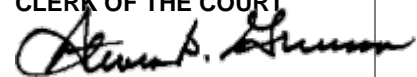


BRET O. WHIPPLE, ESQ.  
Nevada Bar No.: 6168  
**JUSTICE LAW CENTER**  
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Las Vegas, Nevada 89104  
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[admin@justice-law-center.com](mailto:admin@justice-law-center.com)  
*Attorney for Narcus Wesley*

Electronically Filed  
3/24/2021 6:04 PM  
Steven D. Grierson  
CLERK OF THE COURT



Electronically Filed  
Mar 30 2021 02:16 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**DISTRICT COURT**  
**CLARK COUNTY NEVDA**

NARCUS WESLEY,	)	Case No.: A-20-824615-W
	)	
Petitioner,	)	Department No.: XXI
	)	
v.	)	
	)	
STATE OF NEVADA,	)	
	)	
Respondent.	)	
<hr/>		

**NOTICE OF APPEAL**

TO: THE STATE OF NEVADA,  
TO: THE CLARK COUNTY DISTRICT ATTORNEY, and to the EIGHTH  
JUDICIAL DSITRICT COURT, COUNTY OF CLARK, STATE OF NEVADA.

NOTICE IS HEREBY GIVEN that NARCUS WESLEY, above named Petitioner, hereby  
appeals to the SUPREME COURT OF NEVADA from this Court's Findings of Fact and  
Conclusions of Law and Order, filed February 23, 2021 and served February 24, 2021, which  
denied WESLEY relief on his Post-Conviction Petition for Writ of Habeas Corpus and  
associated briefs in support of that Petition.

DATED on this 24<sup>th</sup> day of March, 2021.

**JUSTICE LAW CENTER**

/s/ Bret O. Whipple  
BRET O. WHIPPLE, ESQ.  
Nevada Bar #6168

**DECLARAITON OF MAILING**

I, an employee of JUSTICE LAW CENTER hereby declares that the above document was mailed, via deposit in the United States mail at Las Vegas Nevada, a copy of the above Notice of Appeal, with postage prepaid to:

CLARK COUNTY DISTRICT ATTORNEY  
200 Lewis Avenue  
Las Vegas Nevada 89155

AARON D. FORD  
Nevada Attorney General  
100 N Carson Street  
Carson City, Nevada 89701

DATED on this 24<sup>th</sup> day of March, 2021.

**JUSTICE LAW CENTER**

/s/ Bret O. Whipple  
BRET O. WHIPPLE, ESQ.  
Nevada Bar #6168

# CASE SUMMARY

## CASE NO. A-20-824615-W

Narcus Wesley, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

§  
§  
§  
§  
§  
§

Location: **Department 21**  
Judicial Officer: **Clark Newberry, Tara**  
Filed on: **11/12/2020**  
Case Number History:  
Cross-Reference Case Number: **A824615**  
Defendant's Scope ID #: **1757866**

### CASE INFORMATION

#### Related Cases

07C232494-2 (Writ Related Case)

Case Type: **Writ of Habeas Corpus**

#### Statistical Closures

02/23/2021 Other Manner of Disposition

Case Status: **02/23/2021 Closed**

### DATE

### CASE ASSIGNMENT

#### Current Case Assignment

Case Number A-20-824615-W  
Court Department 21  
Date Assigned 01/04/2021  
Judicial Officer Clark Newberry, Tara

### PARTY INFORMATION





<b>Plaintiff</b>	<b>Wesley, Narcus S</b>	<i>Lead Attorneys</i>
		<b>Pro Se</b>
<b>Defendant</b>	<b>State of Nevada</b>	<b>Wolfson, Steven B</b>
		<i>Retained</i>
		702-671-2700(W)

### DATE

### EVENTS & ORDERS OF THE COURT

### INDEX

#### EVENTS

11/12/2020	 Inmate Filed - Petition for Writ of Habeas Corpus Party: Plaintiff Wesley, Narcus S <i>Petition for Writ of Habeas Corpus Challenging the Erroneous Jury Instruction Pursuant to NRS 193.165 and NRS 34.360</i>
11/12/2020	 Order for Petition for Writ of Habeas Corpus <i>Order for Petition for Writ of Habeas Corpus</i>
12/18/2020	 Response <i>State's Response to Defendant's Petition for Writ of Habeas Corpus Challenging the Erroneous Jury Instruction Pursuant to NRS 193.165 and NRS 34.360</i>
01/04/2021	Case Reassigned to Department 21 <i>Judicial Reassignment to Judge Tara Clark Newberry</i>
01/26/2021	 Reply Filed by: Plaintiff Wesley, Narcus S <i>Petitioner's Reply to States Response to Defendant's Petition for Writ of Habeas Corpus Challenging the Erroneous Jury Instruction Pursuant to NRS 193.165 and NRS 34.360</i>

## CASE SUMMARY

CASE NO. A-20-824615-W

02/23/2021



Findings of Fact, Conclusions of Law and Order

Filed By: Defendant State of Nevada

*Findings of Fact, Conclusions of Law, and Order*

02/24/2021



Notice of Entry of Findings of Fact, Conclusions of Law

Filed By: Defendant State of Nevada

*Notice of Entry of Findings of Fact, Conclusions of Law and Order*

03/24/2021



Notice of Appeal (criminal)

*Notice of Appeal*

### **HEARINGS**

01/14/2021



**Petition for Writ of Habeas Corpus (1:30 PM)** (Judicial Officer: Clark Newberry, Tara)

Denied;

Journal Entry Details:

*Deft. not present, incarcerated in the Nevada Dept. of Corrections. COURT ADVISED, no argument would be allowed and FINDS, the State's response was compelling, it agreed the Petitioner should have submitted all the arguments at the time the original writ was filed; therefore, ORDERED, petition for writ DENIED; DIRECTED, the State to prepare the order. CLERK'S NOTE: The foregoing minutes were distributed via general mail to the following party: Narcus Wesley #1022289 PO Box 650 Indian Springs, NV 89070 (1/21/21 amn).;*

## DISTRICT COURT CIVIL COVER SHEET

A-20-824615-W

County, Nevada

Dept. 18

Case No. \_\_\_\_\_  
(Assigned by Clerk's Office)**I. Party Information** (provide both home and mailing addresses if different)

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

Narcus Wesley

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

State of Nevada

Attorney (name/address/phone):

Attorney (name/address/phone):

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

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

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

11/12/20

Date

Prepared by Clerk

Signature of initiating party or representative

See other side for family-related case filings.

*Heather S. Hume*

CLERK OF THE COURT

**FFCO**

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #1565  
JOHN NIMAN  
Deputy District Attorney  
Nevada Bar #14408  
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-

**NARCUS WESLEY,  
#1022289**

Defendant.

CASE NO: **A-20-824615-W  
07C232494-2**

DEPT NO: **XXI**

**FINDINGS OF FACT, CONCLUSIONS OF**

**LAW, AND ORDER**

DATE OF HEARING: **JANUARY 14, 2021**

TIME OF HEARING: **1:30 PM**

THIS CAUSE having presented before the HONORABLE CLARK NEWBERRY,  
District Judge, on the 14<sup>th</sup> day of January, 2021; Petitioner not present, proceeding IN  
PROPER PERSON; Respondent represented by STEVEN B. WOLFSON, Clark County  
District Attorney, by and through HETTY WONG, Chief Deputy District Attorney; and  
having considered the matter, including briefs, transcripts, arguments of counsel, and  
documents on file herein, the Court makes the following Findings of Fact and Conclusions of  
Law:

//

//

//

1 **STATEMENT OF THE CASE**

2 On April 20, 2007, the State filed an Information charging Narcus Wesley (hereinafter  
3 “Petitioner”) and Delarian Kameron Wilson (hereinafter “Wilson”) with: Count 1 –  
4 Conspiracy to Commit Burglary; Count 2 – Conspiracy to Commit Robbery; Counts 3 and 11  
5 – Burglary While in Possession of a Deadly Weapon; Counts 4, 6, 7, and 9 – Robbery with  
6 Use of A Deadly Weapon; Counts 5 and 8 – Assault with Use of a Deadly Weapon; Count 10  
7 – First Degree Kidnapping with Use of a Deadly Weapon; Counts 12-15, and 17 – Sexual  
8 Assault with Use of a Deadly Weapon; Count 16 – Coercion with Use of a Deadly Weapon;  
9 and Count 18 – Open or Gross Lewdness with Use of a Deadly Weapon. Petitioner’s Co-  
10 Defendant, Wilson, later entered into negotiations with the State and plead guilty to two (2)  
11 counts of Robbery with Use of a Deadly Weapon and one (1) count of Sexual Assault.

12 Petitioner’s jury trial began on April 9, 2008 and concluded on April 18, 2008. On April  
13 10, the State filed the Second Amended Information. The jury convicted Petitioner of all  
14 eighteen (18) counts contained in the Second Amended Information.

15 On July 3, 2008, Petitioner was adjudged guilty of all eighteen (18) counts and the  
16 district court sentenced Petitioner as follows<sup>1</sup>: as to Counts 1 and 18 – twelve (12) months; as  
17 to Counts 2, 3, and 11 – twenty-eight (28) to seventy-two (72) months; as to Counts 4, 6, 7,  
18 and 9 – sixty (60) to one hundred eighty (180) months, plus an equal and consecutive term of  
19 sixty (60) to one hundred eighty (180) months for the use of a deadly weapon; as to Counts 5  
20 and 8 – twenty-four (24) to seventy-two (72) months; as to Count 10 – seventy-two (72) to one  
21 hundred eighty (180) months, plus an equal and consecutive term of seventy-two (72) to one  
22 hundred eighty (180) months for the use of a deadly weapon; as to Counts 12-15, and 17 – ten  
23 (10) years to life, plus an equal and consecutive term of ten (10) years to life for the use of a  
24 deadly weapon; and as to Count 16 – twenty-four (24) to seventy-two (72) months, plus an  
25 equal and consecutive term of twenty-four (24) to seventy-two (72) months for the use of a  
26 deadly weapon; all counts to run concurrently. The Judgment of Conviction was filed on July

27  
28 <sup>1</sup> The State filed a Motion to Correct Illegal Sentence as to Counts 12-15, and 17, as the court previously sentenced Petitioner to a prison term of eight (8) to twenty (20) years instead of ten (10) to twenty (20) years as called for by Statute. The court corrected the sentence at a hearing on September 23, 2008, at which Petitioner was present with his counsel. The corrected sentence is listed above.

1 18, 2008, and an Amended Judgment of Conviction reflecting a correction in the sentence to  
2 Counts 12-15, and 17 was filed on October 8, 2008. Petitioner filed a Notice of Appeal from  
3 the jury verdict, the sentencing, and all pre-trial and post-trial rulings on July 25, 2008.<sup>2</sup> On  
4 March 11, 2010, the Nevada Supreme Court filed an Order affirming Petitioner's conviction  
5 (Case No. 52127). Remittitur was issued on April 8, 2010.

6 On September 9, 2010, Petitioner filed a pro per Petition for Writ of Habeas Corpus, a  
7 Motion for Appointment of Counsel, and a Request for an Evidentiary Hearing. On December  
8 6, 2010, the State filed its Response. On December 7, 2010, the district court denied the  
9 Petition. On December 28, 2010, Petitioner filed a Notice of Appeal from the Order denying  
10 the Petition for post-conviction relief. On January 4, 2011, a Findings of Fact, Conclusions of  
11 Law, and Order was filed. On March 1, 2011, following an Order of Limited Remand for  
12 Appointment of Counsel regarding appointment of counsel for Petitioner's post-conviction  
13 appeal, the district court appointed Mr. Oram. On January 16, 2013, the Nevada Supreme  
14 Court issued an Order of Affirmance; remittitur was issued on February 12, 2013.

15 On November 12, 2020, Petitioner filed the instant Petition for Writ of Habeas Corpus  
16 Challenging the Erroneous Jury Instruction Pursuant to NRS 193.165 and NRS 34.360[.] The  
17 State filed its Response on December 18, 2020. The matter came before the court on January  
18 14, 2021, and the court rules as follows:

## 19 ANALYSIS

### 20 **I. PETITIONER'S SECOND HABEAS PETITION IS PROCEDURALLY** 21 **BARRED**

#### 22 **A. Petitioner's Claims are Waived.**

23 As an initial matter, claims other than challenges to the validity of a guilty plea and  
24 ineffective assistance of trial and appellate counsel must be raised on direct appeal "or they  
25 will be considered waived in subsequent proceedings." Franklin v. State, 110 Nev. 750, 752,  
26 877 P.2d 1058, 1059 (1994) (disapproved on other grounds by Thomas v. State, 115 Nev. 148,

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27 <sup>2</sup> For purposes of clarification, Petitioner's trial counsel were Deputy Public Defenders Jeffrey Banks (hereinafter "Mr. Banks") and  
28 Casey Landis (hereinafter "Mr. Landis"). Counsel for Petitioner's direct appeal were Dan Winder (hereinafter "Mr. Winder") and Arnold  
Weinstock (hereinafter "Mr. Weinstock").



1 979 P.2d 222 (1999)); see also NRS 34.724(2)(a); NRS 34.810(1)(b)(2); Evans v. State, 117  
2 Nev. 609, 646–47, 29 P.3d 498, 523 (2001). Here, Petitioner offered substantive claims in the  
3 instant Second Petition that are now waived due to his failure to raise them on direct appeal.  
4 Accordingly, his Second Petition is denied.

5 **B. The Instant Second Petition is Untimely.**

6 NRS 34.726(1) states that “unless there is good cause shown for delay, a petition that  
7 challenges the validity of a judgment or sentence must be filed within 1 year after entry of the  
8 judgment of conviction or, if an appeal has been taken from the judgment, within 1 year after  
9 the Supreme Court issues its remittitur.” The one-year time bar is strictly construed and  
10 enforced. Gonzales, 118 Nev. 590, 53 P.3d 901. The Nevada Supreme Court has held that the  
11 “clear and unambiguous” provisions of NRS 34.726(1) demonstrate an “intolerance toward  
12 perpetual filing of petitions for relief, which clogs the court system and undermines the finality  
13 of convictions.” Pellegrini v. State, 117 Nev. 860, 875, 34 P.3d 519, 529 (2001). For cases that  
14 arose before NRS 34.726 took effect on January 1, 1993, the deadline for filing a petition was  
15 extended to January 1, 1994. Id. at 869, 34 P.3d at 525.

16 The one-year time bar of NRS 34.726 is strictly construed. Gonzales v. State, 118 Nev.  
17 590, 593–96, 53 P.3d 901, 902–04 (rejected post-conviction petition filed two days late  
18 pursuant to the “clear and unambiguous” provisions of NRS 34.726(1)). Further, the District  
19 Courts have a duty to consider whether post-conviction claims are procedurally barred. State  
20 v. Eighth Judicial District Court (Riker), 121 Nev. 225, 234, 112 P.3d 1070, 1076 (2005). The  
21 Nevada Supreme Court has found that “[a]pplication of the statutory procedural default rules  
22 to post-conviction habeas petitions is mandatory,” noting:

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

26 Id. at 231, 112 P.3d at 1074. Additionally, the Court held that procedural bars “cannot be  
27 ignored when properly raised by the State.” Id. at 233, 112 P.3d at 1075. The Nevada Supreme  
28 Court has granted no discretion to the District Courts regarding whether to apply the statutory

1 procedural bars. Moreover, parties in a post-conviction habeas proceeding cannot stipulate to  
2 disregard the procedural default rules. State v. Haberstroh, 119 Nev. 173, 180, 69 P.3d 676,  
3 681 (2003).

4 Here, the Judgment of Conviction was filed on July 18, 2008, and an Amended  
5 Judgment of Conviction was filed on October 8, 2008. On March 11, 2010, the Nevada  
6 Supreme Court filed an Order affirming Petitioner's conviction; remittitur was issued on April  
7 8, 2010. Accordingly, Petitioner had until April 8, 2011 to file a Petition. The instant Petition  
8 was not filed until November 12, 2020 – over nine (9) years after the deadline. Therefore,  
9 absent a showing of good cause and prejudice, the instant Second Petition must be denied as  
10 untimely.

11 **C. The Instant Second Petition is Successive and/or an Abuse of the Writ.**

12 Under NRS 34.810(2) “[a] second or successive petition must be dismissed if the judge  
13 or justice determines that it fails to allege new or different grounds for relief and that the prior  
14 determination was on the merits or, if new and different grounds are alleged, the judge or  
15 justice finds that the failure of the petitioner to assert those grounds in a prior petition  
16 constituted an abuse of the writ.” Second or successive petitions will only be decided on the  
17 merits if the petitioner can show good cause and prejudice. NRS 34.810(3); Lozada v. State,  
18 110 Nev. 349, 358, 871 P.2d 944, 950 (1994). The Nevada Supreme Court has stated: “Without  
19 such limitations on the availability of post-conviction remedies, prisoners could petition for  
20 relief in perpetuity and thus abuse post-conviction remedies. In addition, meritless, successive  
21 and untimely petitions clog the court system and undermine the finality of convictions.”  
22 Lozada, 110 Nev. at 358, 871 P.2d at 950. The Nevada Supreme Court recognizes that  
23 “[u]nlike initial petitions which certainly require a careful review of the record, successive  
24 petitions may be dismissed based solely on the face of the petition.” Ford v. Warden, 111 Nev.  
25 872, 882, 901 P.2d 123, 129 (1995). In other words, if the claim or allegation was previously  
26 available with reasonable diligence, it is an abuse of the writ to wait to assert it in a later  
27 petition. McClesky v. Zant, 499 U.S. 467, 497–98 (1991). Application of NRS 34.810(2) is  
28 mandatory. See Riker, 121 Nev. at 231, 112 P.3d at 1074.

1 Here, Petitioner previously filed a Petition on September 9, 2010. To the extent that any  
2 claims raised were raised previously and denied on the merits, said claims are successive and  
3 would be governed by *res judicata* and/or law of the case.<sup>3</sup> To the extent that Petitioner is  
4 raising new claims, this is an abuse of the writ, as the claims *could* have been raised in the  
5 previous Petition. Moreover, this court finds that Petitioner *should* have submitted all the  
6 arguments at the time the original writ was filed. Therefore, absent a showing of good cause  
7 and prejudice, Petitioner's claims are procedurally barred and must be denied.

## 8 **II. PETITIONER HAS FAILED TO DEMONSTRATE GOOD CAUSE AND** 9 **PREJUDICE**

10 A showing of good cause and prejudice may overcome procedural bars. To show good  
11 cause for delay under NRS 34.726(1), a petitioner must demonstrate the following: (1) "[t]hat  
12 the delay is not the fault of the petitioner" and (2) that the petitioner will be "unduly  
13 prejudice[d]" if the petition is dismissed as untimely. See NRS 34.726(1).

14 "To establish good cause, appellants must show that an impediment external to the  
15 defense prevented their compliance with the applicable procedural rule. A qualifying  
16 impediment might be shown where the factual or legal basis for a claim was not reasonably  
17 available at the time of default." Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003)  
18 Moreover, "appellants cannot attempt to manufacture good cause[.]" Id. at 621, 81 P.3d at 526;  
19 see also Hathaway v. State, 119 Nev. 248, 252–53, 71 P.3d 503, 506–07 (2003) (stating that a  
20 claim reasonably available to the petitioner during the statutory time period did not constitute  
21 good cause to excuse a delay in filing).

22 In addition to establishing good cause, a petitioner must also show actual prejudice  
23 resulting from the errors of which he complains. In other words, in order to establish prejudice,  
24 the defendant must show "not merely that the errors of [the proceedings] created possibility  
25 of prejudice, but that they worked to his actual and substantial disadvantage, in affecting the  
26 state proceedings with error of constitutional dimensions." Hogan v. Warden, 109 Nev. 952,

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27  
28 <sup>3</sup> See Exec. Mgmt. v. Tigor Titles Ins. Co., 114 Nev. 823, 834, 963 P.2d 465, 473 (1998); Sealfon v. United States, 332 U.S. 575, 578,  
68 S. Ct. 237, 239 (1948); Hall v. State, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975).

1 960, 860 P.2d 710, 716 (1993) (quoting United States v. Frady, 456 U.S. 152, 170, 102 S. Ct.  
2 1584, 1596 (1982)). To find good cause there must be a “substantial reason; one that affords a  
3 legal excuse.” Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (quoting Colley  
4 v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)).

5 Moreover, claims asserted in a petition for post-conviction relief must be supported  
6 with specific factual allegations, which if true, would entitle the petitioner to relief. Hargrove,  
7 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and “naked” allegations are not  
8 sufficient, nor are those belied and repelled by the record. Id.

9 Here, Petitioner failed to make any claim that there is good cause to overcome the  
10 procedural time bars, nor can he manufacture good cause. The factual and legal basis of his  
11 claims were always reasonably available to him since the filing of the Amended Judgment of  
12 Conviction. Additionally, Petitioner cannot demonstrate actual prejudice as there were no  
13 errors based upon the following reasons:

14 First, Petitioner claims there was insufficient evidence to support a finding that a  
15 firearm was used in the commission of the crimes charged. Petition at 1–2. Specifically,  
16 Petitioner claims that “the State failed to establish that the object portrayed as a gun that was  
17 not produced at trial could fire a projectile by force of an explosion or combustion...” Petition  
18 at 2. Second, Petitioner claimed that the district court erred by instructing the jury that “a  
19 firearm is a deadly weapon and proof of its deadly capabilities is not required.” Petition at 3–  
20 4. Petitioner’s claims are meritless.

21 According to NRS 193.165, a deadly weapon is:

22 (a) Any instrument which, if used in the ordinary manner  
23 contemplated by its design and construction, will or is likely to cause  
substantial bodily harm or death;

24 (b) Any weapon, device, instrument, material or substance which,  
25 under the circumstances in which it is used, attempted to be used or  
26 threatened to be used, is readily capable of causing substantial bodily  
harm or death; or

27 (c) A dangerous or deadly weapon specifically described in NRS  
202.255, 202.265, 202.290, 202.320 or 202.350.

28 //

1 Here, the statute is clear that the State needed to only show one (1) of the three (3)  
2 lineated definitions of a deadly weapon. Regardless, Nevada case law is clear that a firearm is  
3 a deadly weapon. According to Stalley v. State,

4 By the words ‘firearm or other deadly weapon,’ the legislature has  
5 declared that a firearm is a deadly weapon within the contemplation  
6 of the statute. *Proof of its deadly capabilities is not required.* To  
7 require such proof would frustrate the legislative purpose to deter  
crime by providing a greater penalty when a firearm is used in the  
commission of a public offense.

8 91 Nev. 671, 676, 541 P.2d 658, 661–62 (1975) (emphasis added). Moreover, “whether the  
9 gun was actually loaded and capable of firing bullets in a deadly fashion is of no consequence  
10 in determining whether it is a deadly weapon.” Barnhart v. State, 122 Nev. 301, 304–05, 130  
11 P.3d 650, 652 (2006). To the extent that Petitioner is claiming there was no proof that a firearm  
12 was used in this case, his claim also fails. The victims testified repeatedly that Petitioner had  
13 a gun and even threatened to shoot them. See Transcript of Proceedings - Jury Trial, April 9,  
14 10, and 11, 2008 at 650–51, 657–58, 668, 726. For these reasons, Petitioner cannot establish  
15 prejudice as there was no error.

16 **ORDER**

17 THEREFORE, **IT IS HEREBY ORDERED** that the Petition for Post-Conviction  
18 Relief shall be and it is denied.

19 DATED this \_\_\_\_ day of February, 2021.

Dated this 23rd day of February, 2021



21 DISTRICT JUDGE

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

DBB ED4 558B A260  
Tara Clark Newberry  
District Court Judge

24 BY

for

25   
HETTY WONG  
26 Chief Deputy District Attorney  
Nevada Bar #011324

27  
28 hjc/SVU

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Narcus Wesley, Plaintiff(s)

CASE NO: A-20-824615-W

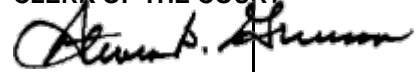
7 vs.

DEPT. NO. Department 21

8 State of Nevada, Defendant(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

2 **DISTRICT COURT**  
3 **CLARK COUNTY, NEVADA**

4 NARCUS WESLEY,

5  
6 Petitioner,

Case No: A-20-824615-W

Dept No: XXI

7 vs.

8 STATE OF NEVADA,

9 Respondent,

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

10  
11 **PLEASE TAKE NOTICE** that on February 23, 2021, the court entered a decision or order in this  
12 matter, a true and correct copy of which is attached to this notice.

13 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you  
14 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is  
15 mailed to you. This notice was mailed on February 24, 2021.

16 STEVEN D. GRIERSON, CLERK OF THE COURT

17 /s/ Amanda Hampton

18 Amanda Hampton, Deputy Clerk

19 **CERTIFICATE OF E-SERVICE / MAILING**

20 I hereby certify that on this 24 day of February 2021, I served a copy of this Notice of Entry on the  
21 following:

22 ☒ By e-mail:

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

23  
24 ☒ The United States mail addressed as follows:

25 Narcus Wesley # 1022289  
26 P.O. Box 650  
27 Indian Springs, NV 89070

28 /s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

**FFCO**

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #1565  
JOHN NIMAN  
Deputy District Attorney  
Nevada Bar #14408  
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-

**NARCUS WESLEY,  
#1022289**

Defendant.

CASE NO: **A-20-824615-W  
07C232494-2**

DEPT NO: **XXI**

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

DATE OF HEARING: **JANUARY 14, 2021**  
TIME OF HEARING: **1:30 PM**

THIS CAUSE having presented before the HONORABLE CLARK NEWBERRY,  
District Judge, on the 14<sup>th</sup> day of January, 2021; Petitioner not present, proceeding IN  
PROPER PERSON; Respondent represented by STEVEN B. WOLFSON, Clark County  
District Attorney, by and through HETTY WONG, Chief Deputy District Attorney; and  
having considered the matter, including briefs, transcripts, arguments of counsel, and  
documents on file herein, the Court makes the following Findings of Fact and Conclusions of  
Law:

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Petitioner's jury trial began on April 9, 2008 and concluded on April 18, 2008. On April 10, the State filed the Second Amended Information. The jury convicted Petitioner of all eighteen (18) counts contained in the Second Amended Information.

<sup>1</sup> The State filed a Motion to Correct Illegal Sentence as to Counts 12-15, and 17, as the court previously sentenced Petitioner to a prison term of eight (8) to twenty (20) years instead of ten (10) to twenty (20) years as called for by Statute. The court corrected the sentence at a hearing on September 23, 2008, at which Petitioner was present with his counsel. The corrected sentence is listed above.

1 18, 2008, and an Amended Judgment of Conviction reflecting a correction in the sentence to  
2 Counts 12-15, and 17 was filed on October 8, 2008. Petitioner filed a Notice of Appeal from  
3 the jury verdict, the sentencing, and all pre-trial and post-trial rulings on July 25, 2008.<sup>2</sup> On  
4 March 11, 2010, the Nevada Supreme Court filed an Order affirming Petitioner's conviction  
5 (Case No. 52127). Remittitur was issued on April 8, 2010.

6 On September 9, 2010, Petitioner filed a pro per Petition for Writ of Habeas Corpus, a  
7 Motion for Appointment of Counsel, and a Request for an Evidentiary Hearing. On December  
8 6, 2010, the State filed its Response. On December 7, 2010, the district court denied the  
9 Petition. On December 28, 2010, Petitioner filed a Notice of Appeal from the Order denying  
10 the Petition for post-conviction relief. On January 4, 2011, a Findings of Fact, Conclusions of  
11 Law, and Order was filed. On March 1, 2011, following an Order of Limited Remand for  
12 Appointment of Counsel regarding appointment of counsel for Petitioner's post-conviction  
13 appeal, the district court appointed Mr. Oram. On January 16, 2013, the Nevada Supreme  
14 Court issued an Order of Affirmance; remittitur was issued on February 12, 2013.

15 On November 12, 2020, Petitioner filed the instant Petition for Writ of Habeas Corpus  
16 Challenging the Erroneous Jury Instruction Pursuant to NRS 193.165 and NRS 34.360[.] The  
17 State filed its Response on December 18, 2020. The matter came before the court on January  
18 14, 2021, and the court rules as follows:

## 19 ANALYSIS

### 20 **I. PETITIONER'S SECOND HABEAS PETITION IS PROCEDURALLY** 21 **BARRED**

#### 22 **A. Petitioner's Claims are Waived.**

23 As an initial matter, claims other than challenges to the validity of a guilty plea and  
24 ineffective assistance of trial and appellate counsel must be raised on direct appeal "or they  
25 will be considered waived in subsequent proceedings." Franklin v. State, 110 Nev. 750, 752,  
26 877 P.2d 1058, 1059 (1994) (disapproved on other grounds by Thomas v. State, 115 Nev. 148,

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27 <sup>2</sup> For purposes of clarification, Petitioner's trial counsel were Deputy Public Defenders Jeffrey Banks (hereinafter "Mr. Banks") and  
28 Casey Landis (hereinafter "Mr. Landis"). Counsel for Petitioner's direct appeal were Dan Winder (hereinafter "Mr. Winder") and Arnold  
Weinstock (hereinafter "Mr. Weinstock").

1 979 P.2d 222 (1999)); see also NRS 34.724(2)(a); NRS 34.810(1)(b)(2); Evans v. State, 117  
2 Nev. 609, 646–47, 29 P.3d 498, 523 (2001). Here, Petitioner offered substantive claims in the  
3 instant Second Petition that are now waived due to his failure to raise them on direct appeal.  
4 Accordingly, his Second Petition is denied.

5 **B. The Instant Second Petition is Untimely.**

6 NRS 34.726(1) states that “unless there is good cause shown for delay, a petition that  
7 challenges the validity of a judgment or sentence must be filed within 1 year after entry of the  
8 judgment of conviction or, if an appeal has been taken from the judgment, within 1 year after  
9 the Supreme Court issues its remittitur.” The one-year time bar is strictly construed and  
10 enforced. Gonzales, 118 Nev. 590, 53 P.3d 901. The Nevada Supreme Court has held that the  
11 “clear and unambiguous” provisions of NRS 34.726(1) demonstrate an “intolerance toward  
12 perpetual filing of petitions for relief, which clogs the court system and undermines the finality  
13 of convictions.” Pellegrini v. State, 117 Nev. 860, 875, 34 P.3d 519, 529 (2001). For cases that  
14 arose before NRS 34.726 took effect on January 1, 1993, the deadline for filing a petition was  
15 extended to January 1, 1994. Id. at 869, 34 P.3d at 525.

16 The one-year time bar of NRS 34.726 is strictly construed. Gonzales v. State, 118 Nev.  
17 590, 593–96, 53 P.3d 901, 902–04 (rejected post-conviction petition filed two days late  
18 pursuant to the “clear and unambiguous” provisions of NRS 34.726(1)). Further, the District  
19 Courts have a duty to consider whether post-conviction claims are procedurally barred. State  
20 v. Eighth Judicial District Court (Riker), 121 Nev. 225, 234, 112 P.3d 1070, 1076 (2005). The  
21 Nevada Supreme Court has found that “[a]pplication of the statutory procedural default rules  
22 to post-conviction habeas petitions is mandatory,” noting:

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

26 Id. at 231, 112 P.3d at 1074. Additionally, the Court held that procedural bars “cannot be  
27 ignored when properly raised by the State.” Id. at 233, 112 P.3d at 1075. The Nevada Supreme  
28 Court has granted no discretion to the District Courts regarding whether to apply the statutory

1 procedural bars. Moreover, parties in a post-conviction habeas proceeding cannot stipulate to  
2 disregard the procedural default rules. State v. Haberstroh, 119 Nev. 173, 180, 69 P.3d 676,  
3 681 (2003).

4 Here, the Judgment of Conviction was filed on July 18, 2008, and an Amended  
5 Judgment of Conviction was filed on October 8, 2008. On March 11, 2010, the Nevada  
6 Supreme Court filed an Order affirming Petitioner's conviction; remittitur was issued on April  
7 8, 2010. Accordingly, Petitioner had until April 8, 2011 to file a Petition. The instant Petition  
8 was not filed until November 12, 2020 – over nine (9) years after the deadline. Therefore,  
9 absent a showing of good cause and prejudice, the instant Second Petition must be denied as  
10 untimely.

11 **C. The Instant Second Petition is Successive and/or an Abuse of the Writ.**

12 Under NRS 34.810(2) “[a] second or successive petition must be dismissed if the judge  
13 or justice determines that it fails to allege new or different grounds for relief and that the prior  
14 determination was on the merits or, if new and different grounds are alleged, the judge or  
15 justice finds that the failure of the petitioner to assert those grounds in a prior petition  
16 constituted an abuse of the writ.” Second or successive petitions will only be decided on the  
17 merits if the petitioner can show good cause and prejudice. NRS 34.810(3); Lozada v. State,  
18 110 Nev. 349, 358, 871 P.2d 944, 950 (1994). The Nevada Supreme Court has stated: “Without  
19 such limitations on the availability of post-conviction remedies, prisoners could petition for  
20 relief in perpetuity and thus abuse post-conviction remedies. In addition, meritless, successive  
21 and untimely petitions clog the court system and undermine the finality of convictions.”  
22 Lozada, 110 Nev. at 358, 871 P.2d at 950. The Nevada Supreme Court recognizes that  
23 “[u]nlike initial petitions which certainly require a careful review of the record, successive  
24 petitions may be dismissed based solely on the face of the petition.” Ford v. Warden, 111 Nev.  
25 872, 882, 901 P.2d 123, 129 (1995). In other words, if the claim or allegation was previously  
26 available with reasonable diligence, it is an abuse of the writ to wait to assert it in a later  
27 petition. McClesky v. Zant, 499 U.S. 467, 497–98 (1991). Application of NRS 34.810(2) is  
28 mandatory. See Riker, 121 Nev. at 231, 112 P.3d at 1074.

1 Here, Petitioner previously filed a Petition on September 9, 2010. To the extent that any  
2 claims raised were raised previously and denied on the merits, said claims are successive and  
3 would be governed by *res judicata* and/or law of the case.<sup>3</sup> To the extent that Petitioner is  
4 raising new claims, this is an abuse of the writ, as the claims *could* have been raised in the  
5 previous Petition. Moreover, this court finds that Petitioner *should* have submitted all the  
6 arguments at the time the original writ was filed. Therefore, absent a showing of good cause  
7 and prejudice, Petitioner’s claims are procedurally barred and must be denied.

## 8 II. PETITIONER HAS FAILED TO DEMONSTRATE GOOD CAUSE AND 9 PREJUDICE

10 A showing of good cause and prejudice may overcome procedural bars. To show good  
11 cause for delay under NRS 34.726(1), a petitioner must demonstrate the following: (1) “[t]hat  
12 the delay is not the fault of the petitioner” and (2) that the petitioner will be “unduly  
13 prejudice[d]” if the petition is dismissed as untimely. See NRS 34.726(1).

14 “To establish good cause, appellants must show that an impediment external to the  
15 defense prevented their compliance with the applicable procedural rule. A qualifying  
16 impediment might be shown where the factual or legal basis for a claim was not reasonably  
17 available at the time of default.” Clem v. State, 119 Nev. 615, 621, 81 P.3d 521, 525 (2003)  
18 Moreover, “appellants cannot attempt to manufacture good cause[.]” Id. at 621, 81 P.3d at 526;  
19 see also Hathaway v. State, 119 Nev. 248, 252–53, 71 P.3d 503, 506–07 (2003) (stating that a  
20 claim reasonably available to the petitioner during the statutory time period did not constitute  
21 good cause to excuse a delay in filing).

22 In addition to establishing good cause, a petitioner must also show actual prejudice  
23 resulting from the errors of which he complains. In other words, in order to establish prejudice,  
24 the defendant must show “not merely that the errors of [the proceedings] created possibility  
25 of prejudice, but that they worked to his actual and substantial disadvantage, in affecting the  
26 state proceedings with error of constitutional dimensions.” Hogan v. Warden, 109 Nev. 952,

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27  
28 <sup>3</sup> See Exec. Mgmt. v. Tigor Titles Ins. Co., 114 Nev. 823, 834, 963 P.2d 465, 473 (1998); Sealfon v. United States, 332 U.S. 575, 578,  
68 S. Ct. 237, 239 (1948); Hall v. State, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975).

1 960, 860 P.2d 710, 716 (1993) (quoting United States v. Frady, 456 U.S. 152, 170, 102 S. Ct.  
2 1584, 1596 (1982)). To find good cause there must be a “substantial reason; one that affords a  
3 legal excuse.” Hathaway v. State, 119 Nev. 248, 252, 71 P.3d 503, 506 (2003) (quoting Colley  
4 v. State, 105 Nev. 235, 236, 773 P.2d 1229, 1230 (1989)).

5 Moreover, claims asserted in a petition for post-conviction relief must be supported  
6 with specific factual allegations, which if true, would entitle the petitioner to relief. Hargrove,  
7 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). “Bare” and “naked” allegations are not  
8 sufficient, nor are those belied and repelled by the record. Id.

9 Here, Petitioner failed to make any claim that there is good cause to overcome the  
10 procedural time bars, nor can he manufacture good cause. The factual and legal basis of his  
11 claims were always reasonably available to him since the filing of the Amended Judgment of  
12 Conviction. Additionally, Petitioner cannot demonstrate actual prejudice as there were no  
13 errors based upon the following reasons:

14 First, Petitioner claims there was insufficient evidence to support a finding that a  
15 firearm was used in the commission of the crimes charged. Petition at 1–2. Specifically,  
16 Petitioner claims that “the State failed to establish that the object portrayed as a gun that was  
17 not produced at trial could fire a projectile by force of an explosion or combustion...” Petition  
18 at 2. Second, Petitioner claimed that the district court erred by instructing the jury that “a  
19 firearm is a deadly weapon and proof of its deadly capabilities is not required.” Petition at 3–  
20 4. Petitioner’s claims are meritless.

21 According to NRS 193.165, a deadly weapon is:

22 (a) Any instrument which, if used in the ordinary manner  
23 contemplated by its design and construction, will or is likely to cause  
substantial bodily harm or death;

24 (b) Any weapon, device, instrument, material or substance which,  
25 under the circumstances in which it is used, attempted to be used or  
26 threatened to be used, is readily capable of causing substantial bodily  
harm or death; or

27 (c) A dangerous or deadly weapon specifically described in NRS  
202.255, 202.265, 202.290, 202.320 or 202.350.

28 //

1 Here, the statute is clear that the State needed to only show one (1) of the three (3)  
2 lineated definitions of a deadly weapon. Regardless, Nevada case law is clear that a firearm is  
3 a deadly weapon. According to Stalley v. State,

4 By the words ‘firearm or other deadly weapon,’ the legislature has  
5 declared that a firearm is a deadly weapon within the contemplation  
6 of the statute. *Proof of its deadly capabilities is not required.* To  
7 require such proof would frustrate the legislative purpose to deter  
crime by providing a greater penalty when a firearm is used in the  
commission of a public offense.

8 91 Nev. 671, 676, 541 P.2d 658, 661–62 (1975) (emphasis added). Moreover, “whether the  
9 gun was actually loaded and capable of firing bullets in a deadly fashion is of no consequence  
10 in determining whether it is a deadly weapon.” Barnhart v. State, 122 Nev. 301, 304–05, 130  
11 P.3d 650, 652 (2006). To the extent that Petitioner is claiming there was no proof that a firearm  
12 was used in this case, his claim also fails. The victims testified repeatedly that Petitioner had  
13 a gun and even threatened to shoot them. See Transcript of Proceedings - Jury Trial, April 9,  
14 10, and 11, 2008 at 650–51, 657–58, 668, 726. For these reasons, Petitioner cannot establish  
15 prejudice as there was no error.

16 **ORDER**

17 THEREFORE, **IT IS HEREBY ORDERED** that the Petition for Post-Conviction  
18 Relief shall be and it is denied.

19 DATED this \_\_\_\_ day of February, 2021.

Dated this 23rd day of February, 2021



21 DISTRICT JUDGE

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

DBB ED4 558B A260  
Tara Clark Newberry  
District Court Judge

24 BY

for

25   
HETTY WONG  
26 Chief Deputy District Attorney  
Nevada Bar #011324

27  
28 hjc/SVU

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Narcus Wesley, Plaintiff(s)

CASE NO: A-20-824615-W

7 vs.

DEPT. NO. Department 21

8 State of Nevada, Defendant(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 Electronic service was attempted through the Eighth Judicial District Court's  
12 electronic filing system, but there were no registered users on the case. The filer has been  
13 notified to serve all parties by traditional means.  
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A-20-824615-W      Narcus Wesley, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

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January 14, 2021      01:30 PM      Petition for Writ of Habeas Corpus

HEARD BY:      Clark Newberry, Tara      COURTROOM: RJC Courtroom 16C

COURT CLERK: Natali, Andrea

RECORDER:      Page, Robin

REPORTER:

PARTIES PRESENT:

Hetty O. Wong      Attorney for Defendant

**JOURNAL ENTRIES**

Deft. not present, incarcerated in the Nevada Dept. of Corrections.

COURT ADVISED, no argument would be allowed and FINDS, the State's response was compelling, it agreed the Petitioner should have submitted all the arguments at the time the original writ was filed; therefore, ORDERED, petition for writ DENIED; DIRECTED, the State to prepare the order.

CLERK'S NOTE: The foregoing minutes were distributed via general mail to the following party:

Narcus Wesley #1022289  
PO Box 650  
Indian Springs, NV 89070  
(1/21/21 amn).



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

**BRET O. WHIPPLE, ESQ.**  
**1100 S. 10<sup>TH</sup> ST.**  
**LAS VEGAS, NV 89104**

**DATE: March 25, 2021**  
**CASE: A-20-824615-W**

**RE CASE:** NARCUS WESLEY vs. STATE OF NEVADA

NOTICE OF APPEAL FILED: March 24, 2021

**YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.**

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

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

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

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

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

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

# Certification of Copy

State of Nevada }  
County of Clark } SS:

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

NOTICE OF APPEAL; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

NARCUS WESLEY,

Plaintiff(s),

vs.

STATE OF NEVADA,

Defendant(s),

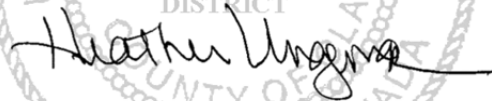
Case No: A-20-824615-W

Dept No: XXI

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 25 day of March 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk