



**EIGHTH JUDICIAL DISTRICT COURT
CLERK OF THE COURT**

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LAS VEGAS, NEVADA 89155-1160
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Elizabeth A. Brown
Clerk of Supreme Court

Steven D. Grierson
Clerk of the Court

Anntoinette Naumec-Miller
Court Division Administrator

March 23, 2022

Elizabeth A. Brown
Clerk of the Court
201 South Carson Street, Suite 201
Carson City, Nevada 89701-4702

RE: DAMIEN A. PHILLIPS vs. NEV. DEPT. OF CORRECTIONS
S.C. CASE: 84115
D.C. CASE: A-21-831976-W

Dear Ms. Brown:

Pursuant to your Order Directing Entry and Transmission of Written Order, dated February 1, 2022, enclosed is a certified copy of the Findings of Fact, Conclusions of Law and Order filed March 22, 2022 in the above referenced case. If you have any questions regarding this matter, please do not hesitate to contact me at (702) 671-0512.

Sincerely,
STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Heather Ungermann
Heather Ungermann, Deputy Clerk

FFCO
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
KAREN MISHLER
Chief Deputy District Attorney
Nevada Bar #013730
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Respondent

**DISTRICT COURT
CLARK COUNTY, NEVADA**

DAMIEN ALEXANDER PHILLIPS,
#8437102

Petitioner,

-vs-

THE STATE OF NEVADA,

Respondent.

CASE NO: A-21-831976-W

DEPT NO: IX

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

DATE: November 18, 2021
TIME OF HEARING: Chambers

THIS CAUSE having been decided by the Honorable **CRISTINA D. SILVA**, District Court Judge, on the 18th day of November 2021, in chambers and the Court having reviewed the matter, including briefs, transcripts, and documents on file herein; now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT, CONCLUSIONS OF LAW

STATEMENT OF THE CASE

On October 23, 2018, **DAMIEN ALEXANDER PHILLIPS** (hereinafter "Petitioner") was charged by way of Information with **CONSPIRACY TO COMMIT BURGLARY** (Gross Misdemeanor - NRS 205.060, 199.480); **CONSPIRACY TO COMMIT ROBBERY** (Category B Felony - NRS 200.380, 199.480); **BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON** (Category B Felony – NRS 205.060); **ROBBERY WITH USE OF A DEADLY**

1 WEAPON (Category B Felony – NRS 200.380, 193.165); ASSAULT WITH A DEADLY
2 WEAPON (Category B Felony – NRS 200.471); and ASSAULT WITH A DEADLY
3 WEAPON, VICTIM 60 YEARS OF AGE OR OLDER (Category B Felony – NRS 200.471,
4 193.167) for actions on or between July 17, 2018 and August 6, 2018.

5 On December 3, 2018, Petitioner’s case proceeded to trial before a jury. After eight (8)
6 days of trial, the jury its Verdict as follows: Count 1 – Guilty of Conspiracy to Commit
7 Burglary; Count 2 – Guilty of Conspiracy to Commit Robbery; Count 3 – Guilty of Burglary
8 While in Possession of a Deadly Weapon; Count 4 – Guilty of Robbery with Use of a Deadly
9 Weapon; Count 5 – Guilty of Burglary While in Possession of a Deadly Weapon; Count 6 –
10 Guilty of Robbery with Use of a Deadly Weapon; Count 7 – Guilty of Robbery with Use of a
11 Deadly Weapon; Count 8 – Guilty of Burglary While in Possession of a Deadly Weapon;
12 Count 9 – Guilty of Robbery with Use of a Deadly Weapon; Count 10 – Guilty of Robbery
13 with Use of a Deadly Weapon; Count 11 – Guilty of Burglary While in Possession of a Deadly
14 Weapon; Count 12 – Guilty of Robbery with Use of a Deadly Weapon; Count 13 – Guilty of
15 Robbery with Use of a Deadly Weapon; Count 14 – Guilty of Burglary While in Possession
16 of a Deadly Weapon; Count 15 – Guilty of Burglary While in Possession of a Deadly Weapon;
17 Count 16 – Guilty of Robbery with Use of a Deadly Weapon; Count 17 – Guilty of Robbery
18 with Use of a Deadly Weapon; Count 18 – Guilty of Assault with a Deadly Weapon; Count
19 19 – Guilty of Assault with a Deadly Weapon; Count 20 – Guilty of Assault with a Deadly
20 Weapon; and Count 21 – Guilty of Assault with a Deadly Weapon, Victim 60 Years of Age
21 or Older.

22 On January 29, 2019, Petitioner was sentenced as follows: Count 1 – three hundred
23 sixty-four (364) days in the Clark County Detention Center (“CCDC”); Count 2 – twelve (12)
24 to forty-eight (48) months in the Nevada Department of Corrections (“NDC”), concurrent with
25 Count 1; Count 3 – thirty-six (36) to one hundred twenty (120) months, concurrent with Count
26 2; Count 4 – thirty-six (36) to one hundred twenty (120) months, with a consecutive thirty-six
27 (36) to one hundred twenty (120) months for the deadly weapon enhancement, concurrent with
28 Count 3; Count 5 – thirty-six (36) to one hundred twenty (120) months, concurrent with Count

3; Count 6 – thirty-six (36) to one hundred twenty (120) months, with a consecutive thirty-six (36) to one hundred twenty (120) months for the deadly weapon enhancement, consecutive to Count 4; Count 7 – thirty-six (36) to one hundred twenty (120) months, with a consecutive thirty-six (36) to one hundred twenty (120) months for the deadly weapon enhancement, consecutive to Count 6; Count 8 – thirty-six (36) to one hundred twenty (120) months, concurrent with Count 5; Count 9 – thirty-six (36) to one hundred twenty (120) months, with a consecutive thirty-six (36) to one hundred twenty (120) months for the deadly weapon enhancement, consecutive to Count 7; Count 10 – thirty-six (36) to one hundred twenty (120) months, with a consecutive thirty-six (36) to one hundred twenty (120) months for the deadly weapon enhancement, concurrent with Count 9; Count 11 – thirty-six (36) to one hundred twenty (120) months, concurrent with Count 8; Count 12 – thirty-six (36) to one hundred twenty (120) months, with a consecutive thirty-six (36) to one hundred twenty (120) months for the deadly weapon enhancement, concurrent with Count 10; Count 13 – thirty-six (36) to one hundred twenty (120) months, with a consecutive thirty-six (36) to one hundred twenty (120) months for the deadly weapon enhancement, concurrent with Count 12; Count 14 – thirty-six (36) to one hundred twenty (120) months, concurrent with Count 11; Count 15 – thirty-six (36) to one hundred twenty (120) months, concurrent with Count 14; Count 16 – thirty-six (36) to one hundred twenty (120) months, with a consecutive thirty-six (36) to one hundred twenty (120) months for the deadly weapon enhancement, concurrent with Count 13; Count 17 – thirty-six (36) to one hundred twenty (120) months, with a consecutive thirty-six (36) to one hundred twenty (120) months for the deadly weapon enhancement, concurrent with Count 16; Count 18 – twelve (12) to forty-eight (48) months, concurrent with Count 15; Count 19 – twelve (12) to forty-eight (48) months, concurrent with Count 18; Count 20 – twelve (12) to forty-eight (48) months, concurrent with Count 19; and Count 21 – twelve (12) to forty-eight (48) months, with a consecutive twelve (12) to forty-eight (48) months for the victim 65 years of age or older, concurrent with Count 17. Petitioner’s total aggregate sentence was announced as twenty-four (24) to eighty (80) years, with one hundred seventy-four (174) days credit for time served. Petitioner’s Judgment of Conviction was filed on February 27, 2019.

1 The Court filed an Amended Judgment of Conviction on May 6, 2020, to correct a clerical
2 error in Petitioner's Judgment of Conviction.

3 On February 28, 2019, Petitioner filed a Notice of Appeal from his Judgment of
4 Conviction. On March 18, 2020, the Nevada Supreme Court filed its Order of Affirmance.
5 Remittitur issued on April 15, 2020.

6 On March 30, 2021, Petitioner filed a Petition for Writ of Habeas Corpus (Post-
7 Conviction), as well as a Motion to Preserve All Evidence in Case C-18-335500-1, and a
8 Motion to Appoint Counsel. The State filed its Response to Petitioner's Petition on May 25,
9 2021. Also on May 25, 2021, Petitioner filed a "Motion and Order for Transportation of
10 Inmate." On June 9, 2021, this Court denied Petitioner's Petition for Writ of Habeas Corpus
11 (Post-Conviction), Motion to Appoint Counsel, Request for Transport; granted Petitioner's
12 Motion to Preserve Evidence, and deferred law library issues. On August 21, 2021, the
13 Findings of Fact, Conclusions of Law and Order was filed.

14 On August 4, 2021, Petitioner filed "Motion for Amended Habeas Corpus (Post-
15 Conviction).

16 On October 13, 2021, Petitioner filed a second Petition for Writ of Habeas Corpus and
17 a Motion for Appointment of Attorney and Request for Evidentiary Hearing. After reviewing
18 the Petition, this Court determined that a response would not assist the Court in determining
19 whether Petitioner is illegally imprisoned and restrained of his liberty. Petitioner previously
20 filed a Petition for Writ of Habeas Corpus on March 30, 2021, which was denied on June 9,
21 2021. Petitioner did not raise any new issues in his second Petition; therefore, on November
22 18, 2021, this Court denied the Petition for Writ of Habeas Corpus without prejudice for the
23 same reasons set forth in the Findings of Fact and Conclusions of Law signed on August 24,
24 2021.

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1 **ANALYSIS**

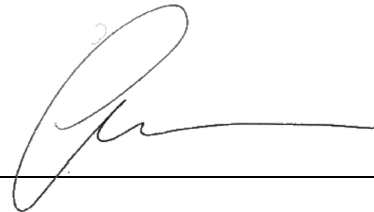
2 The Court has reviewed the Second Petition and has determined that a response would
3 not assist the Court in determining whether Petitioner is illegally imprisoned and restrained
4 of his liberty. Petitioner previously filed a Petition for Writ of Habeas Corpus on March 30,
5 2021, which was denied on June 9, 2021. In this instant, second Petition, Mr. Phillips does
6 not raise any new issues outside the previously denied first Petition. Accordingly, the Court
7 adopts and incorporates by reference as if fully set forth herein the Findings of Fact and
8 Conclusions of Law signed by Judge Lilly-Spells on August 21, 2021. Therefore this Court
9 DENIES this second Petition For Writ of Habeas Corpus without prejudice for the same
10 reasons set forth in the Findings of Fact and Conclusions of Law signed on August 21, 2021.

11 **ORDER**

12 THEREFORE, IT IS HEREBY ORDERED, Petitioner Damien Phillips's second
13 Petition for Writ of Habeas Corpus shall be, and is, DENIED.

14 IT IS FURTHER ORDERED, Petitioner's Motion to Appoint Counsel shall be, and is,
15 DENIED.

16 Dated this 22nd day of March, 2022

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21 758 02A 4169 8B6C
Cristina D. Silva
District Court Judge

22 Respectfully submitted,

23 STEVEN B. WOLFSON
24 Clark County District Attorney
Nevada Bar #1565

25 BY /s/Karen Mishler
26 KAREN MISHLER
27 Chief Deputy District Attorney
28 Nevada Bar #013730

March 23, 2022



CERTIFIED COPY
ELECTRONIC SEAL (NRS 1.190(3))

1
2 CERTIFICATE OF MAILING

3 I hereby certify that service of the above and foregoing was made this 10th day of
4 March, 2022, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

5 DAMIEN PHILLIPS #1212760
6 HIGH DESERT STATE PRISON
7 PO BOX 650
8 INDIAN SPRINGS, NV, 89070

9 BY /s/ Corelle Bellamy
10 Corelle Bellamy
11 Secretary for the District Attorney's Office
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1 **CSERV**

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3 DISTRICT COURT
CLARK COUNTY, NEVADA

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6 Damien Phillips, Plaintiff(s)

CASE NO: A-21-831976-W

7 vs.

DEPT. NO. Department 9

8 Nevada Department of
9 Correction, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 Service Date: 3/22/2022

16 Steven Wolfson

motions@clarkcountyda.com

17
18 If indicated below, a copy of the above mentioned filings were also served by mail
19 via United States Postal Service, postage prepaid, to the parties listed below at their last
known addresses on 3/23/2022

20 Damien Phillips

#1212760

21 HDSP

P.O. Box 650

22 Indian Springs, NV, 89070
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