

# IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed  
Mar 14 2022 01:12 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

FRANK HEARRING, JR.,  
Appellant(s),

vs.

THE STATE OF NEVADA,  
Respondent(s),

Case No: C-13-291159-1  
*Related Case A-19-790102-W*  
Docket No: 84258

# RECORD ON APPEAL VOLUME 3

ATTORNEY FOR APPELLANT  
FRANK HEARRING # 1006445,  
PROPER PERSON  
P.O. BOX 1989  
ELY, NV 89301

ATTORNEY FOR RESPONDENT  
STEVEN B. WOLFSON,  
DISTRICT ATTORNEY  
200 LEWIS AVE.  
LAS VEGAS, NV 89155-2212

**I N D E X**

<b><u>VOLUME:</u></b>	<b><u>PAGE NUMBER:</u></b>
1	1 - 242
2	243 - 484
3	485 - 496

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
2	12/26/2014	Application and Order for Transcripts	299 - 299
2	10/7/2015	Case Appeal Statement	351 - 352
2	11/27/2018	Case Appeal Statement	463 - 464
3	3/14/2022	Certification of Copy and Transmittal of Record	
1	7/15/2013	Criminal Bindover (Confidential)	1 - 31
1	1/8/2014	Criminal Order to Statistically Close Case	234 - 234
2	11/26/2018	Designation of Record on Appeal	462 - 462
2	3/14/2022	District Court Minutes (Continued)	470 - 0
3	3/14/2022	District Court Minutes (Continuation)	485 - 496
2	9/14/2015	Findings of Fact, Conclusions of Law and Order	334 - 339
1	10/7/2013	Guilty Plea Agreement	212 - 219
1	7/15/2013	Information	32 - 34
1	10/7/2013	Information	220 - 221
1	12/30/2013	Judgment of Conviction (Plea of Guilty)	232 - 233
2	10/1/2018	Motion for Order to Show Cause Contempt of Court and Monetary Sanctions	446 - 458
2	11/12/2014	Motion for the Appointment of Counsel; Request for Evidentiary Hearing	256 - 262
2	3/8/2016	Motion for Withdrawal of Attorney of Record or in the Alternative, Request for Records/Court Case Documents	378 - 382
1	9/25/2013	Motion in Limine	200 - 207
2	12/29/2017	Motion to Compel	428 - 434
2	6/6/2018	Motion to Compel	439 - 445

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
1	11/22/2013	Motion to Marry	229 - 231
2	5/15/2014	Motion to Withdraw Counsel	246 - 252
2	10/6/2017	Motion to Withdraw Counsel	403 - 412
2	12/10/2014	Motion to Withdrawal Plea	268 - 276
2	5/13/2016	Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed	397 - 401
2	1/15/2019	Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed	465 - 469
2	10/6/2015	Notice of Appeal	347 - 350
2	11/26/2018	Notice of Appeal	459 - 461
2	9/21/2015	Notice of Entry of Findings of Fact, Conclusions of Law and Order	340 - 346
1	7/26/2013	Notice of Expert Witnesses [NRS 174.234(2)]	35 - 41
2	5/15/2014	Notice of Motion	253 - 253
2	12/10/2014	Notice of Motion	277 - 277
2	5/26/2015	Notice of Motion	326 - 326
2	10/28/2015	Notice of Motion	356 - 357
2	1/21/2016	Notice of Motion	368 - 368
2	3/8/2016	Notice of Motion	383 - 383
2	12/11/2017	Notice of Motion; Motion for Modification of Sentence	415 - 422
1	8/8/2013	Notice of Witnesses [NRS 174.234(1)(a)]	42 - 45
2	12/15/2014	Order Denying Defendant's Motion for the Appointment of Counsel and Request for Evidentiary Hearing	278 - 279

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER :</u>
2	4/12/2016	Order Denying Defendant's Motion for Withdrawal of Attorney of Record or in the Alternative, Request for Records/Court Case Documents	395 - 396
2	1/16/2015	Order Denying Defendant's Motion to Withdraw Plea	300 - 301
2	1/8/2018	Order Denying Defendant's Pro Per Motion for Modification of Sentence	435 - 436
2	3/2/2016	Order Denying Defendant's Request for Records/Court Case Documents	376 - 377
2	5/29/2015	Order for Petition for Writ of Habeas Corpus	327 - 327
2	11/14/2017	Order Granting Defendant's Motion to Withdraw Counsel	413 - 414
2	2/2/2018	Order Granting Defendant's Pro Per Motion to Compel	437 - 438
2	12/3/2015	Order Granting in Part and Denying in Part Defendant's Request for Records/Court Case Documents	358 - 359
2	3/30/2015	Petition for Writ of Habeas Corpus (Post-Conviction); Evidentiary Hearing Requested	302 - 319
1	11/19/2013	Presentence Investigation Report (Unfiled) Confidential	222 - 228
1	9/24/2013	Receipt of Copy	196 - 199
2	3/11/2016	Reply to State's Response to Defendants Motion for Request for Records/Court Case Documents (Brady Material) in Order to Properly Appeal Defendant's Conviction.	384 - 394
2	5/26/2015	Request for Records/Court Case Documents	320 - 325

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
2	10/28/2015	Request for Records/Court Case Documents	353 - 355
2	1/21/2016	Request for Records/Court Case Documents	360 - 367
1	9/17/2013	Second Supplemental Notice of Expert Witnesses [NRS 174.234(2)]	170 - 195
1	8/12/2013	Second Supplemental Notice of Witnesses[NRS 174.234(1)(a)]	50 - 53
2	12/26/2017	State's Opposition to Defendant's Motion for Sentence Modification	423 - 427
2	12/22/2014	State's Opposition to Defendant's Motion to Withdraw Plea	288 - 298
2	11/25/2014	State's Response to Defendant's Motion for the Appointment of Counsel and Opposition to Defendant's Request for Evidentiary Hearing	263 - 267
2	7/31/2015	State's Response to Defendant's Post- Conviction Petition for Writ of Habeas Corpus	328 - 333
2	2/17/2016	State's Response to Defendant's Request for Records/Court Case Documents	369 - 375
1	9/16/2013	Supplemental Notice of Expert Witnesses [NRS 174.234(2)]	157 - 169
1	8/9/2013	Supplemental Notice of Witnesses [NRS 174.234(1)(a)]	46 - 49
1	9/30/2013	Third Supplemental Notice of Witnesses [NRS 174.234(1)(a)]	208 - 211
1	9/5/2013	Transcript of Hearing Held on July 11, 2013	54 - 156
2	12/18/2014	Transcript of Hearing Held on October 7, 2013	280 - 287
1	4/14/2014	Unfiled Document(s) Attorney Letter w/Copy of Unfiled Notice of Motion and	235 - 242

I N D E X

<u>VOL</u>	<u>DATE</u>	<u>PLEADING</u>	<u>PAGE NUMBER:</u>
		w/Copy of Motion for Production of Documents, Papers, Pleadings and Tangible Property of Defendant (Continued)	
2	4/14/2014	Unfiled Document(s) Attorney Letter w/Copy of Unfiled Notice of Motion and w/Copy of Motion for Production of Documents, Papers, Pleadings and Tangible Property of Defendant (Continuation)	243 - 245
2	5/15/2014	Unsigned Document(s) - Order	254 - 254
2	9/29/2017	Unsigned Document(s) - Order	402 - 402
2	11/10/2014	Unsigned Document(s) - Order Appointing Counsel	255 - 255





DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

March 29, 2016

---

C-13-291159-1      State of Nevada  
   vs  
   Frank Herring

---

March 29, 2016      8:30 AM      Motion

HEARD BY: Johnson, Eric      COURTROOM: RJC Courtroom 10D

COURT CLERK: Linda Skinner

RECORDER:

REPORTER: Amber McClane

**PARTIES**

PRESENT: Lexis, Chad N.      Attorney  
   State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Court noted Defendant is in prison and not present today. Mr. Lexis advised he believes the Court has already signed an Order denying this Motion. Following colloquy, COURT ORDERED, Pro Per Motion DENIED.

NDC

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

October 31, 2017

C-13-291159-1      State of Nevada  
   vs  
   Frank Hearing

October 31, 2017      8:30 AM      Motion

HEARD BY: Johnson, Eric      COURTROOM: RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Trisha Garcia

REPORTER:

**PARTIES**

PRESENT:      State of Nevada      Plaintiff  
   Thomson, Megan      Attorney

**JOURNAL ENTRIES**

- Defendant is in prison and not present today. There being nothing outstanding before the Court,  
COURT ORDERED, Pro Per Motion GRANTED.

NDC

CLERK'S NOTE: 11/8/17 A copy of this Minute Order was mailed to Defendant:

FRANK HEARRING, JR #1006445  
SOUTHERN DESERT CORRECTIONAL CENTER  
P.O. BOX 208  
INDIAN SPRINGS, NV 89070

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

January 02, 2018

C-13-291159-1      State of Nevada  
   vs  
   Frank Herring

January 02, 2018      8:30 AM      Motion to Modify Sentence

HEARD BY: Johnson, Eric      COURTROOM: RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

**PARTIES**

**PRESENT:**      State of Nevada      Plaintiff  
   Thomson, Megan      Attorney

**JOURNAL ENTRIES**

- Defendant is in prison and not present today. Court noted that generally the District Court lacks jurisdiction to modify a sentence once Defendant has started serving it. As authority, if Defendant can demonstrate the sentence was based on a materially untrue assumption or mistake of fact which worked to the extreme detriment of the Defendant it can be changed. In this case the Defendant claims the Detectives and Crime Scene Analysts were deficient in their investigation of this case and failed to investigation the entirety of the crime. Court advised this is not a basis for modifying a sentence. THEREFORE, COURT ORDERED, Motion DENIED.

NDC

CLERK'S NOTE: 1/4/18 A copy of this Minute Order was mailed to Defendant:

FRANK HEARRING #1006445  
SOUTHERN DESERT CORRECTIONAL CENTER  
P.O. BOX 208  
INDIAN SPRINGS, NV 89070-0208

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

January 23, 2018

C-13-291159-1      State of Nevada  
vs  
Frank Herring

January 23, 2018      8:30 AM      Motion to Compel

HEARD BY: Johnson, Eric      COURTROOM: RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Sandra Pruchnic

REPORTER:

**PARTIES**

PRESENT: Beverly, Leah C      Attorney  
State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Defendant is in prison and not present today. Court noted it is unclear what Defendant wants Mr. Arnold to compel to, but feels it might be his file. Therefore, COURT ORDERED, Motion GRANTED and Mr. Arnold is directed to send the file to Defendant.

NDC

CLERK'S NOTE: A copy of this Minute Order was e-mailed to Mr. Arnold and a hard copy mailed to Defendant:

FRANK HEARRING, JR #1006445  
SOUTHERN DESERT CORRECTIONAL CENTER  
P.O. BOX 208  
INDIAN SPRINGS, NV 89070

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

June 28, 2018

C-13-291159-1      State of Nevada  
   vs  
   Frank Herring

June 28, 2018      9:00 AM      Motion to Compel

HEARD BY: Johnson, Eric      COURTROOM: RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

**PARTIES**

PRESENT:      State of Nevada      Plaintiff  
   Wong, Hetty O.      Attorney

**JOURNAL ENTRIES**

- Defendant is in prison and not present today. Court noted that in January 2018, Court Ordered Mr. Arnold to turn over his file to Defendant, however, Defendant claims that he has not received it. COURT ORDERED, matter SET for hearing in THIRTY (30) DAYS for a Show Cause Hearing for Mr. Arnold to either demonstrate that he has sent the file to Defendant or to show cause why he hasn't complied with the Court's January Order.

NDC

7/26/18 9:00 AM SHOW CAUSE HEARING

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

July 31, 2018

C-13-291159-1      State of Nevada  
                                 vs  
                                 Frank Herring

July 31, 2018      8:30 AM      Show Cause Hearing

HEARD BY: Leavitt, Michelle      COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

**PARTIES**

PRESENT:      Kern, Samuel R.      Attorney  
                                 State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Deft. not present; not transported. Former counsel Carl Arnold, Esq., not present. COURT ORDERED, matter CONTINUED for Mr. Arnold to appear and make representations regarding whether the case file was turned over to Deft.

NDC

8/02/18 8:30 A.M. SHOW CAUSE HEARING

CLERK'S NOTE: JEA notified Mr. Arnold regarding next Court date. /// sb

CLERK'S NOTE: A copy of the above minute order was delivered by regular mail to Frank Herring, #1006445, Southern Desert Correctional Center, P.O. BOX 208, Indian Springs, Nevada 89018. /// sb

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

August 02, 2018

C-13-291159-1      State of Nevada  
vs  
Frank Herring

August 02, 2018      8:30 AM      Show Cause Hearing

HEARD BY: Leavitt, Michelle      COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

**PARTIES**

PRESENT:      Holthus, Mary Kay      Attorney  
                 State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Deft. not present; was not transported and is incarcerated in Nevada Department of Corrections (NDC). Former counsel Carl Arnold, Esq., not present. At request of Mr. Arnold, which was made to Chambers prior to the case being called, COURT ORDERED, matter CONTINUED for Mr. Arnold to appear and make representations regarding whether the case file was turned over to Deft. FURTHER, Mr. Arnold to turn over the case file to Deft, if not already done so.

NDC

9/04/18 8:30 A.M. SHOW CAUSE HEARING

CLERK'S NOTE: JEA notified Mr. Arnold regarding next Court date. /// sb

CLERK'S NOTE: A copy of the above minute order was delivered by regular mail to Frank Herring, #1006445, Southern Desert Correctional Center, P.O. BOX 208, Indian Springs, Nevada 89018. /// sb

DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

September 04, 2018

C-13-291159-1      State of Nevada  
   vs  
   Frank Herring

September 04, 2018    8:30 AM                      Show Cause Hearing

HEARD BY: Leavitt, Michelle                                      COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

**PARTIES**

PRESENT:      Dickerson, Michael                                      Attorney  
   State of Nevada    Plaintiff

**JOURNAL ENTRIES**

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC). Mr. Arnold not present. COURT ORDERED, matter CONTINUED once more, for Mr. Arnold to appear and make representations regarding whether or not he has turned over the case file to Deft.

NDC

9/11/18 8:30 A.M. SHOW CAUSE HEARING

CLERK'S NOTE: JEA notified Mr. Arnold's office and informed Mr. Arnold regarding continuance date, and Mr. Arnold needing to appear to make representations to the Court. A copy of the above minute order has been forwarded Mr. Arnold. /// sb

CLERK'S NOTE: A copy of the above minute order has been delivered by regular mail to: Frank Herring, #1006445, Southern Desert Correctional Center, S.D.C.C., P.O. BOX 208, Indian Springs, Nevada 89018. /// sb



DISTRICT COURT  
CLARK COUNTY, NEVADA

Felony/Gross Misdemeanor

COURT MINUTES

November 06, 2018

C-13-291159-1      State of Nevada  
vs  
Frank Herring

November 06, 2018      8:30 AM      Motion      Defendant's Pro Per  
Motion For Order To  
Show Cause,  
Contempt Of Court  
And Monetary  
Sanctions

HEARD BY: Leavitt, Michelle      COURTROOM: RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

**PARTIES**

PRESENT: Beverly, Leah C      Attorney  
State of Nevada      Plaintiff

**JOURNAL ENTRIES**

- Deft. not present; incarcerated in Nevada Department of Corrections (NDC). COURT ORDERED, Motion TAKEN OFF CALENDAR, as former defense counsel had turned the file over to Deft.

NDC

CLERK'S NOTE: A copy of the above minute order has been delivered by regular mail to: Frank Herring, #1006445, P.O. BOX 7007, Carson City, Nevada 89702.    /// sb

# Certification of Copy and Transmittal of Record

State of Nevada }  
County of Clark } SS:

Pursuant to the Supreme Court order dated March 3, 2022, I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the complete trial court record for the case referenced below. The record comprises three volumes with pages numbered 1 through 496.

STATE OF NEVADA,

Plaintiff(s),

vs.

FRANK HEARRING  
aka FRANK HEARRING, JR.,

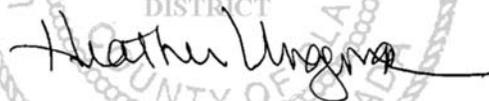
Defendant(s),

Case No: C-13-291159-1  
*Related Case A-19-790102-W*  
Dept. No: XII

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 14 day of March 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

