETITIONER’S PETITION IS PROCEDURALLY BARRED.**

12 **a. Petitioner’s Petition is Time-Barred.**

13 Pursuant to NRS 34.726(1):

14 Unless there is good cause shown for delay, a petition that challenges the
15 validity of a judgment or sentence must be filed within 1 year of the entry
16 of the judgment of conviction or, if an appeal has been taken from the
17 judgment, within 1 year after the Supreme Court issues its remittitur. For
18 the purposes of this subsection, good cause for delay exists if the petitioner
demonstrates to the satisfaction of the court:

- 17 (a) That the delay is not the fault of the petitioner; and
- 18 (b) That dismissal of the petition as untimely will unduly prejudice the
petitioner.

19 The Supreme Court of Nevada has held that NRS 34.726 should be construed by its
20 plain meaning. Pellegrini v. State, 117 Nev. 860, 873–74, 34 P.3d 519, 528 (2001). According
21 to the language of the statute, the one-year time bar proscribed by NRS 34.726 begins to run
22 from the date the judgment of conviction is filed or a remittitur from a timely direct appeal is
23 filed. Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133–34 (1998).

24 The one-year time limit for preparing petitions for post-conviction relief under NRS
25 34.726 is strictly applied. In Gonzales v. State, 118 Nev. 590, 596, 53 P.3d 901, 904 (2002),
26 the Nevada Supreme Court rejected a habeas petition that was filed two days late despite
27 evidence presented by the defendant that he purchased postage through the prison and mailed
28 the Notice within the one-year time limit.

1 Furthermore, the Nevada Supreme Court has held that the district court has a *duty* to
2 consider whether a defendant's post-conviction petition claims are procedurally barred. State
3 v. Eighth Judicial Dist. Court (Riker), 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005). The
4 Riker Court found that "[a]pplication of the statutory procedural default rules to post-
5 conviction habeas petitions is mandatory," noting:

6 Habeas corpus petitions that are filed many years after conviction are an
7 unreasonable burden on the criminal justice system. The necessity for a
8 workable system dictates that there must exist a time when a criminal
conviction is final.

9 Id. Additionally, the Court noted that procedural bars "cannot be ignored [by the district court]
10 when properly raised by the State." Id. at 233, 112 P.3d at 1075. The Nevada Supreme Court
11 has granted no discretion to the district courts regarding whether to apply the statutory
12 procedural bars; the rules *must* be applied.

13 In the instant case, the Judgment of Conviction was filed on May 20, 2010, and
14 Petitioner filed a direct appeal. The Nevada Supreme Court issued an Order dismissing
15 Petitioner's appeal as the Notice of Appeal was untimely filed and remittitur issued on October
16 6, 2010. Thus, the one-year time bar began to run from the date remittitur issued. The instant
17 Petition was not filed until February 2, 2021. This is almost ten (10) years beyond the one-
18 year time frame. As there is no good cause for this delay, Petitioner's Petition is denied because
19 of its tardy filing.

20 **b. Petitioner's Petition is Successive and/or an Abuse of Writ.**

21 NRS 34.810(2) reads:

22 A second or successive petition *must* be dismissed if the judge or justice
23 determines that it fails to allege new or different grounds for relief and that
24 the prior determination was on the merits or, if new and different grounds
are alleged, the judge or justice finds that the failure of the petitioner to
assert those grounds in a prior petition constituted an abuse of the writ.

25 (emphasis added). Second or successive petitions are petitions that either fail to allege new or
26 different grounds for relief and the grounds have already been decided on the merits or that
27 allege new or different grounds, but a judge or justice finds that the petitioner's failure to assert
28 those grounds in a prior petition would constitute an abuse of the writ. Second or successive

1 petitions will only be decided on the merits if the petitioner can show good cause and prejudice.
2 NRS 34.810(3); Lozada v. State, 110 Nev. 349, 358, 871 P.2d 944, 950 (1994).

3 The Nevada Supreme Court has stated: “Without such limitations on the availability of
4 post-conviction remedies, prisoners could petition for relief in perpetuity and thus abuse post-
5 conviction remedies. In addition, meritless, successive and untimely petitions clog the court
6 system and undermine the finality of convictions.” Lozada, 110 Nev. at 358, 871 P.2d at 950.
7 The Nevada Supreme Court recognizes that “[u]nlike initial petitions which certainly require
8 a careful review of the record, successive petitions may be dismissed based solely on the face
9 of the petition.” Ford v. Warden, 111 Nev. 872, 882, 901 P.2d 123, 129 (1995). In other words,
10 if the claim or allegation was previously available with reasonable diligence, it is an abuse of
11 the writ to wait to assert it in a later petition. McClesky v. Zant, 499 U.S. 467, 497–98 (1991).
12 Application of NRS 34.810(2) is mandatory. See Riker, 121 Nev. at 231, 112 P.3d at 1074.

13 Here, Petitioner previously filed a Petition for Writ of Habeas Corpus on October 31,
14 2012, which raised the same claim that his plea was not voluntarily entered into because he
15 was not competent to understand his plea. See Petition for Writ of Habeas Corpus, filed
16 October 31, 2012, at 8–9. This Court denied Petitioner’s 2012 Petition and entered its Findings
17 of Fact, Conclusions of Law, and Order on January 29, 2013. On May 17, 2017, Petitioner
18 filed a Second Petition for Writ of Habeas Corpus, which was denied on July 24, 2017. The
19 Findings of Fact, Conclusions of Law, and Order was filed on August 16, 2017. Therefore,
20 Petitioner’s instant Petition is successive and is denied. As this Petition is successive, pursuant
21 to NRS 34.810(2), it cannot be decided on the merits absent a showing of good cause and
22 prejudice. NRS 34.810(3).

23 **c. Petitioner’s Petition is Barred by the Law of the Case Doctrine and Res**
24 **Judicata**

25 “The law of a first appeal is law of the case on all subsequent appeals in which the facts
26 are substantially the same.” Hall v. State, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975) (quoting
27 Walker v. State, 85 Nev. 337, 343, 455 P.2d 34, 38 (1969)). “The doctrine of the law of the
28 case cannot be avoided by a more detailed and precisely focused argument subsequently made

1 after reflection upon the previous proceedings.” Id. at 316, 535 P.2d at 799. Under the law of
2 the case doctrine, issues previously decided on direct appeal may not be reargued in a habeas
3 petition. Pellegrini v. State, 117 Nev. 860, 879, 34 P.3d 519, 532 (2001) (citing McNelton v.
4 State, 115 Nev. 396, 414–15, 990 P.2d 1263, 1275 (1999)). Furthermore, this Court cannot
5 overrule the Nevada Supreme Court. NEV. CONST. Art. VI § 6. Further, defendants cannot
6 attempt to relitigate the same motions over and over within the district court due to res judicata.
7 See Mason v. State, 206 S.W.3d 869, 875 (Ark. 2005) (recognizing the doctrine’s applicability
8 in the criminal context); see also York v. State, 342 S.W. 528, 553 (Tex. Crim. Appl. 2011).

9 Here, as noted above, Petitioner previously raised the issue of his competency to enter
10 his plea in his first Petition for Writ of Habeas Corpus. See Petition for Writ of Habeas Corpus,
11 filed October 31, 2012, at 8–9. This Court denied Petitioner’s Petition and entered its Findings
12 of Fact, Conclusions of Law, and Order on January 29, 2013. Petitioner appealed this Court’s
13 decision. The Nevada Supreme Court affirmed the Court’s denial of his Petition for Writ of
14 Habeas Corpus and determined that “no relief based on [his] submissions is warranted.” Order
15 of Affirmance, No. 62688, filed September 19, 2013, at 2 n.4. Therefore, as Petitioner’s claims
16 have been reviewed and dismissed by the Nevada Supreme Court, Petitioner’s instant claims
17 are barred by the law of the case. Thus, his Petition is denied.

18 Further, Petitioner’s claims are barred by the doctrine of res judicata. However,
19 Petitioner has previously raised this claim in other Motions and Petitions. See Motion to
20 Withdraw Plea, filed February 13, 2012, at 6–7; Petition for Writ of Habeas Corpus, filed
21 October 31, 2012, 8–9; Motion to Withdraw Plea, filed April 10, 2014, 2–3. All of these
22 pleadings were previously denied by this Court. See Order, filed May 7, 2012; Findings of
23 Fact, Conclusions of Law, and Order, filed January 29, 2013; Order, filed May 16, 2014.
24 Accordingly, by simply continuing to file motions with the same arguments, his motion is
25 barred by the doctrine of res judicata. Id.; Hall v. State, 91 Nev. 314, 316, 535 P.2d 797, 799
26 (1975).

27 //

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1 **II. PETITIONER FAILED TO DEMONSTRATE GOOD CAUSE TO OVERCOME**
2 **THE PROCEDURAL BARS.**

3 A showing of good cause and prejudice may overcome procedural bars. “To establish
4 good cause, appellants *must* show that an impediment external to the defense prevented their
5 compliance with the applicable procedural rule. A qualifying impediment might be shown
6 where the factual or legal basis for a claim was not reasonably available at the time of default.”
7 Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003) (emphasis added). The Court
8 continued, “appellants cannot attempt to manufacture good cause[.]” Id. at 621, 81 P.3d at 526.
9 To find good cause there must be a “substantial reason; one that affords a legal excuse.”
10 Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (quoting Colley v. State, 105
11 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)). Clearly, any delay in the filing of the petition
12 must not be the fault of the petitioner. NRS 34.726(1)(a). Additionally, “bare” and “naked”
13 allegations are not sufficient to warrant post-conviction relief, nor are those belied and repelled
14 by the record. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “A claim is
15 ‘belied’ when it is contradicted or proven to be false by the record as it existed at the time the
16 claim was made.” Mann v. State, 118 Nev. 351, 354, 46 P.3d 1228, 1230 (2002).

17 Here, Petitioner cannot demonstrate good cause to overcome the procedural bars. In
18 fact, Petitioner did not even address good cause in his Petition. Instead, Petitioner merely raises
19 his claims without ever addressing the one-year time bar or his tardy filing. All the facts and
20 law alleged in Petitioner’s Petition were available for direct appeal or a timely-filed habeas
21 petition. Further, Petitioner does not even allege an impediment external to the defense.
22 Therefore, Petitioner has failed to demonstrate good cause to overcome the procedural bars
23 and, accordingly, Petitioner’s second Petition is denied as untimely and successive.

24 **III. PETITIONER SIMILARLY FAILED TO DEMONSTRATE PREJUDICE.**

25 To establish prejudice, the defendant must show “‘not merely that the errors of [the
26 proceedings] created possibility of prejudice, but that they worked to his actual and substantial
27 disadvantage, in affecting the state proceedings with error of constitutional dimensions.’”
28 Hogan v. Warden, 109 Nev. 952, 960, 860 P.2d 710, 716 (1993) (quoting United States v.

1 Fraday, 456 U.S. 152, 170, 102 S. Ct. 1584, 1596 (1982)). Here, it is unclear whether Petitioner
2 is claiming counsel was ineffective for allegedly coercing him into taking the negotiations or
3 substantively claiming that his plea was not knowingly and voluntarily entered. Regardless,
4 Petitioner's claims are meritless as Petitioner received effective assistance of counsel and his
5 plea was knowingly and voluntarily entered.

6 **a. Petitioner received effective assistance of counsel**

7 The Sixth Amendment to the United States Constitution provides that, "[i]n all criminal
8 prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his
9 defense." The United States Supreme Court has long recognized that "the right to counsel is
10 the right to the effective assistance of counsel." Strickland v. Washington, 466 U.S. 668, 686,
11 104 S. Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323
12 (1993).

13 To prevail on a claim of ineffective assistance of counsel as it relates to a guilty plea, a
14 defendant must prove he was denied "reasonably effective assistance" of counsel by satisfying
15 the two-prong test of Strickland. 466 U.S. at 686–87, 104 S. Ct. at 2063–64; see also Love,
16 109 Nev. at 1138, 865 P.2d at 323. Under the Strickland test, a defendant must show first that
17 his counsel's representation fell below an objective standard of reasonableness, and second,
18 that but for counsel's ineffective assistance, he would not have pleaded guilty and would have
19 insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59, 106 S. Ct. 366, 370 (1985).

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

26 Counsel cannot be ineffective for failing to make futile objections or arguments. See
27 Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). Trial counsel has the
28 "immediate and ultimate responsibility of deciding if and when to object, which witnesses, if

1 any, to call, and what defenses to develop.” Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167
2 (2002).

3 Based on the above law, the role of a court in considering allegations of ineffective
4 assistance of counsel is “not to pass upon the merits of the action not taken but to determine
5 whether, under the particular facts and circumstances of the case, trial counsel failed to render
6 reasonably effective assistance.” Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711
7 (1978). This analysis does not mean that the court should “second guess reasoned choices
8 between trial tactics nor does it mean that defense counsel, to protect himself against
9 allegations of inadequacy, must make every conceivable motion no matter how remote the
10 possibilities are of success.” Id. To be effective, the constitution “does not require that counsel
11 do what is impossible or unethical. If there is no bona fide defense to the charge, counsel
12 cannot create one and may disserve the interests of his client by attempting a useless charade.”
13 United States v. Cronin, 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19 (1984).

14 “There are countless ways to provide effective assistance in any given case. Even the
15 best criminal defense attorneys would not defend a particular client in the same way.”
16 Strickland, 466 U.S. at 689, 104 S. Ct. at 689. “Strategic choices made by counsel after
17 thoroughly investigating the plausible options are almost unchallengeable.” Dawson v. State,
18 108 Nev. 112, 117, 825 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784
19 P.2d 951, 953 (1989). In essence, the court must “judge the reasonableness of counsel’s
20 challenged conduct on the facts of the particular case, viewed as of the time of counsel’s
21 conduct.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066.

22 Even if a defendant can demonstrate that his counsel’s representation fell below an
23 objective standard of reasonableness, he must still demonstrate prejudice and show a
24 reasonable probability that, but for counsel’s errors, the result of the trial would have been
25 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing
26 Strickland, 466 U.S. at 687, 104 S. Ct. at 2064). “A reasonable probability is a probability
27 sufficient to undermine confidence in the outcome.” Id. (citing Strickland, 466 U.S. at 687–
28 89, 694, 104 S. Ct. at 2064–65, 2068).

1 The Nevada Supreme Court has held “that a habeas corpus petitioner must prove the
2 disputed factual allegations underlying his ineffective-assistance claim by a preponderance of
3 the evidence.” Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). Furthermore,
4 claims of ineffective assistance of counsel asserted in a petition for post-conviction relief must
5 be supported with specific factual allegations, which if true, would entitle the petitioner to
6 relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and “naked”
7 allegations are not sufficient, nor are those belied and repelled by the record. Id. NRS
8 34.735(6) states in relevant part, “[Petitioner] *must* allege specific facts supporting the claims
9 in the petition[.] . . . Failure to allege specific facts rather than just conclusions may cause your
10 petition to be dismissed.” (emphasis added).

11 A party seeking review bears the responsibility “to cogently argue, and present relevant
12 authority” to support his assertions. Edwards v. Emperor’s Garden Restaurant, 122 Nev. 317,
13 330 n.38, 130 P.3d 1280, 1288 n.38 (2006); Dept. of Motor Vehicles and Public Safety v.
14 Rowland, 107 Nev. 475, 479, 814 P.2d 80, 83 (1991) (defendant’s failure to present legal
15 authority resulted in no reason for the district court to consider defendant’s claim); Maresca v.
16 State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) (an arguing party must support his arguments
17 with relevant authority and cogent argument; “issues not so presented need not be addressed”);
18 Randall v. Salvation Army, 100 Nev. 466, 470–71, 686 P.2d 241, 244 (1984) (court may
19 decline consideration of issues lacking citation to relevant legal authority); Holland Livestock
20 v. B & C Enterprises, 92 Nev. 473, 533 P.2d 950 (1976) (issues lacking citation to relevant
21 legal authority do not warrant review on the merits).

22 Here, Petitioner claims that counsel was ineffective for allegedly coercing him into
23 accepting the negotiations. However, Petitioner provides no evidence to this Court to
24 demonstrate that counsel coerced him into taking the negotiations or that he was prejudiced in
25 any way by accepting the negotiations. Instead, Petitioner only quotes his sentencing transcript
26 where he informed the Court that he no longer wanted to accept the negotiations. Petitioner
27 fails to point out that Petitioner made this comment after his Motion to Withdraw Plea had
28 been litigated and denied. This Court reviewed Petitioner’s claims and determined that

1 Petitioner did not have a basis to withdraw his plea. See Order, filed May 7, 2012. Thus,
2 Petitioner's claims are bare, naked, and only appropriate for summary denial. Hargrove, 100
3 Nev. at 502, 686 P.2d at 225. Further, Petitioner was originally facing four (4) counts,
4 including an open murder charge. Counsel negotiated Petitioner's plea to only two (2) counts
5 and obtained stipulations to one of the counts and the weapon enhancement. Counsel's
6 performance was not ineffective as this negotiation was in Petitioner's best interest. As
7 Petitioner has failed to demonstrate both deficient performance and prejudice, Petitioner's
8 claim fails.

9 To the extent Petitioner claims counsel was ineffective because he was not presented
10 with a better offer, defense counsel cannot be deemed ineffective for his failure to secure a
11 more favorable offer. Counsel does not have control over what the State offers. See Young v.
12 District Court, 107 Nev. 642, 818 P.2d 844 (1991). Counsel cannot be deemed ineffective
13 merely because the Defendant's risk in disregarding counsel's advice did not pay off. See
14 Cronic, 466 U.S. at 657 n.19, 104 S. Ct. at 2046 n.19 (noting counsel is not required to do what
15 is impossible). Therefore, Petitioner's claim fails. As Petitioner has failed to demonstrate both
16 good cause and prejudice to overcome the procedural bars, his Petition is denied.

17 **b. Petitioner's plea was knowingly and voluntarily entered into.**

18 Pursuant to NRS 176.165, after sentencing, a defendant's guilty plea can only be
19 withdrawn to correct "manifest injustice." See Baal v. State, 106 Nev. 69, 72, 787 P.2d 391,
20 394 (1990). The law in Nevada establishes that a plea of guilty is presumptively valid and the
21 burden is on a defendant to show that the plea was not voluntarily entered. Bryant v. State, 102
22 Nev. 268, 272, 721 P.2d 364, 368 (1986) (citing Wingfield v. State, 91 Nev. 336, 337, 535
23 P.2d 1295, 1295 (1975)). Manifest injustice does not exist if the defendant entered his plea
24 voluntarily. Baal, 106 Nev. at 72, 787 P.2d at 394.

25 To determine whether a guilty plea was voluntarily entered, the Court will review the
26 totality of the circumstances surrounding the defendant's plea. Bryant, 102 Nev. at 271, 721
27 P.2d at 367. A proper plea canvass should reflect that:

28 //

1 [T]he defendant knowingly waived his privilege against self-incrimination,
2 the right to trial by jury, and the right to confront his accusers; (2) the plea
3 was voluntary, was not coerced, and was not the result of a promise of
4 leniency; (3) the defendant understood the consequences of his plea and the
range of punishments; and (4) the defendant understood the nature of the
charge, i.e., the elements of the crime.

5 Wilson v. State, 99 Nev. 362, 367, 664 P.2d 328, 331 (1983) (citing Higby v. Sheriff, 86 Nev.
6 774, 476 P.2d 950 (1970)). The presence and advice of counsel is a significant factor in
7 determining the voluntariness of a plea of guilty. Patton v. Warden, 91 Nev. 1, 2, 530 P.2d
8 107, 107 (1975).

9 This standard requires the court accepting the plea to personally address the defendant
10 at the time he enters his plea to determine whether he understands the nature of the charges to
11 which he is pleading. Bryant, 102 Nev. at 271, 721 P.2d at 367. A court may not rely simply
12 on a written plea agreement without some verbal interaction with a defendant. Id. Thus, a
13 “colloquy” is constitutionally mandated, and a “colloquy” is but a conversation in a formal
14 setting, such as that occurring between an official sitting in judgment of an accused at plea.
15 See id. However, the court need not conduct a ritualistic oral canvass. State v. Freese, 116
16 Nev. 1097, 13 P.3d 442 (2000). The guidelines for voluntariness of guilty pleas “do not require
17 the articulation of talismanic phrases,” but only that the record demonstrates a defendant
18 entered his guilty plea understandingly and voluntarily. Heffley v. Warden, 89 Nev. 573, 575,
19 516 P.2d 1403, 1404 (1973); see also Brady v. United States, 397 U.S. 742, 747–48, 90 S. Ct.
20 1463, 1470 (1970).

21 In this case, Petitioner claims that he should be permitted to withdraw his guilty plea
22 because he did not understand his plea. However, Petitioner has failed “to cogently argue, and
23 present relevant authority” to support his assertions. Edwards, 122 Nev. at 330 n.38, 130 P.3d
24 at 1288 n.38; Rowland, 107 Nev. at 479, 814 P.2d at 83; Maresca, 103 Nev. at 673, 748 P.2d
25 at 6; Randall, 100 Nev. at 470–71, 686 P.2d at 244; Holland Livestock, 92 Nev. at 533 P.2d
26 950. Thus, his claims are summarily denied. Further, Petitioner’s claims are meritless as they
27 are belied by the record.

28 //

1 According to Petitioner's Guilty Plea Agreement, Petitioner acknowledged that he was
2 entering his plea knowingly and voluntarily:

3 **VOLUNTARINESS OF PLEA**

4 I have discussed the elements of all of the original charge(s) against me
5 with my attorney and I understand the nature of the charge(s) against me.

6 I understand that the State would have to prove each element of the
7 charge(s) against me at trial.

8 I have discussed with my attorney any possible defenses, defense strategies
9 and circumstances which might be in my favor.

10 All of the foregoing elements, consequences, rights, and waiver of rights
11 have been thoroughly explained to me by my attorney.

12 **I believe that pleading guilty and accepting this plea bargain is in my
13 best interest, and that a trial would be contrary to my best interest.**

14 **I am signing this agreement voluntarily, after consultation with my
15 attorney, and I am not acting under duress or coercion or by virtue of
16 any promises of leniency, except for those set forth in this agreement.**

17 I am not now under the influence of any intoxicating liquor, a controlled
18 substance or other drug which would in any manner impair my ability to
19 comprehend or understand this agreement or the proceedings surrounding
20 my entry of this plea.

21 My attorney has answered all my questions regarding this guilty plea
22 agreement and its consequences to my satisfaction and I am satisfied with
23 the services provided by my attorney.

24 Guilty Plea Agreement, filed March 12, 2010, at 4–5 (emphasis added). Additionally,
25 Petitioner's counsel, as an officer of the Court, acknowledged that Petitioner was entering his
26 plea knowingly and voluntarily. Id. at 6. Therefore, Petitioner's claims are belied by the GPA
27 itself and his Petition is denied. As Petitioner has failed to demonstrate prejudice sufficient to
28 overcome the procedural bars, the Petition is denied.

IV. **PETITIONER IS NOT ENTITLED TO AN EVIDENTIARY HEARING.**

NRS 34.770 determines when a defendant is entitled to an evidentiary hearing. It reads:

1. The judge or justice, upon review of the return, answer and all
supporting documents which are filed, shall determine whether an
evidentiary hearing is required. A petitioner must not be discharged or
committed to the custody of a person other than the respondent *unless an
evidentiary hearing is held.*

1 2. If the judge or justice determines that the petitioner is not entitled to
2 relief and an evidentiary hearing is not required, he shall dismiss the
3 petition without a hearing.

4 3. If the judge or justice determines that an evidentiary hearing is required,
5 he shall grant the writ and shall set a date for the hearing.

6 The Nevada Supreme Court has held that if a petition can be resolved without
7 expanding the record, no evidentiary hearing is necessary. Marshall v. State, 110 Nev. 1328,
8 885 P.2d 603 (1994); Mann v. State, 118 Nev. 351, 356, 46 P.3d 1228, 1231 (2002). A
9 defendant is entitled to an evidentiary hearing if his petition is supported by specific factual
10 allegations, which, if true, would entitle him to relief unless the factual allegations are repelled
11 by the record. Marshall, 110 Nev. at 1331, 885 P.2d at 605; see also Hargrove, 100 Nev. at
12 503, 686 P.2d at 225 (holding that “[a] defendant seeking post-conviction relief is not entitled
13 to an evidentiary hearing on factual allegations belied or repelled by the record”). “A claim is
14 ‘belied’ when it is contradicted or proven to be false by the record as it existed at the time the
15 claim was made.” Mann, 118 Nev. at 354, 46 P.3d at 1230 (2002).

16 It is improper to hold an evidentiary hearing simply to make a complete record. See
17 State v. Eighth Judicial Dist. Court, 121 Nev. 225, 234, 112 P.3d 1070, 1076 (2005) (“The
18 district court considered itself the ‘equivalent of . . . the trial judge’ and consequently wanted
19 ‘to make as complete a record as possible.’ This is an incorrect basis for an evidentiary
20 hearing.”). Further, the United States Supreme Court has held that an evidentiary hearing is
21 not required simply because counsel’s actions are challenged as being unreasonable strategic
22 decisions. Harrington v. Richter, 131 S. Ct. 770, 788 (2011). Although courts may not indulge
23 in post hoc rationalization for counsel’s decision making that contradicts the available
24 evidence of counsel’s actions, neither may they insist counsel confirm every aspect of the
25 strategic basis for his or her actions. Id. There is a “strong presumption” that counsel’s
26 attention to certain issues to the exclusion of others reflects trial tactics rather than “sheer
27 neglect.” Id. (citing Yarborough v. Gentry, 540 U.S. 1, 124 S. Ct. 1 (2003)). Strickland calls
28 for an inquiry in the *objective* reasonableness of counsel’s performance, not counsel’s
subjective state of mind. 466 U.S. 668, 688, 104 S. Ct. 2052, 2065 (1994).

1 Here, as demonstrated above, Petitioner's claims are procedurally barred and belied by
2 the record. Therefore, Petitioner has failed to demonstrate that an evidentiary hearing is
3 necessary. As Petitioner's claims are summarily denied, his request for an evidentiary hearing
4 is similarly denied.

5 **ORDER**

6 THEREFORE, IT IS HEREBY ORDERED that the Petition for Post-Conviction Relief
7 shall be, and it is, hereby denied.

Dated this 16th day of June, 2021



09C256384

SC

11 STEVEN B. WOLFSON
12 Clark County District Attorney
Nevada Bar #1565

97A F4F 52D2 A646
Ronald J. Israel
District Court Judge

14 BY /s/ TALEEN PANDUKHT
15 TALEEN PANDUKHT
16 Chief Deputy District Attorney
Nevada Bar #5734

18 **CERTIFICATE OF MAILING**

19 I hereby certify that service of the above and foregoing was made this ____ day of June,
20 2021, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

21 BARRON HAMM, BAC#1052277
22 LOVELOCK CORRECTIONAL CENTER
1200 PRISON ROAD
23 LOVELOCK, NEVADA 89419

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

26
27
28 09F09275X/TP/lm/GU

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

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6 The State of Nevada vs Barron
7 Hamm

CASE NO: 09C256384

DEPT. NO. Department 28

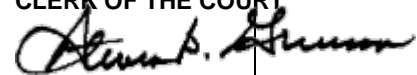
8
9 **AUTOMATED CERTIFICATE OF SERVICE**

10 This automated certificate of service was generated by the Eighth Judicial District
11 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the
12 court's electronic eFile system to all recipients registered for e-Service on the above entitled
case as listed below:

13 Service Date: 6/16/2021

14 Dept 28 Law Clerk

dept28lc@clarkcountycourts.us



NEO

**DISTRICT COURT
CLARK COUNTY, NEVADA**

BARRON HAMM,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent,

Case No: 09C256384

Dept No: XXVIII

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

PLEASE TAKE NOTICE that on June 16, 2021, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on June 18, 2021.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

CERTIFICATE OF E-SERVICE / MAILING

I hereby certify that on this 18 day of June 2021, I served a copy of this Notice of Entry on the following:

☒ By e-mail:

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

☒ The United States mail addressed as follows:

Barron Hamm # 1052277
P.O. Box 650
Indian Springs, NV 89070

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

FFCO
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #1565
TALEEN PANDUKHT
Chief Deputy District Attorney
Nevada Bar #5734
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,
Plaintiff,

-vs-

BARRON HAMM,
#2707761

Defendant.

CASE NO: 09C256384

DEPT NO: XXVIII

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER**

DATE OF HEARING: MAY 26, 2021
TIME OF HEARING: 11:00 A.M.

THIS CAUSE having come on for hearing before the Honorable Ronald Israel, District Judge, on the 26th day of May, 2021, the Petitioner being present, proceeding in proper person, the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through Steve Waters, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

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1 On August 5, 2010, Petitioner filed an untimely Notice of Appeal from his Judgment
2 of Conviction. On September 10, 2010, the Supreme Court of Nevada dismissed Petitioner's
3 appeal for lack of jurisdiction. Remittitur issued on October 6, 2010.

4 On February 13, 2012, Petitioner filed a Motion to Withdraw Guilty Plea, which the
5 State opposed on February 22, 2012. The District Court denied Petitioner's motion on
6 February 24, 2012, and the order of denial was filed on May 7, 2012.

7 On October 31, 2012, Petitioner filed his First Petition for Writ Of Habeas Corpus
8 (Post-Conviction) (hereinafter "First Petition"). On November 14, 2012, the State filed its
9 Response and Motion to Dismiss the First Petition as time-barred with no good cause shown
10 for the delay. On January 10, 2013, the District Court denied Petitioner's First Petition,
11 entering its Findings of Fact, Conclusions of Law, and Order on January 29, 2013. Petitioner
12 filed a Notice of Appeal on February 22, 2013. On September 19, 2013, the Supreme Court
13 affirmed the District Court's denial of Petitioner's First Petition, with Remittitur issuing on
14 October 17, 2013.

15 On June 23, 2015, Petitioner filed a Motion to Vacate Sentence. The State responded
16 on July 10, 2015. This Court denied the Motion on July 15, 2015. On August 19, 2015,
17 Petitioner appealed. The Nevada Supreme Court affirmed the District Court's denial of
18 Petitioner's Motion to Vacate Sentence on February 17, 2016. Remittitur issued on March 14,
19 2016.

20 On May 17, 2017, Petitioner filed a Second Petition for Writ of Habeas Corpus (Post-
21 Conviction) (hereinafter "Second Petition"). The State filed its Response on July 11, 2017. On
22 July 24, 2017, the district court denied Petitioner's Second Petition. The Findings of Fact,
23 Conclusions of Law and Order was filed on August 16, 2017. Petitioner filed a Notice of
24 Appeal on September 8, 2017. On August 24, 2018, the Supreme Court affirmed the District
25 Court's denial of Petitioner's Second Petition, with Remittitur issuing on September 19, 2018.

26 On February 2, 2021, Petitioner filed a Third "Petition Requesting the Defendant's
27 Sentencing Be Set Aside and His Guilty Plea Agreement be Withdrawed From Record." The
28 //

1 State's Response was filed on March 23, 2021. The matter came before the Court for hearing
2 on May 26, 2021, and the Court's ruling follows.

3 **STATEMENT OF THE FACTS**

4 On May 3, 2009, officers of the Las Vegas Metropolitan Police Department received a
5 call regarding a person that had been shot. Upon arrival, the officers located a 14-year-old
6 male lying on the ground with a gunshot wound. The juvenile victim was transported to
7 Sunrise Hospital and was later pronounced dead.

8 During an investigation, officers learned that the victim's sister had thrown a birthday
9 party at her apartment for the 14-year-old victim on May 2, 2009. Approximately twenty-five
10 (25) people attended the party ranging in ages from twelve (12) to nineteen (19) and alcohol
11 was consumed by many of the attendees. During the party, several uninvited males arrived at
12 the party and claimed to be members of the street gang "ATM." One of the "ATM" members
13 was recognized by witnesses as "Burger," later identified as Petitioner, a student at Chaparral
14 High School.

15 At approximately 1:00 AM, the victim's sister returned to the party and observed the
16 "ATM" members. She decided to end the party and asked everybody to leave except the 14-
17 year-old victim and a few juveniles that were sleeping over. Petitioner and the other "ATM"
18 members left the party; however, a short time later Petitioner returned and knocked on the
19 door. The door was opened, and Petitioner walked inside. He pulled out a revolver and told
20 everybody to "Calm down" or "Get down." The 14-year-old panicked and ran out the front
21 door. Petitioner stepped out of the front door, fired the gun, and then fled the scene. The
22 witnesses exited the apartment, discovered the 14-year-old victim lying on the ground bleeding
23 from a gunshot wound and called police.

24 Several witnesses reviewed their Chaparral High School yearbook, identified Petitioner
25 as the suspect and informed police. Later, witnesses were shown a photo lineup by police and
26 positively identified Petitioner. Detectives attempted to locate Petitioner at his residence but
27 were unsuccessful. On May 4, 2009, a family member called detectives and agreed to bring
28 Petitioner in for an interview. During questioning, Petitioner admitted attending the party but

1 denied being an “ATM” gang member. He admitted to re-entering the apartment but stated
2 that he did not know how the shots were fired. A short time later, Petitioner asked for his
3 mother, and she was brought into the interview room. After a brief discussion, the detectives
4 left Petitioner and his mother in the room with the video recorder on. While speaking to his
5 mother, Petitioner lowered his voice and stated, “I did shoot the boy though, I did do that, I
6 told you I shot him and I got scared.”

7 Petitioner was arrested, transported to Clark County Juvenile Hall and booked
8 accordingly. On May 6, 2009, Petitioner was certified as an adult, transported to the Clark
9 County Detention Center, and booked accordingly.

10 **ANALYSIS**

11 **I. PETITIONER’S PETITION IS PROCEDURALLY BARRED.**

12 **a. Petitioner’s Petition is Time-Barred.**

13 Pursuant to NRS 34.726(1):

14 Unless there is good cause shown for delay, a petition that challenges the
15 validity of a judgment or sentence must be filed within 1 year of the entry
16 of the judgment of conviction or, if an appeal has been taken from the
17 judgment, within 1 year after the Supreme Court issues its remittitur. For
18 the purposes of this subsection, good cause for delay exists if the petitioner
demonstrates to the satisfaction of the court:

- 17 (a) That the delay is not the fault of the petitioner; and
- 18 (b) That dismissal of the petition as untimely will unduly prejudice the
petitioner.

19 The Supreme Court of Nevada has held that NRS 34.726 should be construed by its
20 plain meaning. Pellegrini v. State, 117 Nev. 860, 873–74, 34 P.3d 519, 528 (2001). According
21 to the language of the statute, the one-year time bar proscribed by NRS 34.726 begins to run
22 from the date the judgment of conviction is filed or a remittitur from a timely direct appeal is
23 filed. Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133–34 (1998).

24 The one-year time limit for preparing petitions for post-conviction relief under NRS
25 34.726 is strictly applied. In Gonzales v. State, 118 Nev. 590, 596, 53 P.3d 901, 904 (2002),
26 the Nevada Supreme Court rejected a habeas petition that was filed two days late despite
27 evidence presented by the defendant that he purchased postage through the prison and mailed
28 the Notice within the one-year time limit.

1 Furthermore, the Nevada Supreme Court has held that the district court has a *duty* to
2 consider whether a defendant's post-conviction petition claims are procedurally barred. State
3 v. Eighth Judicial Dist. Court (Riker), 121 Nev. 225, 231, 112 P.3d 1070, 1074 (2005). The
4 Riker Court found that "[a]pplication of the statutory procedural default rules to post-
5 conviction habeas petitions is mandatory," noting:

6 Habeas corpus petitions that are filed many years after conviction are an
7 unreasonable burden on the criminal justice system. The necessity for a
8 workable system dictates that there must exist a time when a criminal
conviction is final.

9 Id. Additionally, the Court noted that procedural bars "cannot be ignored [by the district court]
10 when properly raised by the State." Id. at 233, 112 P.3d at 1075. The Nevada Supreme Court
11 has granted no discretion to the district courts regarding whether to apply the statutory
12 procedural bars; the rules *must* be applied.

13 In the instant case, the Judgment of Conviction was filed on May 20, 2010, and
14 Petitioner filed a direct appeal. The Nevada Supreme Court issued an Order dismissing
15 Petitioner's appeal as the Notice of Appeal was untimely filed and remittitur issued on October
16 6, 2010. Thus, the one-year time bar began to run from the date remittitur issued. The instant
17 Petition was not filed until February 2, 2021. This is almost ten (10) years beyond the one-
18 year time frame. As there is no good cause for this delay, Petitioner's Petition is denied because
19 of its tardy filing.

20 **b. Petitioner's Petition is Successive and/or an Abuse of Writ.**

21 NRS 34.810(2) reads:

22 A second or successive petition *must* be dismissed if the judge or justice
23 determines that it fails to allege new or different grounds for relief and that
24 the prior determination was on the merits or, if new and different grounds
are alleged, the judge or justice finds that the failure of the petitioner to
assert those grounds in a prior petition constituted an abuse of the writ.

25 (emphasis added). Second or successive petitions are petitions that either fail to allege new or
26 different grounds for relief and the grounds have already been decided on the merits or that
27 allege new or different grounds, but a judge or justice finds that the petitioner's failure to assert
28 those grounds in a prior petition would constitute an abuse of the writ. Second or successive

1 petitions will only be decided on the merits if the petitioner can show good cause and prejudice.
2 NRS 34.810(3); Lozada v. State, 110 Nev. 349, 358, 871 P.2d 944, 950 (1994).

3 The Nevada Supreme Court has stated: “Without such limitations on the availability of
4 post-conviction remedies, prisoners could petition for relief in perpetuity and thus abuse post-
5 conviction remedies. In addition, meritless, successive and untimely petitions clog the court
6 system and undermine the finality of convictions.” Lozada, 110 Nev. at 358, 871 P.2d at 950.
7 The Nevada Supreme Court recognizes that “[u]nlike initial petitions which certainly require
8 a careful review of the record, successive petitions may be dismissed based solely on the face
9 of the petition.” Ford v. Warden, 111 Nev. 872, 882, 901 P.2d 123, 129 (1995). In other words,
10 if the claim or allegation was previously available with reasonable diligence, it is an abuse of
11 the writ to wait to assert it in a later petition. McClesky v. Zant, 499 U.S. 467, 497–98 (1991).
12 Application of NRS 34.810(2) is mandatory. See Riker, 121 Nev. at 231, 112 P.3d at 1074.

13 Here, Petitioner previously filed a Petition for Writ of Habeas Corpus on October 31,
14 2012, which raised the same claim that his plea was not voluntarily entered into because he
15 was not competent to understand his plea. See Petition for Writ of Habeas Corpus, filed
16 October 31, 2012, at 8–9. This Court denied Petitioner’s 2012 Petition and entered its Findings
17 of Fact, Conclusions of Law, and Order on January 29, 2013. On May 17, 2017, Petitioner
18 filed a Second Petition for Writ of Habeas Corpus, which was denied on July 24, 2017. The
19 Findings of Fact, Conclusions of Law, and Order was filed on August 16, 2017. Therefore,
20 Petitioner’s instant Petition is successive and is denied. As this Petition is successive, pursuant
21 to NRS 34.810(2), it cannot be decided on the merits absent a showing of good cause and
22 prejudice. NRS 34.810(3).

23 **c. Petitioner’s Petition is Barred by the Law of the Case Doctrine and Res**
24 **Judicata**

25 “The law of a first appeal is law of the case on all subsequent appeals in which the facts
26 are substantially the same.” Hall v. State, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975) (quoting
27 Walker v. State, 85 Nev. 337, 343, 455 P.2d 34, 38 (1969)). “The doctrine of the law of the
28 case cannot be avoided by a more detailed and precisely focused argument subsequently made

1 after reflection upon the previous proceedings.” Id. at 316, 535 P.2d at 799. Under the law of
2 the case doctrine, issues previously decided on direct appeal may not be reargued in a habeas
3 petition. Pellegrini v. State, 117 Nev. 860, 879, 34 P.3d 519, 532 (2001) (citing McNelton v.
4 State, 115 Nev. 396, 414–15, 990 P.2d 1263, 1275 (1999)). Furthermore, this Court cannot
5 overrule the Nevada Supreme Court. NEV. CONST. Art. VI § 6. Further, defendants cannot
6 attempt to relitigate the same motions over and over within the district court due to res judicata.
7 See Mason v. State, 206 S.W.3d 869, 875 (Ark. 2005) (recognizing the doctrine’s applicability
8 in the criminal context); see also York v. State, 342 S.W. 528, 553 (Tex. Crim. Appl. 2011).

9 Here, as noted above, Petitioner previously raised the issue of his competency to enter
10 his plea in his first Petition for Writ of Habeas Corpus. See Petition for Writ of Habeas Corpus,
11 filed October 31, 2012, at 8–9. This Court denied Petitioner’s Petition and entered its Findings
12 of Fact, Conclusions of Law, and Order on January 29, 2013. Petitioner appealed this Court’s
13 decision. The Nevada Supreme Court affirmed the Court’s denial of his Petition for Writ of
14 Habeas Corpus and determined that “no relief based on [his] submissions is warranted.” Order
15 of Affirmance, No. 62688, filed September 19, 2013, at 2 n.4. Therefore, as Petitioner’s claims
16 have been reviewed and dismissed by the Nevada Supreme Court, Petitioner’s instant claims
17 are barred by the law of the case. Thus, his Petition is denied.

18 Further, Petitioner’s claims are barred by the doctrine of res judicata. However,
19 Petitioner has previously raised this claim in other Motions and Petitions. See Motion to
20 Withdraw Plea, filed February 13, 2012, at 6–7; Petition for Writ of Habeas Corpus, filed
21 October 31, 2012, 8–9; Motion to Withdraw Plea, filed April 10, 2014, 2–3. All of these
22 pleadings were previously denied by this Court. See Order, filed May 7, 2012; Findings of
23 Fact, Conclusions of Law, and Order, filed January 29, 2013; Order, filed May 16, 2014.
24 Accordingly, by simply continuing to file motions with the same arguments, his motion is
25 barred by the doctrine of res judicata. Id.; Hall v. State, 91 Nev. 314, 316, 535 P.2d 797, 799
26 (1975).

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1 **II. PETITIONER FAILED TO DEMONSTRATE GOOD CAUSE TO OVERCOME**
2 **THE PROCEDURAL BARS.**

3 A showing of good cause and prejudice may overcome procedural bars. “To establish
4 good cause, appellants *must* show that an impediment external to the defense prevented their
5 compliance with the applicable procedural rule. A qualifying impediment might be shown
6 where the factual or legal basis for a claim was not reasonably available at the time of default.”
7 Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003) (emphasis added). The Court
8 continued, “appellants cannot attempt to manufacture good cause[.]” Id. at 621, 81 P.3d at 526.
9 To find good cause there must be a “substantial reason; one that affords a legal excuse.”
10 Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (quoting Colley v. State, 105
11 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)). Clearly, any delay in the filing of the petition
12 must not be the fault of the petitioner. NRS 34.726(1)(a). Additionally, “bare” and “naked”
13 allegations are not sufficient to warrant post-conviction relief, nor are those belied and repelled
14 by the record. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “A claim is
15 ‘belied’ when it is contradicted or proven to be false by the record as it existed at the time the
16 claim was made.” Mann v. State, 118 Nev. 351, 354, 46 P.3d 1228, 1230 (2002).

17 Here, Petitioner cannot demonstrate good cause to overcome the procedural bars. In
18 fact, Petitioner did not even address good cause in his Petition. Instead, Petitioner merely raises
19 his claims without ever addressing the one-year time bar or his tardy filing. All the facts and
20 law alleged in Petitioner’s Petition were available for direct appeal or a timely-filed habeas
21 petition. Further, Petitioner does not even allege an impediment external to the defense.
22 Therefore, Petitioner has failed to demonstrate good cause to overcome the procedural bars
23 and, accordingly, Petitioner’s second Petition is denied as untimely and successive.

24 **III. PETITIONER SIMILARLY FAILED TO DEMONSTRATE PREJUDICE.**

25 To establish prejudice, the defendant must show “‘not merely that the errors of [the
26 proceedings] created possibility of prejudice, but that they worked to his actual and substantial
27 disadvantage, in affecting the state proceedings with error of constitutional dimensions.’”
28 Hogan v. Warden, 109 Nev. 952, 960, 860 P.2d 710, 716 (1993) (quoting United States v.

1 Fraday, 456 U.S. 152, 170, 102 S. Ct. 1584, 1596 (1982)). Here, it is unclear whether Petitioner
2 is claiming counsel was ineffective for allegedly coercing him into taking the negotiations or
3 substantively claiming that his plea was not knowingly and voluntarily entered. Regardless,
4 Petitioner's claims are meritless as Petitioner received effective assistance of counsel and his
5 plea was knowingly and voluntarily entered.

6 **a. Petitioner received effective assistance of counsel**

7 The Sixth Amendment to the United States Constitution provides that, "[i]n all criminal
8 prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his
9 defense." The United States Supreme Court has long recognized that "the right to counsel is
10 the right to the effective assistance of counsel." Strickland v. Washington, 466 U.S. 668, 686,
11 104 S. Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323
12 (1993).

13 To prevail on a claim of ineffective assistance of counsel as it relates to a guilty plea, a
14 defendant must prove he was denied "reasonably effective assistance" of counsel by satisfying
15 the two-prong test of Strickland. 466 U.S. at 686–87, 104 S. Ct. at 2063–64; see also Love,
16 109 Nev. at 1138, 865 P.2d at 323. Under the Strickland test, a defendant must show first that
17 his counsel's representation fell below an objective standard of reasonableness, and second,
18 that but for counsel's ineffective assistance, he would not have pleaded guilty and would have
19 insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59, 106 S. Ct. 366, 370 (1985).

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

26 Counsel cannot be ineffective for failing to make futile objections or arguments. See
27 Ennis v. State, 122 Nev. 694, 706, 137 P.3d 1095, 1103 (2006). Trial counsel has the
28 "immediate and ultimate responsibility of deciding if and when to object, which witnesses, if

1 any, to call, and what defenses to develop.” Rhyne v. State, 118 Nev. 1, 8, 38 P.3d 163, 167
2 (2002).

3 Based on the above law, the role of a court in considering allegations of ineffective
4 assistance of counsel is “not to pass upon the merits of the action not taken but to determine
5 whether, under the particular facts and circumstances of the case, trial counsel failed to render
6 reasonably effective assistance.” Donovan v. State, 94 Nev. 671, 675, 584 P.2d 708, 711
7 (1978). This analysis does not mean that the court should “second guess reasoned choices
8 between trial tactics nor does it mean that defense counsel, to protect himself against
9 allegations of inadequacy, must make every conceivable motion no matter how remote the
10 possibilities are of success.” Id. To be effective, the constitution “does not require that counsel
11 do what is impossible or unethical. If there is no bona fide defense to the charge, counsel
12 cannot create one and may disserve the interests of his client by attempting a useless charade.”
13 United States v. Cronin, 466 U.S. 648, 657 n.19, 104 S. Ct. 2039, 2046 n.19 (1984).

14 “There are countless ways to provide effective assistance in any given case. Even the
15 best criminal defense attorneys would not defend a particular client in the same way.”
16 Strickland, 466 U.S. at 689, 104 S. Ct. at 689. “Strategic choices made by counsel after
17 thoroughly investigating the plausible options are almost unchallengeable.” Dawson v. State,
18 108 Nev. 112, 117, 825 P.2d 593, 596 (1992); see also Ford v. State, 105 Nev. 850, 853, 784
19 P.2d 951, 953 (1989). In essence, the court must “judge the reasonableness of counsel’s
20 challenged conduct on the facts of the particular case, viewed as of the time of counsel’s
21 conduct.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066.

22 Even if a defendant can demonstrate that his counsel’s representation fell below an
23 objective standard of reasonableness, he must still demonstrate prejudice and show a
24 reasonable probability that, but for counsel’s errors, the result of the trial would have been
25 different. McNelson v. State, 115 Nev. 396, 403, 990 P.2d 1263, 1268 (1999) (citing
26 Strickland, 466 U.S. at 687, 104 S. Ct. at 2064). “A reasonable probability is a probability
27 sufficient to undermine confidence in the outcome.” Id. (citing Strickland, 466 U.S. at 687–
28 89, 694, 104 S. Ct. at 2064–65, 2068).

1 The Nevada Supreme Court has held “that a habeas corpus petitioner must prove the
2 disputed factual allegations underlying his ineffective-assistance claim by a preponderance of
3 the evidence.” Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004). Furthermore,
4 claims of ineffective assistance of counsel asserted in a petition for post-conviction relief must
5 be supported with specific factual allegations, which if true, would entitle the petitioner to
6 relief. Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and “naked”
7 allegations are not sufficient, nor are those belied and repelled by the record. Id. NRS
8 34.735(6) states in relevant part, “[Petitioner] *must* allege specific facts supporting the claims
9 in the petition[.] . . . Failure to allege specific facts rather than just conclusions may cause your
10 petition to be dismissed.” (emphasis added).

11 A party seeking review bears the responsibility “to cogently argue, and present relevant
12 authority” to support his assertions. Edwards v. Emperor’s Garden Restaurant, 122 Nev. 317,
13 330 n.38, 130 P.3d 1280, 1288 n.38 (2006); Dept. of Motor Vehicles and Public Safety v.
14 Rowland, 107 Nev. 475, 479, 814 P.2d 80, 83 (1991) (defendant’s failure to present legal
15 authority resulted in no reason for the district court to consider defendant’s claim); Maresca v.
16 State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) (an arguing party must support his arguments
17 with relevant authority and cogent argument; “issues not so presented need not be addressed”);
18 Randall v. Salvation Army, 100 Nev. 466, 470–71, 686 P.2d 241, 244 (1984) (court may
19 decline consideration of issues lacking citation to relevant legal authority); Holland Livestock
20 v. B & C Enterprises, 92 Nev. 473, 533 P.2d 950 (1976) (issues lacking citation to relevant
21 legal authority do not warrant review on the merits).

22 Here, Petitioner claims that counsel was ineffective for allegedly coercing him into
23 accepting the negotiations. However, Petitioner provides no evidence to this Court to
24 demonstrate that counsel coerced him into taking the negotiations or that he was prejudiced in
25 any way by accepting the negotiations. Instead, Petitioner only quotes his sentencing transcript
26 where he informed the Court that he no longer wanted to accept the negotiations. Petitioner
27 fails to point out that Petitioner made this comment after his Motion to Withdraw Plea had
28 been litigated and denied. This Court reviewed Petitioner’s claims and determined that

1 Petitioner did not have a basis to withdraw his plea. See Order, filed May 7, 2012. Thus,
2 Petitioner's claims are bare, naked, and only appropriate for summary denial. Hargrove, 100
3 Nev. at 502, 686 P.2d at 225. Further, Petitioner was originally facing four (4) counts,
4 including an open murder charge. Counsel negotiated Petitioner's plea to only two (2) counts
5 and obtained stipulations to one of the counts and the weapon enhancement. Counsel's
6 performance was not ineffective as this negotiation was in Petitioner's best interest. As
7 Petitioner has failed to demonstrate both deficient performance and prejudice, Petitioner's
8 claim fails.

9 To the extent Petitioner claims counsel was ineffective because he was not presented
10 with a better offer, defense counsel cannot be deemed ineffective for his failure to secure a
11 more favorable offer. Counsel does not have control over what the State offers. See Young v.
12 District Court, 107 Nev. 642, 818 P.2d 844 (1991). Counsel cannot be deemed ineffective
13 merely because the Defendant's risk in disregarding counsel's advice did not pay off. See
14 Cronic, 466 U.S. at 657 n.19, 104 S. Ct. at 2046 n.19 (noting counsel is not required to do what
15 is impossible). Therefore, Petitioner's claim fails. As Petitioner has failed to demonstrate both
16 good cause and prejudice to overcome the procedural bars, his Petition is denied.

17 **b. Petitioner's plea was knowingly and voluntarily entered into.**

18 Pursuant to NRS 176.165, after sentencing, a defendant's guilty plea can only be
19 withdrawn to correct "manifest injustice." See Baal v. State, 106 Nev. 69, 72, 787 P.2d 391,
20 394 (1990). The law in Nevada establishes that a plea of guilty is presumptively valid and the
21 burden is on a defendant to show that the plea was not voluntarily entered. Bryant v. State, 102
22 Nev. 268, 272, 721 P.2d 364, 368 (1986) (citing Wingfield v. State, 91 Nev. 336, 337, 535
23 P.2d 1295, 1295 (1975)). Manifest injustice does not exist if the defendant entered his plea
24 voluntarily. Baal, 106 Nev. at 72, 787 P.2d at 394.

25 To determine whether a guilty plea was voluntarily entered, the Court will review the
26 totality of the circumstances surrounding the defendant's plea. Bryant, 102 Nev. at 271, 721
27 P.2d at 367. A proper plea canvass should reflect that:

28 //

1 [T]he defendant knowingly waived his privilege against self-incrimination,
2 the right to trial by jury, and the right to confront his accusers; (2) the plea
3 was voluntary, was not coerced, and was not the result of a promise of
4 leniency; (3) the defendant understood the consequences of his plea and the
range of punishments; and (4) the defendant understood the nature of the
charge, i.e., the elements of the crime.

5 Wilson v. State, 99 Nev. 362, 367, 664 P.2d 328, 331 (1983) (citing Higby v. Sheriff, 86 Nev.
6 774, 476 P.2d 950 (1970)). The presence and advice of counsel is a significant factor in
7 determining the voluntariness of a plea of guilty. Patton v. Warden, 91 Nev. 1, 2, 530 P.2d
8 107, 107 (1975).

9 This standard requires the court accepting the plea to personally address the defendant
10 at the time he enters his plea to determine whether he understands the nature of the charges to
11 which he is pleading. Bryant, 102 Nev. at 271, 721 P.2d at 367. A court may not rely simply
12 on a written plea agreement without some verbal interaction with a defendant. Id. Thus, a
13 “colloquy” is constitutionally mandated, and a “colloquy” is but a conversation in a formal
14 setting, such as that occurring between an official sitting in judgment of an accused at plea.
15 See id. However, the court need not conduct a ritualistic oral canvass. State v. Freese, 116
16 Nev. 1097, 13 P.3d 442 (2000). The guidelines for voluntariness of guilty pleas “do not require
17 the articulation of talismanic phrases,” but only that the record demonstrates a defendant
18 entered his guilty plea understandingly and voluntarily. Heffley v. Warden, 89 Nev. 573, 575,
19 516 P.2d 1403, 1404 (1973); see also Brady v. United States, 397 U.S. 742, 747–48, 90 S. Ct.
20 1463, 1470 (1970).

21 In this case, Petitioner claims that he should be permitted to withdraw his guilty plea
22 because he did not understand his plea. However, Petitioner has failed “to cogently argue, and
23 present relevant authority” to support his assertions. Edwards, 122 Nev. at 330 n.38, 130 P.3d
24 at 1288 n.38; Rowland, 107 Nev. at 479, 814 P.2d at 83; Maresca, 103 Nev. at 673, 748 P.2d
25 at 6; Randall, 100 Nev. at 470–71, 686 P.2d at 244; Holland Livestock, 92 Nev. at 533 P.2d
26 950. Thus, his claims are summarily denied. Further, Petitioner’s claims are meritless as they
27 are belied by the record.

28 //

1 According to Petitioner's Guilty Plea Agreement, Petitioner acknowledged that he was
2 entering his plea knowingly and voluntarily:

3 **VOLUNTARINESS OF PLEA**

4 I have discussed the elements of all of the original charge(s) against me
5 with my attorney and I understand the nature of the charge(s) against me.

6 I understand that the State would have to prove each element of the
7 charge(s) against me at trial.

8 I have discussed with my attorney any possible defenses, defense strategies
9 and circumstances which might be in my favor.

10 All of the foregoing elements, consequences, rights, and waiver of rights
11 have been thoroughly explained to me by my attorney.

12 **I believe that pleading guilty and accepting this plea bargain is in my
13 best interest, and that a trial would be contrary to my best interest.**

14 **I am signing this agreement voluntarily, after consultation with my
15 attorney, and I am not acting under duress or coercion or by virtue of
16 any promises of leniency, except for those set forth in this agreement.**

17 I am not now under the influence of any intoxicating liquor, a controlled
18 substance or other drug which would in any manner impair my ability to
19 comprehend or understand this agreement or the proceedings surrounding
20 my entry of this plea.

21 My attorney has answered all my questions regarding this guilty plea
22 agreement and its consequences to my satisfaction and I am satisfied with
23 the services provided by my attorney.

24 Guilty Plea Agreement, filed March 12, 2010, at 4–5 (emphasis added). Additionally,
25 Petitioner's counsel, as an officer of the Court, acknowledged that Petitioner was entering his
26 plea knowingly and voluntarily. Id. at 6. Therefore, Petitioner's claims are belied by the GPA
27 itself and his Petition is denied. As Petitioner has failed to demonstrate prejudice sufficient to
28 overcome the procedural bars, the Petition is denied.

IV. **PETITIONER IS NOT ENTITLED TO AN EVIDENTIARY HEARING.**

NRS 34.770 determines when a defendant is entitled to an evidentiary hearing. It reads:

1. The judge or justice, upon review of the return, answer and all
supporting documents which are filed, shall determine whether an
evidentiary hearing is required. A petitioner must not be discharged or
committed to the custody of a person other than the respondent *unless an
evidentiary hearing is held.*

1 2. If the judge or justice determines that the petitioner is not entitled to
2 relief and an evidentiary hearing is not required, he shall dismiss the
3 petition without a hearing.

4 3. If the judge or justice determines that an evidentiary hearing is required,
5 he shall grant the writ and shall set a date for the hearing.

6 The Nevada Supreme Court has held that if a petition can be resolved without
7 expanding the record, no evidentiary hearing is necessary. Marshall v. State, 110 Nev. 1328,
8 885 P.2d 603 (1994); Mann v. State, 118 Nev. 351, 356, 46 P.3d 1228, 1231 (2002). A
9 defendant is entitled to an evidentiary hearing if his petition is supported by specific factual
10 allegations, which, if true, would entitle him to relief unless the factual allegations are repelled
11 by the record. Marshall, 110 Nev. at 1331, 885 P.2d at 605; see also Hargrove, 100 Nev. at
12 503, 686 P.2d at 225 (holding that “[a] defendant seeking post-conviction relief is not entitled
13 to an evidentiary hearing on factual allegations belied or repelled by the record”). “A claim is
14 ‘belied’ when it is contradicted or proven to be false by the record as it existed at the time the
15 claim was made.” Mann, 118 Nev. at 354, 46 P.3d at 1230 (2002).

16 It is improper to hold an evidentiary hearing simply to make a complete record. See
17 State v. Eighth Judicial Dist. Court, 121 Nev. 225, 234, 112 P.3d 1070, 1076 (2005) (“The
18 district court considered itself the ‘equivalent of . . . the trial judge’ and consequently wanted
19 ‘to make as complete a record as possible.’ This is an incorrect basis for an evidentiary
20 hearing.”). Further, the United States Supreme Court has held that an evidentiary hearing is
21 not required simply because counsel’s actions are challenged as being unreasonable strategic
22 decisions. Harrington v. Richter, 131 S. Ct. 770, 788 (2011). Although courts may not indulge
23 in post hoc rationalization for counsel’s decision making that contradicts the available
24 evidence of counsel’s actions, neither may they insist counsel confirm every aspect of the
25 strategic basis for his or her actions. Id. There is a “strong presumption” that counsel’s
26 attention to certain issues to the exclusion of others reflects trial tactics rather than “sheer
27 neglect.” Id. (citing Yarborough v. Gentry, 540 U.S. 1, 124 S. Ct. 1 (2003)). Strickland calls
28 for an inquiry in the *objective* reasonableness of counsel’s performance, not counsel’s
subjective state of mind. 466 U.S. 668, 688, 104 S. Ct. 2052, 2065 (1994).

1 Here, as demonstrated above, Petitioner's claims are procedurally barred and belied by
2 the record. Therefore, Petitioner has failed to demonstrate that an evidentiary hearing is
3 necessary. As Petitioner's claims are summarily denied, his request for an evidentiary hearing
4 is similarly denied.

5 **ORDER**

6 THEREFORE, IT IS HEREBY ORDERED that the Petition for Post-Conviction Relief
7 shall be, and it is, hereby denied.

Dated this 16th day of June, 2021



09C256384

SC

11 STEVEN B. WOLFSON
12 Clark County District Attorney
Nevada Bar #1565

97A F4F 52D2 A646
Ronald J. Israel
District Court Judge

14 BY /s/ TALEEN PANDUKHT
15 TALEEN PANDUKHT
16 Chief Deputy District Attorney
Nevada Bar #5734

18 **CERTIFICATE OF MAILING**

19 I hereby certify that service of the above and foregoing was made this ____ day of June,
20 2021, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

21 BARRON HAMM, BAC#1052277
22 LOVELOCK CORRECTIONAL CENTER
1200 PRISON ROAD
23 LOVELOCK, NEVADA 89419

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

26
27
28 09F09275X/TP/lm/GU

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 The State of Nevada vs Barron
7 Hamm

CASE NO: 09C256384

DEPT. NO. Department 28

8
9 **AUTOMATED CERTIFICATE OF SERVICE**

10 This automated certificate of service was generated by the Eighth Judicial District
11 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the
12 court's electronic eFile system to all recipients registered for e-Service on the above entitled
case as listed below:

13 Service Date: 6/16/2021

14 Dept 28 Law Clerk

dept28lc@clarkcountycourts.us

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****July 22, 2009**

09C256384

The State of Nevada vs Barron Hamm

July 22, 2009**11:30 AM****Grand Jury Indictment****GRAND JURY
INDICTMENT****Relief Clerk: Shelly****Landwehr/sl****Reporter/Recorder:****Cheryl Carpenter****Heard By: Linda Bell****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Mitchell, Scott S.

Attorney

JOURNAL ENTRIES

- Duane Schlismann, Grand Jury Foreman, stated to the Court that at least twelve members had concurred in the return of the true bill during deliberation, but had been excused for presentation to the Court. The State presented Grand Jury Case Number 09AGJ036X to the Court. COURT ORDERED, the indictment may be filed and is assigned Case Number C256384, Department 14. Mr. Mitchell requested a bench warrant, COURT ORDERED, NO BAIL BENCH WARRANT. Exhibit(s) 1-34 lodged with Clerk of District Court.

BW(CUSTODY)

07/29/09 09:00 AM INITIAL ARRAIGNMENT (DEPT. 14)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 27, 2009**

09C256384

The State of Nevada vs Barron Hamm

July 27, 2009**9:00 AM****Bench Warrant Return**

**BENCH WARRANT
RETURN Court
Clerk: Linda Skinner
Reporter/Recorder:
Cheryl Gardner
Heard By: Donald
Mosley**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coffee, Scott L.
Hamm, Barron
Public Defender
Villegas, Victoria A.

Attorney
Defendant
Attorney
Attorney

JOURNAL ENTRIES

- Mr. Coffee advised this matter was taken to the Grand Jury before the Preliminary Hearing and that the Public Defender's Office needs to be appointed. COURT SO ORDERED. DEFENDANT ARRAIGNED, PLED NOT GUILTY AND WAIVED THE SIXTY (60) DAY RULE. COURT ORDERED, matter set for trial in ordinary course with priority. Mr. Coffee requested 21 days from the filing of the Grand Jury Transcript to file a writ. Court advised Defendants rights are reserved. CUSTODY

1/13/10 9:00 AM STATUS CHECK: DISCOVERY

3/9/10 9:00 AM CALENDAR CALL (#1)

3/15/10 1:30 PM JURY TRIAL (#1)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 08, 2009**

09C256384

The State of Nevada vs Barron Hamm

September 08, 2009**9:00 AM****Petition for Writ of Habeas
Corpus****PTN FOR WRIT OF
HABEAS CORPUS
Court Clerk: Linda
Skinner
Reporter/Recorder:
Maureen Schorn
Heard By: Donald
Mosley****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Campbell, Donishia L.

Attorney

Coffee, Scott L.

Attorney

Hamm, Barron

Defendant

Jimenez, Sonia V.

Attorney

Public Defender

Attorney

JOURNAL ENTRIES

- Court noted the issue is probable cause primarily as to Count 1, that the Defense does not feel there was enough evidence presented to the Grand Jury to support this Count. Statements by Mr. Coffee in support of the Writ. Statements by Ms. Jimenez in opposition. COURT ORDERED, Writ DENIED. Mr. Coffee requested a stay to appeal to the Supreme Court. Court DENIED request.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****September 21, 2009**

09C256384

The State of Nevada vs Barron Hamm

September 21, 2009**9:00 AM****Motion to Dismiss**

**DEFT'S PRO PER
MTN TO DISMISS
COUNSEL/09 Court
Clerk: Tina Hurd
Reporter/Recorder:
Renee Vincent
Heard By: Linda Bell**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coffee, Scott L.
Hamm, Barron
Jimenez, Sonia V.
Public Defender

Attorney
Defendant
Attorney
Attorney

JOURNAL ENTRIES

- Court advised she read the motion and Deft. Hamm is indicating Mr. Coffee has not been communicating with his family. Mr. Coffee advised he met with Deft's family at the time of the Preliminary Hearing, 15 people, and provided discovery to them. They have his phone number and he returns phone calls. Mr. Coffee advised the family was not present at the time of the Writ. An unidentified family member present and stated they were not aware of the hearing and have not been able to contact Mr. Coffee. Colloquy between Court and Deft. COURT ORDERED, motion DENIED. CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 06, 2010**

09C256384

The State of Nevada vs Barron Hamm

January 06, 2010**9:00 AM****Motion to Dismiss**

**DEFT' PRO PER
MTN TO DISMISS
COUNSEL
ANDAPPOINTMEN
T OF ALTERNATIVE
COUNSEL/10 Relief
Clerk: Carol
Donahoo
Reporter/Recorder:
Renee Vincent
Heard By: Bell, Linda**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coffee, Scott L.
Hamm, Barron
Public Defender
Turner, Robert B.

Attorney
Defendant
Attorney
Attorney

JOURNAL ENTRIES

- Upon Court's inquiry, Deft. Hamm stated he would like new counsel; colloquy. COURT ORDERED, matter CONTINUED. In the meantime, Mr. Coffee to meet with Deft. to try negotiate a solution.
CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 13, 2010**

09C256384

The State of Nevada vs Barron Hamm

January 13, 2010**9:00 AM****All Pending Motions**

**ALL PENDING
MOTIONS (1/13/10)
Relief Clerk: Susan
Jovanovich /sj
Reporter/Recorder:
Cheryl Carpenter
Heard By: Linda Bell**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coffee, Scott L.
Hamm, Barron
Jimenez, Sonia V.
Public Defender

Attorney
Defendant
Attorney
Attorney

JOURNAL ENTRIES

- STATUS CHECK: DISCOVERY...DEFT'S PRO PER MOTION TO DISMISS COUNSEL AND APPOINTMENT OF ALTERNATIVE COUNSEL

Mr. Coffee advised issues have been resolved between Deft. and himself, and Deft. is comfortable on having him remain in the case. Upon Court's inquiry, Mr. Coffee advised there are no remaining issues with Discovery; and requested any exculpatory information the State may have, to be provided. Ms. Jimenez advised she is aware of the obligations, and State will comply with the rules and procedures. Court so noted. COURT ORDERED, Deft's Motion is MOOT.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 10, 2010**

09C256384

The State of Nevada vs Barron Hamm

March 10, 2010**9:00 AM****Calendar Call****CALENDAR CALL****Court Clerk: Tina****Hurd****Reporter/Recorder:****Cheryl Carpenter****Heard By: Linda Bell****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Campbell, Donishia L.

Attorney

Coffee, Scott L.

Attorney

Hamm, Barron

Defendant

Jimenez, Sonia V.

Attorney

Public Defender

Attorney

JOURNAL ENTRIES

- Mr. Coffee announced ready for trial and advised they reviewed the State's file and will be picking up copies this morning. He does not anticipate a problem. Mr. Coffee advised he made a Brady request during the file review regarding anyone carrying a weapon at the party. Additionally, several of the witnesses have been represented by his office as juveniles. Mr. Coffee advised his review of the situation is it will not result in a conflict and they will not be using any confidential information. Mr. Coffee advised, also, he expects the issue that this was the victim's 14th birthday party to be raised and stated it does not seem to be part of the res gestae and he will be asking to remove that from the jury's consideration. Mr. Coffee requested a status check on Friday to make sure everything is set and, if there is a resolution, they will not have to scramble to be heard at the last

minute. Conference at the bench. COURT ORDERED, this case will proceed to trial on Monday; matter set for status check on Friday and the Court will take up any pre-trial issues at that time.
CUSTODY

3-12-10 8:45 AM STATUS CHECK: TRIAL READINESS

3-15-10 9:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 12, 2010**

09C256384

The State of Nevada vs Barron Hamm

March 12, 2010**8:45 AM****Status Check**

**STATUS CHECK:
TRIAL READINESS
Court Clerk: Tina
Hurd
Reporter/Recorder:
Renee Vincent
Heard By: Linda Bell**

HEARD BY:**COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Campbell, Donishia L.	Attorney
Coffee, Scott L.	Attorney
Hamm, Barron	Defendant
Jimenez, Sonia V.	Attorney
Public Defender	Attorney

JOURNAL ENTRIES

- Guilty Plea Agreement FILED IN OPEN COURT. NEGOTIATIONS: State retains full right to argue on the charge of Second Degree Murder. Parties stipulate to a sentence of 8-20 years for the deadly weapon enhancement. Parties also stipulate to a sentence of 24-72 months for the charge of Assault with a Deadly Weapon and agree to run the sentence consecutive to Count 1. Further, this agreement is conditional on the Court agreeing to and following through with the stipulated portion of the sentence. Ms. Jimenez advised, if the Court is not inclined to abide by the stipulations, either party may withdraw from the negotiations. Court acknowledged. DEFT. HAMM ARRAIGNED AND PLED GUILTY TO THE AMENDED INDICTMENT FILED IN OPEN COURT CHARGING--COUNT 1 - SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON (F) and COUNT 2 -

PRINT DATE: 06/18/2021

Page 9 of 33

Minutes Date: July 22, 2009

09C256384

ASSAULT WITH A DEADLY WEAPON (F). COURT ACCEPTED plea and ORDERED, matter referred to the Division of Parole and Probation (P&P) and set for sentencing.

CUSTODY

5-14-10 8:45 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 14, 2010**

09C256384

The State of Nevada vs Barron Hamm

May 14, 2010**8:45 AM****Sentencing****SENTENCING****Court Clerk: Tina****Hurd****Reporter/Recorder:****Renee Vincent****Heard By: Linda Bell****HEARD BY:****COURTROOM:** No Location**COURT CLERK:****RECORDER:****REPORTER:****PARTIES****PRESENT:**

Coffee, Scott L.

Attorney

Hamm, Barron

Defendant

Jimenez, Sonia V.

Attorney

Public Defender

Attorney

JOURNAL ENTRIES

- Conference at the bench. DEFT. HAMM ADJUDGED GUILTY OF COUNT 1 - SECOND DEGREE MURDER WITH USE OF A DEADLY WEAPON (F) and COUNT 2 - ASSAULT WITH A DEADLY WEAPON (F). Matter argued and submitted. Sworn statements by Karen Kennedy Grill and the victim's mother Kimberly Brown Fleming. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee and \$150.00 DNA Analysis fee including testing to determine genetic markers, Deft. SENTENCED as follows: Count 1 - to a MAXIMUM term of LIFE with a MINIMUM parole eligibility of TEN (10) YEARS in the Nevada Department of Corrections (NDC) plus a CONSECUTIVE term of a MAXIMUM of TWO HUNDRED FORTY (240) MONTHS with a MINIMUM parole eligibility of NINETY SIX (96) MONTHS for use of a deadly weapon. Court stated her findings regarding the weapons enhancement. Count 2 - to a MAXIMUM term of SEVENTY

TWO (72) MONTHS with a MINIMUM parole eligibility of TWENTY FOUR (24) MONTHS in the Nevada Department of Corrections (NDC), CONSECUTIVE to Count 1. 375 DAYS credit for time served. Deft. to PAY \$36,796.27 RESTITUTION to the Fleming Family and \$6,000.00 RESTITUTION to Victims of Violent Crimes. BOND, if any, EXONERATED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 04, 2010**

09C256384

The State of Nevada vs Barron Hamm

August 04, 2010**8:45 AM****Motion to Withdraw as
Counsel****HEARD BY:** Bell, Linda Marie**COURTROOM:** RJC Courtroom 15C**COURT CLERK:** Tina Hurd
Sandra Harrell**RECORDER:** Renee Vincent**REPORTER:****PARTIES**

PRESENT:	State of Nevada	Plaintiff
	WATERS, WILLIAM M., ESQ	Attorney
	Westmeyer, Daniel	Attorney

JOURNAL ENTRIES

- Defendant not present, incarcerated at NDC. Mr. Waters advised he will send file to Defendant.
COURT ORDERED, Motion to Withdraw is GRANTED.

NDC

CLERK'S NOTE: A copy of the above minute order was mailed to Barron Hamm #1052277 @ High
Desert State Prison PO BOX 650, Indian Springs, NV 89018./sjh

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 01, 2010

09C256384

The State of Nevada vs Barron Hamm

September 01, 2010 8:45 AM

Motion for Appointment

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 15C

COURT CLERK: Tina Hurd
Shelly Landwehr

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- COURT FINDS, Deft. did not show a basis and did not file a petition. Further, Court noted it is unclear if Mr. Coffee will be filing an appeal. COURT ORDERED, motion, DENIED.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 10, 2011

09C256384

The State of Nevada vs Barron Hamm

August 10, 2011

8:45 AM

Motion for Order

HEARD BY: Bonaventure, Joseph T.

COURTROOM: RJC Courtroom 15C

COURT CLERK: Tina Hurd

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Frank Ponticello, DDA, present for the State of Nevada.

- Deft. Hamm not present, in Proper Person.

Mr. Ponticello submitted to the Court's discretion. Court advised this is a closed appeal, however, he would prefer a written Opposition. Mr. Ponticello requested thirty days. COURT ORDERED, matter CONTINUED.

NDC

CONTINUED TO: 9-14-11 8:45 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 14, 2011

09C256384

The State of Nevada vs Barron Hamm

September 14, 2011 8:45 AM

Motion for Order

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 15C

COURT CLERK: Tina Hurd

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Brian Kochevar, DDA, present for the State of Nevada.

- Deft. Hamm not present, in Proper Person.

Court advised Deft. Hamm has failed to provide any reason why he needs the transcripts and ORDERED, motion DENIED WITHOUT PREJUDICE. Court advised she will reconsider if Deft. provides a reason he needs the transcripts.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 24, 2012**

09C256384

The State of Nevada vs Barron Hamm

February 24, 2012**8:45 AM****Motion to Withdraw Plea****HEARD BY:** Bell, Linda Marie**COURTROOM:** RJC Courtroom 15C**COURT CLERK:** Tina Hurd**RECORDER:** Renee Vincent**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Maria Lavell, DDA, present for the State of Nevada.

- Deft. Hamm not present, in Proper Person.

Court advised she read the motion and the State's opposition and no oral argument will be taken. Court stated it appears the motion would have been more properly brought as a post-conviction petition and, even then, it would be untimely. Under the circumstances of the case, there does not appear to be any basis to grant the motion. COURT ORDERED, motion DENIED. State to prepare the Order.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 10, 2012

09C256384

The State of Nevada vs Barron Hamm

December 10, 2012 9:00 AM

Motion for Clarification

HEARD BY: Cory, Kenneth

COURTROOM: RJC Courtroom 10C

COURT CLERK: Athena Trujillo

RECORDER: Yvette G. Sison

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Jonathan Cooper, Deputy District Attorney, present for the State of Nevada.
Defendant Hamm not present.

Court noted the Defendant s request for counsel is premature and advised the Writ of Habeas Corpus is scheduled for 01/10/13. COURT ORDERED, matter CONTINUED.

NDC

CONTINUED TO: 01/10/13 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 19, 2012

09C256384

The State of Nevada vs Barron Hamm

December 19, 2012

9:00 AM

Motion

HEARD BY: Barker, David

COURTROOM: RJC Courtroom 11B

COURT CLERK: Athena Trujillo

RECORDER: Yvette G. Sison

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Frank Ponticello, Deputy District Attorney, present for the State of Nevada.
Defendant Hamm not present.

COURT ORDERED, motion DENIED, hearing set for 01/10/13 STANDS.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 24, 2012

09C256384

The State of Nevada vs Barron Hamm

December 24, 2012 9:00 AM Motion

HEARD BY: Togliatti, Jennifer

COURTROOM: RJC Courtroom 10C

COURT CLERK: Athena Trujillo

RECORDER: Yvette G. Sison

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Sam Martinez, Deputy Public Defender, present for the State of Nevada.
Defendant Hamm not present.

COURT noted Defendant's Motion is premature and ORDERED, matter CONTINUED.

NDC

CONTINUED TO: 01/10/13 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 10, 2013**

09C256384

The State of Nevada vs Barron Hamm

January 10, 2013**9:00 AM****All Pending Motions****HEARD BY:** Togliatti, Jennifer**COURTROOM:** RJC Courtroom 10D**COURT CLERK:** Athena Trujillo**RECORDER:** Yvette G. Sison**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Jonathan Cooper, Deputy District Attorney, present for the State of Nevada.
Defendant Hamm not present.

DEFENDANT'S PRO SE ORDER FOR TRANSPORTATION OF INMATE FOR COURT
APPEARANCE OR, IN THE ALTERNATIVE, BY TELEPHONE OR VIDEO CONFERENCE ...
PETITION FOR WRIT OF HABEAS CORPUS ... DEFENDANT'S PRO SE MOTION FOR
CLARIFICATION

COURT noted the Defendant was not transported because it does not entertain oral arguments on these matters and ORDERED, Defendant s presence WAIVED. COURT noted the Defendant requested to be transported, but as it does not entertain oral argument in these matters, ORDERED, Defendant's Pro Se Order for Transportation of Inmate for Court Appearance, or in the Alternative, by Telephone or Video Conference DENIED. With respect to the Petition for Writ of Habeas Corpus, State advised the Court of the Defendant's birth date. COURT noted the reasons listed are insufficient and the Defendant was not a minor and ORDERED, Motion DENIED. COURT FURTHER ORDERED, Motion for Clarification DENIED.

NDC

CLERK'S NOTE: A copy of this minute order has been mailed to:

Barron Hamm #1052277
High Desert State Prison
PO Box 650 HDSP
Indian Springs, NV 89070

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 18, 2013**

09C256384

The State of Nevada vs Barron Hamm

March 18, 2013**9:00 AM****Motion to Reconsider****HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** RJC Courtroom 14C**COURT CLERK:** Dulce Romea**RECORDER:** Jill Hawkins**REPORTER:****PARTIES****PRESENT:**Hayes, Trevor
State of NevadaAttorney
Plaintiff**JOURNAL ENTRIES**

- Deft not present, in custody at the Nevada Department of Corrections.

Court stated it will not be taking any argument, and ORDERED, the Court currently has no jurisdiction to entertain the Motion as the appeal has already been filed of the Order which is being sought for reconsideration.

NDC

CLERK'S NOTE: Minutes distributed to Barron Hamm, Defendant, ID #1052277, High Desert State Prison, P.O. Box 650, Indian Springs, NV 89070. / dr 3-20-13

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 05, 2014**

09C256384

The State of Nevada vs Barron Hamm

May 05, 2014**9:00 AM****Motion to Withdraw Plea****HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** RJC Courtroom 14C**COURT CLERK:** Dulce Romea
Ying Pan**RECORDER:** Jill Hawkins**REPORTER:****PARTIES****PRESENT:**Fattig, John T
State of NevadaAttorney
Plaintiff**JOURNAL ENTRIES**

- Deft not present, in custody at the Nevada Department of Corrections.

No oral argument taken. Court finds no cognizable claim has been presented and ORDERS, Defendant's Pro Per Motion to Withdraw Plea is DENIED. State to prepare the Order.

NDC

CLERK'S NOTE: A copy of the above minute order was mailed to: Barron Hamm, Deft in Pro Se, ID # 1052277, High Desert State Prison, P.O. Box 650, Indian Springs, NV 89070. / dr

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****October 27, 2014**

09C256384

The State of Nevada vs Barron Hamm

October 27, 2014**9:00 AM****Motion for Order****HEARD BY:** Togliatti, Jennifer**COURTROOM:** RJC Courtroom 16C**COURT CLERK:** Tia Everett
Dania Batiste**RECORDER:** Debbie Winn**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Brett Keeler, Deputy District Attorney, present on behalf of the State. Defendant not present in custody with the Nevada Department of Corrections.

Based on the pleadings and without argument, Court FINDS, Defendant has made a vague four (4) sentence request for transcripts, failing to make a specific claim as to what the transcripts are need for; therefore, COURT ORDERED, Motion DENIED WITHOUT PREJUDICE. Court noted Defendant will be permitted to file a new motion detailing the issues and/or claims.

NDC

CLERK'S NOTE: The above minute order has been distributed to:

BARRON HAMM #1052277
HIGH DESERT STATE PRISON
P.O. BOX 650
INDIAN SPRINGS, NV 89018

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 30, 2015**

09C256384

The State of Nevada vs Barron Hamm

March 30, 2015**9:00 AM****Motion**

**Defendant's Pro Per
Motion Requesting
of the Sentencing
Court to Issue its
Order Granting the
Petitioner a Copy of
his Plea Canvassing
and Sentencing
Transcripts Pursuant
to NRS 7.40 et seq
and 7.055**

HEARD BY: Gonzalez, Elizabeth**COURTROOM:** RJC Courtroom 14C**COURT CLERK:** April Watkins**RECORDER:** Jill Hawkins**REPORTER:****PARTIES****PRESENT:**Jobe, Michelle Y.
State of NevadaAttorney
Plaintiff**JOURNAL ENTRIES**

- COURT ORDERED, motion GRANTED. Deft. can be provided copies of transcripts.

NDC

CLERK'S NOTE: The above minute order has been distributed to: Barron Hamm #1052277, High Desert State Prison, P.O. Box 650, Indian Springs, NV 89018. aw

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 15, 2015**

09C256384

The State of Nevada vs Barron Hamm

July 15, 2015**9:00 AM****Motion to Vacate Sentence****HEARD BY:** Gonzalez, Elizabeth**COURTROOM:** RJC Courtroom 14C**COURT CLERK:** Dulce Romea**RECORDER:** Jill Hawkins**REPORTER:****PARTIES****PRESENT:**Laurent, Christopher J
State of NevadaAttorney
Plaintiff**JOURNAL ENTRIES**

- Deft not present, in custody at the Nevada Department of Corrections.

No oral argument taken. COURT FINDS no new information has been provided, and there is no reason to grant this motion; therefore, motion is DENIED on the same basis the Court denied it previously. State to prepare the order.

Court further noted Ms. Renee Vincent is in the process of preparing the previously requested sentencing transcript which will be sent to the Deft.

NDC

CLERK'S NOTE: A copy of the above minute order was mailed to Barron Hamm, Pro Se, ID #1052277, High Desert State Prison, P.O. Box 650, Indian Springs, NV 89070. / dr 7-16-15

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 24, 2017**

09C256384

The State of Nevada vs Barron Hamm

July 24, 2017**9:00 AM****Petition for Writ of Habeas
Corpus****HEARD BY:** Cory, Kenneth**COURTROOM:** RJC Courtroom 16A**COURT CLERK:** Michele Tucker**RECORDER:** Gail Reiger**REPORTER:****PARTIES****PRESENT:**Demonte, Noreen C.
State of NevadaAttorney
Plaintiff**JOURNAL ENTRIES**

- Defendant Hamm NOT PRESENT IN CUSTODY.

COURT ORDERED, Defendant's Petition for Writ of Habeas Corpus DENIED for the reasons urged by the State. State to prepare the Order.

CLERK'S NOTE: The above minute order has been distributed to: /mlt

BARRON HAMM, BAC #1152965
HIGH DESERT STATE PRISON
22010 COLD CREEK RD
P.O. BOX 650
INDIAN SPRINGS, NV, 89070

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 24, 2021**

09C256384

The State of Nevada vs Barron Hamm

February 24, 2021**11:00 AM****Motion to Withdraw Plea**

**Defendant's Pro Per
Petition Requesting
the Defendant's
Sentencing Be Set
Aside and His Guilty
Plea Agreement be
Withdrawn From
Record**

HEARD BY: Israel, Ronald J.**COURTROOM:** RJC Courtroom 15C**COURT CLERK:** Kathy Thomas**RECORDER:** Judy Chappell**REPORTER:****PARTIES****PRESENT:**

State of Nevada

Plaintiff

Zadrowski, Bernard B.

Attorney

JOURNAL ENTRIES

- Deft. HAMM not present, in the Nevada Department of Corrections (NDC). There being limited time and the courts congested calendar, State requested the matter be continued 90 days. COURT ORDERED, Matter CONTINUED. State to prepare an order to transport Deft. or for a video appearance.

NDC

05/26/2021 11:00 AM DEFENDANT'S PRO PER PETITION REQUESTING THE DEFENDANT'S SENTENCING BE SET ASIDE AND HIS GUILTY PLEA AGREEMENT BE WITHDRAWN FROM RECORD

CLERK'S NOTE: corrected date to reflect 90 days (5/26/21). A copy of this minute order was mailed to Deft. Barron Hamm #1052277, 1200 Prison Road, Love Lock, Nv, 89419. DA- emailed. kt 2/24/21

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 05, 2021**

09C256384

The State of Nevada vs Barron Hamm

April 05, 2021**11:00 AM****Motion to Dismiss****HEARD BY:** Israel, Ronald J.**COURTROOM:** RJC Courtroom 15C**COURT CLERK:** Kathryn Hansen-McDowell**RECORDER:** Judy Chappell**REPORTER:****PARTIES****PRESENT:**Iskan, Ercan E
State of NevadaAttorney
Plaintiff**JOURNAL ENTRIES**

- Deft. not present, in Nevada Department of Corrections.

COURT ORDERED, matter CONTINUED to hear both the State and the Defendant's Motions at the same time. Court noted an order to transport the Defendant should be filed for 5/26/2021.

NDC

CONTINUED TO: 05/26/2021 11:00 AM

CLERK'S NOTE: The above minute order has been distributed to: Barron Hamm #1052277, 1200 Prison Road, Love Lock, Nevada 89419. 4/14/21km

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 26, 2021**

09C256384

The State of Nevada vs Barron Hamm

May 26, 2021**11:00 AM****All Pending Motions****HEARD BY:** Israel, Ronald J.**COURTROOM:** RJC Courtroom 15C**COURT CLERK:** Rem Lord**RECORDER:** Judy Chappell**REPORTER:****PARTIES****PRESENT:**

Hamm, Barron

Defendant

State of Nevada

Plaintiff

Waters, Steven L

Attorney

JOURNAL ENTRIES

- STATE'S RESPONSE AND MOTION TO DISMISS PETITIONER'S THIRD PETITION FOR WRIT OF HABEAS CORPUS... DEFENDANT'S PRO PER PETITION REQUESTING THE DEFENDANT'S SENTENCING BE SET ASIDE AND HIS GUILTY PLEA AGREEMENT BE WITHDRAWN FROM RECORD

Upon the Court's inquiry the Defendant and Mr. Waters submitted on their pleadings. COURT stated findings and ORDERED, Defendant's Pro Per Petition Requesting the Defendant's Sentence Be Set Aside and His Guilty Plea Agreement Be Withdrawn From Record DENIED; Mr. Waters to prepare and submit the Order.

NDC

GRAND JURY INDICTMENTS RETURNED IN OPEN COURT DATE JULY 22, 2009
(From Grand Jury sessions held on July 14 and 21, 2009)

JUDGE LINDA MARIE BELL

FOREPERSON DUANE SCHLISMANN

CHIEF DEPUTY DISTRICT ATTORNEY SCOTT S. MITCHELL
CHIEF DEPUTY DISTRICT ATTORNEY VICTORIA VILLEGAS

CASE NO. C256384
DEPT. NO. XIV
CDDAs VICTORIA VILLEGAS and
SONIA JIMINEZ, GU

Defendant(s): BARRON HAMM

Case No(s): 09AGJ036X (RANDOM TRACKS TO DEPT 14)

Charge(s): (1) CT - BURGLARY WHILE IN POSSESSION OF A FIREARM;
(1) CT - ASSAULT WITH A DEADLY WEAPON;
(1) CT - MURDER WITH USE OF A DEADLY WEAPON; and
(1) CT - CARRYING CONCEALED FIREARM OR OTHER DEADLY
WEAPON

Def. Counsel(s): SCOTT COFFEE, DEPUTY PUBLIC DEFENDER

WARRANT:
SET FELONY ARRAIGNMENT (ONE WEEK)
DEFT IN CUSTODY AT CCDC

Exhibits:

- 1. Proposed Indictment**
- 2. Instructions**

Exhibits 1-X, to be lodged with the Clerk of the Court.
Exhibits X to be returned to XX

Certification of Copy

State of Nevada }
County of Clark } SS:

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

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT
DOCKET ENTRIES; FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER; NOTICE OF
ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; DISTRICT COURT
MINUTES; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

vs.

BARRON HAMM,

Defendant(s).

Case No: 09C256384

Dept No: XXVIII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 18 day of June 2021.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk