

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES HOWARD HAYES, JR.,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

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Elizabeth A. Brown
Clerk of Supreme Court

Case No: C-19-338412-1

Docket No: 84404

RECORD ON APPEAL VOLUME 2

ATTORNEY FOR APPELLANT
JAMES HAYES # 1175077,
PROPER PERSON
P.O. BOX 208
INDIAN SPRINGS, NV 89070

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

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1 Further, examining the substance of Defendant's Reply, He simply re-argues facts and
2 authorities already submitted in his Coram Nobis Motion and alleges no new law or additional
3 facts. Defendant fails to identify any new fact the Court had failed to consider when he was
4 convicted and sentenced to time served pursuant to his guilty plea agreement. Although
5 Defendant's Reply refers to the "breathtaking expansion of the common-law writ" of coram
6 nobis, this expansion only applies to federal prosecution of federal crimes. In Nevada, the writ
7 did not expand beyond the common law. See Trujillo v. State, 129 Nev. 706, 310 P.3d 594
8 (2013). Nevada laws apply to crimes prosecuted in Nevada courts.

9 In the underlying motion, Defendant claimed the court had no jurisdiction over him
10 because the victim did not identify him in court. Coram Nobis Motion at 2-4. Jurisdiction is a
11 legal issue, not one of fact. Legal claims may not be raised by a writ of *coram nobis*. Trujillo,
12 129 Nev. at 717, 310 P.3d at 601. Defendant claimed his counsel was ineffective for not
13 realizing the court had no jurisdiction over him. Coram Nobis Motion at 4. The effectiveness
14 of counsel is a legal claim, not a factual one, and may not be asserted in a writ of *coram nobis*.
15 Id. at 717, 310 P.3d at 601. Defendant asserted an actual innocence claim. Actual innocence
16 may not be raised in a writ of *coram nobis*. Id. at 717, 310 P.3d at 601.

17 In his Reply, Defendant again argued the Court lacked jurisdiction over him and this
18 was an error of fact outside the record that affected the validity and regularity of the court's
19 decision. "Because the courts lack of personam jurisdiction and no corpus delicti mens rea
20 thus no justiciable controversy or cause of action properly before the Clark County District
21 Court." Reply to State's Opposition to Defendant's Motion in the Nature of a Writ of Coram
22 Nobis, filed February 11, 2022, at 4. Again, under Nevada law, jurisdiction is a legal question,
23 not a factual one.

24 The reply does not make any legal argument or assertion of fact not contained in the
25 Coram Nobis Motion. The results would not have differed if the Court had considered his
26 reply. Defendant again failed to allege the Court was unaware of any fact at the time of his
27 guilty plea that would have prevented entry of judgment. Therefore, this Court properly found
28 the writ was unavailable to Defendant. There is no remedy that will allow Defendant to undo

1 his conviction.

2 Defendant cannot continually raise the same issues and expect to be heard. Defendant
3 has continually attempted to attack the judgment in this case. Indeed, his filing of voluminous,
4 duplicative, and incomprehensible pleadings is precisely why he was declared a vexatious
5 litigant in a different criminal case. See Exhibit 1, Findings of Fact, Conclusions of Law, and
6 Order filed in A-19-793315-W (granting the State's "Second Motion to Refer Defendant to
7 Department of Corrections for Forfeiture of Statutory Credits"). This Court cannot reward
8 Defendant's frivolous, harassing efforts in yet another of his criminal cases.

9 It is only in "very rare instances" that a Motion to Reconsider should be granted, as
10 movants bear the burden of producing new issues of fact and/or law supporting a ruling
11 contrary to a prior ruling. Moore v. City of Las Vegas, 92 Nev. 402, 405, 551 P.2d 244, 246
12 (1976). The instant Motion for Rehearing was filed without leave from the court and lacks
13 merit.

14 CONCLUSION

15 Based on the foregoing, the State respectfully requests that this Court deny Defendant's
16 Motion.

17 DATED this 11th day of March, 2022.

18 Respectfully submitted,
19 STEVEN B. WOLFSON
20 Clark County District Attorney
21 Nevada Bar #001565

22 BY /s/ Jonathan VanBoskerck
23 JONATHAN VANBOSKERCK
24 Chief Deputy District Attorney
25 Nevada Bar #006528
26
27
28

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that service of the above and foregoing was made this 11th day of
3 MARCH 2022, to:

4 JAMES HAYES, BAC#1175077
5 S.D.C.C
6 P.O. BOX 208
7 INDIAN SPRINGS, NV 89070

8 BY /s/ Howard Conrad
9 Secretary for the District Attorney's Office
10 Special Victims Unit
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28 hjc/SVU

EXHIBIT "1"

FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
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DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

JAMES HOWARD HAYES,
aka James Howard Hayes Jr.,
#2796708

Defendant.

CASE NO: C-16-315718-1

A-19-793315-W

DEPT NO: III

FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER

DATE OF HEARING: December 29, 2021

TIME OF HEARING:

NANCY BECKER

THIS CAUSE having come on for hearing before the Honorable ~~MONICA TRUJILLO~~,
District Judge, on the 29th day of December, 2021, the Petitioner not being present,
PROCEEDING IN FORMA PAUPERIS, the Respondent being represented by STEVEN B.
WOLFSON, Clark County District Attorney, by and through NOREEN DEMONTE , Chief
Deputy District Attorney, and the Court having considered the matter, including briefs,
transcripts, and/or documents on file herein, now therefore, the Court makes the following
findings of fact and conclusions of law:

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1 **FINDINGS OF FACT, CONCLUSIONS OF LAW**

2 **PROCEDURAL BACKGROUND**

3 The following has been gathered from the filings in C-16-315718-1, A-19-793315-W,
4 and A-21-831979-W. The relevant Nevada Supreme Court case numbers are 75173, 73436,
5 77151, 78590, 78622, 80222, 81076, 82202, 82734, 82962, 83151, 83274, 83368. This is not
6 an exhaustive list of all filings in this case.

7 The events are organized around motions rather than chronologically, as Defendant has
8 filed replies after the Court's orders, new motions before the resolution of previous motions,
9 and duplicative motions. The notations after each heading are to aid in finding the relevant
10 events under the various case numbers.

11 **Conviction (C-16-315718-1)**

12 On or about July 23, 2013, James H. Hayes (hereinafter, "Defendant") was charged by
13 way of Criminal Complaint with one count of BURGLARY (Category B Felony – NRS
14 205.060) and one count of ATTEMPT GRAND LARCENY (Category D Felony/Gross
15 Misdemeanor – NRS 205.220.1, 205.222.2, 193.330).

16 Following a Preliminary Hearing in Justice Court, Las Vegas Township on June 14,
17 2016, the charge of BURGLARY was bound over to District Court, and the charge of
18 ATTEMPT GRAND LARCENY was dismissed. See Reporter's Transcript of Proceedings
19 ("Preliminary Transcript"), filed July 29, 2016. The State called Joshua Jeremiah Jarvis.
20 Preliminary Transcript at 4. Jarvis heard Defendant in his hotel room, rustling through the
21 luggage in the room without permission to be in the room. Id. at 9, 11, 20. The State chose to
22 strike the Attempt Grand Larceny charge without stating a reason for this decision. Id. at 33.
23 Though defense counsel argued insufficient evidence to prove intent of burglary when
24 Defendant rummaged through someone else's luggage in someone else's hotel room, the
25 magistrate did not agree and the defendant was bound over. Id. at 34-36.

26 On June 17, 2016, the State filed an Information with the District Court, charging
27 Defendant with one count of Burglary. On November 21, 2016, the State filed a Notice of
28 Intent to Seek Punishment as a Habitual Criminal. On August 29, 2017, the State filed an

1 Amended Notice of Intent to Seek Punishment as a Habitual Criminal. (Hereinafter “Amended
2 Notice”).

3 On November 7, 2018, Defendant entered a Guilty Plea Agreement (“GPA”) pursuant
4 to North Carolina v. Alford, 400 U.S. 25, 91 S.Ct. 160 (1970), to one count of Attempt Grand
5 Larceny. The State filed an Amended Information to reflect that charge the same day. The
6 Defendant’s Presentence Investigation Report (“PSI”) was filed on December 18, 2018.

7 On January 31, 2019, the State filed a State’s Notice of Motion and Motion to Revoke
8 Bail, asserting that in Las Vegas Justice Court case number 19F01534X, a Justice of the Peace
9 had found probable cause to charge Defendant with Burglary for acts committed on or around
10 January 26, 2019. The State’s Motion to Revoke Bail was granted after a hearing on February
11 4, 2019.

12 At sentencing on March 6, 2019, the Court found the State had regained the right to
13 argue pursuant to the terms of the GPA. Further, the Court agreed Defendant should be
14 punished under NRS 207.010 (the “Small Habitual Statute”). Defendant was sentenced to sixty
15 (60) to one hundred seventy-four (174) months in the Nevada Department of Corrections
16 (NDOC), consecutive to Defendant’s sentence in another case (C315125). The Court awarded
17 Defendant ten (10) days credit for time served. The Judgment of Conviction was filed March
18 12, 2019.

19 **Pretrial Petitions for Writ of Habeas Corpus (C-16-315718-1, SCN 73436, 75173, 77151)**

20 SCN 73436 – On July 11, 2017, Defendant filed a pretrial Petition for Writ of Habeas
21 Corpus in the Nevada Supreme Court, contending the evidence at the preliminary hearing was
22 insufficient since the State did not bring all occupants of the hotel room to testify. On August
23 30, 2017, defense counsel informed the court the defendant had filed an unknown “something”
24 in the Nevada Supreme Court. Defendant said his petition challenged probable cause.
25 Defendant filed an Addendum on September 26, 2017, asserting the State had produced no
26 proof he had entered the victims’ hotel room “wrongfully.” On September 27, 2017, defense
27 counsel announced there was a deal Defendant wanted to accept but there was an outstanding
28 appeal that had not been decided. The court continued the matter pending the Supreme Court

1 decision. The petition was denied on October 12, 2017, as it should have been made to the
2 district court. On October 6, 2017, Defendant filed a letter asking the Supreme Court clerk to
3 tell the district court and district attorney that they no longer had jurisdiction as his case was
4 in the Nevada Court of Appeals. Counsel announced on October 25, 2017, that the Court of
5 Appeals had dismissed the pro per writ. The Supreme Court decided on October 31, 2017, that
6 it would take no action on this letter. Notice in lieu of remittitur issued on November 8, 2017.

7 C-16-315718-1 – On January 29, 2018, Defendant filed a pretrial Petition for Writ of
8 Habeas Corpus in the district court, which was “courtesy filed” on March 1, 2018. Defense
9 counsel refiled the petition on April 6, 2018, as Amended Courtesy Filing of Defendant’s Pro
10 Per Petition for Writ of Habeas Corpus. On April 23, 2018, the district court asked the State
11 to respond to the petition. The State asked the filing to be dismissed as untimely on April 25,
12 2018. On August 29, 2018, the district court denied Defendant’s Pro Per Petition for Writ of
13 Habeas Corpus as untimely, as it was filed years after the preliminary hearing transcript was
14 filed. The court’s order was filed on September 18, 2018.

15 SCN 75173 – On February 23, 2018, Defendant filed a pro per Petition for Writ of
16 Habeas Corpus in the Nevada Supreme Court, contending the evidence at the preliminary
17 hearing was insufficient since the State did not bring all occupants of the hotel room to testify
18 and that the State had produced no proof he had entered the victims’ hotel room “wrongfully.”
19 On April 5, 2018, Defendant filed a letter asking the 21-day deadline to file a pretrial habeas
20 petition after the preliminary hearing transcript is filed to not be applied in his case, as he had
21 begged counsel to file this petition for him and they had refused to do so. On May 9, 2018,
22 defense counsel said an appeal was pending, so the trial date was vacated. Both the petition
23 and the letter were denied on May 15, 2018, as the Court of Appeals held the district court
24 should decide the matter first. On June 6, 2018, counsel advised the Supreme Court denied the
25 defendant’s petition. Defendant filed a motion for rehearing on June 11, 2018, which was
26 denied on July 27, 2018. On July 11, 2018, counsel informed the court that there were
27 outstanding motions Defendant filed on his own. Notice in lieu of remittitur issued on August
28 21, 2018.

1 SCN 77151 – On September 26, 2018, Defendant filed a notice of appeal regarding the
2 district court's denial of his Petition for Writ of Habeas Corpus. The Nevada Supreme Court
3 denied the appeal on December 12, 2018, finding that no appeal is available from the denial
4 of a pretrial petition for writ of habeas corpus. Remittitur issued January 11, 2019.

5 **Direct Appeal (C-16-315718-1, SCN 78590)**

6 Defendant filed a Notice of Appeal on March 28, 2019. On April 29, 2019, Defendant
7 filed a *pro per* motion to withdraw counsel. On June 3, 2019, defense counsel argued the
8 motion could not be granted as the Supreme Court had ordered him to file an appeal. Finding
9 remittitur from the Nevada Supreme Court had been filed, the district court granted the motion
10 to withdraw counsel on July 15, 2019.

11 Defendant filed a second Notice of Appeal on July 31, 2019, this time *pro per*. On
12 January 14, 2020, the Nevada Supreme Court affirmed Defendant's Judgment of Conviction,
13 finding that because Defendant's sentence of five to fifteen years in prison was within the
14 parameters of the range of punishment for his offense, and given Defendant's history of
15 recidivism, his sentence was not disproportionate to his crime, nor was it cruel or unusual.
16 Remittitur issued on February 25, 2020.

17 **Post-Conviction Petition for Writ of Habeas Corpus (A-19-793315-W)**

18 On April 15, 2019, Defendant filed a Petition for Writ of Habeas Corpus. Addendum
19 One was filed May 7, 2019, and Addendum Two on May 9, 2019. The court ordered the State
20 to respond on May 2, 2019.

21 The State filed its Response on June 26, 2019. Defendant filed a Motion for Judgment
22 of Default Against the Respondents and Enforce Procedural Default on July 5, 2019.
23 Defendant replied to the State's opposition the same day. He filed an Affidavit of Issuance of
24 Habeas Corpus on July 12, 2019, and an Affidavit of Facial Legality on August 9, 2019. At
25 the hearing on the Petition on August 19, 2019, the district court ordered the State to respond
26 to the Addenda. The State filed a Response to the Addenda on October 10, 2019.

27 On November 18, 2019, Defendant's Petition came before the Court, at which time the
28 Court took the matter off calendar due to Defendant's pending appeal. As Defendant filed a

1 new, also timely, habeas petition, see *infra*, this Petition was not addressed on the merits. *See*
2 Affirmance, filed September 17, 2021, docket number 82734 (hereinafter “Affirmance”),
3 finding Defendant’s first habeas petition had not been resolved on the merits but raised the
4 same issues as the later petition. As shown below, the Court of Appeals affirmed the denial of
5 his later petition on the merits.

6 Defendant filed a Reply to the State’s Response to the petition on November 4, 2019,
7 and another in reply to the State’s response to the Addenda on December 20, 2019.

8 **Writ of Mandamus/Prohibition (SCN 78622)**

9 On April 23, 2019, Defendant filed a Petition for Writ of Mandamus/Prohibition with
10 the Nevada Supreme Court, asserting he was subjected to double jeopardy. The Court denied
11 the petition on May 2, 2019, as Defendant had not included an appendix. The Court returned
12 unfiled the appendix Defendant sent on May 16, 2019. He filed a Motion for Reconsideration
13 of Order Denying Petition on May 22, 2019. His PSI was returned unfiled on the same date.

14 Rehearing was denied on June 6, 2019, and Notice in Lieu of Remittitur issued on July
15 1, 2019.

16 **Peremptory Challenge of Judge (A-19-793315-W)**

17 On May 20, 2019, Defendant filed a Motion for Peremptory Challenge of Judge and to
18 Disqualify Judge William Bill Kephart. He filed this again on June 4, 2020. Judge Kephart
19 filed an affidavit in response on July 2, 2020. On July 7, 2020, Chief Judge Linda Bell
20 considered, and denied, Defendant’s Motion for Peremptory Challenge of Judge Kephart.
21 Chief Judge Bell’s Decision and Order was filed on July 8, 2020.

22 **Coram Nobis (C-16-315718-1, SCN 80222)**

23 Defendant filed a Motion in the Nature of a Writ of Coram Nobis on September 9, 2019,
24 and an Affidavit of Granting Motion in the Nature of a Writ of Coram Nobis on September
25 26, 2019. The State filed its opposition on October 1, 2019. The district court denied the
26 Motion on October 7, 2019, finding the State was not properly served and an appeal was
27 pending in the Supreme Court. Defendant filed his reply to the State’s opposition on October

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1 17, 2019. He accompanied his reply with an Affidavit of No Material Dispute as to the
2 Mistake of Fact Motion in the Nature of a Writ of Coram Nobis, filed October 28, 2019.

3 On November 19, 2019, Defendant filed a Notice of Appeal regarding the denial of his
4 coram nobis writ. On August 31, 2020, the Nevada Court of Appeals affirmed the district
5 court's denial of his Coram Nobis motion, finding Defendant had the remedy of habeas corpus
6 available to him, so the writ of Coram Nobis was unavailable. Remittitur issued on September
7 28, 2020.

8 **Motion to Modify (C-16-315718-1, SCN 81076)**

9 Defendant filed a Motion to Correct an Illegal Sentence on December 16, 2019. The
10 State filed its opposition on December 30, 2019. On January 6, 2020, the court took the matter
11 off calendar as there was an outstanding appeal.

12 Defendant filed an Affidavit of Granting Motion to Correct an Illegal Sentence of the
13 Wrongfully Convicted on January 6, 2020. Defendant replied to the State's opposition on
14 January 27, 2020.

15 Defendant filed a Motion for Ruling for Motion to Correct an Illegal Sentence on
16 February 24, 2020. The court denied his Motion for Ruling on March 18, 2020, and his Motion
17 to Correct Illegal Sentence on May 12, 2020. The court found Defendant's claims were similar
18 to those in his appeal, he provided no statutory basis or authority to support his motion, and
19 his other claims were substantive and waived as they were not raised on appeal.

20 Defendant filed a Notice of Appeal on March 30, 2020. On October 2, 2020, he
21 voluntarily dismissed his appeal as the district court would not consider his habeas petition
22 while the appeal was outstanding.

23 **Amended Writ of Habeas Corpus (A-19-793315-W, SCN 83151, 83368, 82734)**

24 On February 12, 2020, Defendant filed an "Amended Petition for Writ of Habeas
25 Corpus." On March 4, 2020, the court ordered the State to respond. The State filed its response
26 on April 17, 2020. On May 15, 2020, Defendant filed a document titled "Petition for Writ of
27 Habeas Corpus," which was a reply to the State's response.

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1 On March 6, 2020, Defendant filed a Petition: Expeditious Judicial Examination. The
2 State filed its response on April 17, 2020. Defendant replied to the State's response on May
3 15, 2020. No ruling on the petition appears in the record.

4 On May 15, 2020, Defendant filed an Affidavit of Actual Innocence not Mere Legal
5 Insufficiency but 'Factual Innocence.' On June 10, 2020, the State responded and moved to
6 strike the affidavit. Defendant replied to the State's response on June 29, 2020. No ruling on
7 the affidavit appears in the record.

8 On May 27, 2020, Defendant filed a Supplemental Petition for Writ of Habeas Corpus
9 (hereinafter "First Supplemental"). On June 10, 2020, the State responded. On July 23, 2020,
10 Defendant replied to the State's response.

11 On June 15, 2020, the court took the matter off calendar until the Defendant's motion
12 to disqualify the judge was decided.

13 On September 25, 2020, Defendant filed a Motion for Expeditious Ruling for
14 "Amended Petition for Writ of Habeas Corpus" 3rd Request!! On October 7, 2020, Defendant
15 filed a Motion to Set Evidentiary Hearing and Issue Transport Order. The State responded to
16 both motions on November 10, 2020. On November 16, 2020, the Court denied both motions.

17 On December 22, 2020, Defendant filed a Motion to Compel Judgment Pursuant to
18 Nevada Revised Statutes Chapter 34 FRCP Rule 12(c) for Amended Petition for Writ of
19 Habeas Corpus. The State filed its response on January 27, 2021. The court denied the motion
20 to compel on February 1, 2021. Defendant filed his reply the next day, and on February 18,
21 2021, he filed an Opposition to State's Response to Petitioner's Motion to Compel Judgment.
22 On March 17, 2021, the Court issued its Findings of Fact, Conclusions of Law, and Order
23 (hereinafter "FOFCOL 3/17/21").

24 The court told Defendant to supplement his motion to compel with specificity on March
25 8, 2021. The State filed its opposition to Defendant's reply on April 16, 2021. Defendant
26 replied to this opposition on May 6, 2021. The court denied the motion to compel again on
27 May 12, 2021. The same day, Defendant filed his opposition to the State's opposition, as well

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1 as a Memorandum to the Court asking for the court's briefing schedule. He filed another
2 opposition to the State's opposition on June 14, 2021.

3 The Amended Petition for Writ of Habeas Corpus was denied on February 1, 2021. The
4 Court issued its Findings of Fact, Conclusions of Law, and Order on March 9, 2021
5 (hereinafter "FOFCOL 3/9/21").

6 On March 11 and 17, 2021, Defendant filed Petitions to Reconsider the Court's
7 Findings of Fact, Conclusions of Law, and Order. On April 9, 2021, the State filed its
8 Opposition to both. On April 12, 2021, the Court denied both. Defendant filed a reply to the
9 State's opposition on May 6, 2021. The court's order was entered on May 12, 2021.
10 Defendant's reply was denied on June 21, 2021.

11 On August 11, 2021, Defendant filed a request for transcripts at the State's expense,
12 accompanied by a memorandum in support. The Court denied the request on October 7, 2021.
13 He filed a Petition for Reconsideration/Rehearing on August 18, 2021. The court denied this
14 on September 23, 2021.

15 On March 18, 2021, Defendant filed a Notice of Appeal from the Court's denial of his
16 Amended Petition in SCN 82734. On June 9, 2021, Defendant filed a Motion for Leave of
17 Appeal to Obtain Favorable Ruling in the 8th Judicial District Court, Clark County, asking for
18 favorable rulings on his motion to modify, his supplemental to amended habeas petition, and
19 his writ of prohibition. This motion was denied on June 16, 2021, with the Supreme Court
20 holding he may appeal these matters as they became ripe. Defendant filed a Motion to Expedite
21 Appeal on August 23, 2021, which was granted. On September 17, 2021, the Court of Appeals
22 affirmed the district court's decision on the Amended Petition. See Affirmance. The Court
23 noted its affirmance encompassed Defendant's "February 12, 2020, petition and later-filed
24 supplements." Affirmance at 1. This included Defendant's Amended Petition, filed February
25 12, 2020, his First Supplemental, filed May 27, 2020, and the filings related to those.
26 Defendant filed a Petition for Rehearing on October 4, 2021, and an Addendum on October 8,
27 2021. Rehearing was denied on November 17, 2021. On December 2, 2021, he filed a Petition
28 for Review. This was denied on December 17, 2021. Remittitur issued December 20, 2021.

1 On June 29, 2021, Defendant filed a Notice of Appeal from the denial of Supplemental
2 Petition for Writ of Habeas Corpus in SCN 83151. This is believed to refer to the First
3 Supplemental, as the Second Supplemental has not yet been decided. See infra. The First
4 Supplemental was incorporated in the Nevada Court of Appeals' Affirmance. The Supreme
5 Court combined this docket with SCN 83368, his COVID habeas appeal. See infra. On
6 October 19, 2021, Defendant filed a Motion to Expedite Appeal. The motion was granted "to
7 the extent that this court's docket will permit" on November 15, 2021. These appeals are
8 pending.

9 **Rule 60b Motion (C-16-315718-1, A-19-793315-W)**

10 On May 4, 2020, Defendant filed a "Rule 60b Motion for Relief from the March 18,
11 2020, Order Which Denied Mr. Hayes Motion to Correct an Illegal Sentence." The court
12 continued the matter on June 1, 2020, as there was an appeal outstanding. The State filed its
13 opposition on June 10, 2020. On June 22, 2020, the court took the matter off calendar as
14 Defendant had filed a motion to disqualify the judge.

15 On July 23, 2020, Defendant filed a Motion for Ruling for Rule 60b Motion for Relief;
16 Motion to Vacate; Amended Petition for Writ of Habeas Corpus. The State filed its Response
17 to Defendant's Motion for Ruling on September 2, 2020. Defendant's Motion was denied on
18 September 9, 2020. Defendant replied to the State's opposition on November 2, 2020.

19 On February 18, 2021, Defendant filed a Motion to Compel Judgment for Rule 60b
20 Motion for Relief and Motion to Vacate (Conviction Invalid). The court found the motions
21 moot on March 29, 2021.

22 On October 14, 2020, Defendant filed a Motion to Reconsider Order Denying Motion
23 for Ruling for Rule 60b Motion for Relief; Motion to Vacate; Amended Petition for Writ of
24 Habeas Corpus. The State responded on November 10, 2020. The motion for reconsideration
25 was denied November 16, 2020.

26 Defendant filed a Notice of Appeal on April 16, 2021. This appeal does not appear on
27 the Supreme Court docket.

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1 **Motion to Vacate (C-16-315718-1)**

2 On June 1, 2020, Defendant filed a Motion to Vacate Sentence (Conviction Invalid).
3 The State filed an opposition on June 10, 2020. On June 22, 2020, the court took the matter
4 off-calendar until the defendant's motion to disqualify the court was heard.

5 Defendant replied to the State's opposition, possibly filed in response to Defendant's
6 Rule 60b Motion, on June 26, 2020. Defendant filed an Affidavit of Jurisdiction of the Subject
7 Matter Is Derived from the Law; It Neither Can Be Waived Nor Conferred by Consent of the
8 Accused Motion to Vacate Sentence (Conviction Invalid) on July 31, 2020.

9 The court took the matter off calendar on August 24, 2020, as the denial of Defendant's
10 previous motion was pending on appeal. The Motion was denied on September 9, 2020.

11 **Emergency Writ of Mandamus/Prohibition (SCN 82202)**

12 On December 11, 2020, Defendant filed an Emergency Petition for Writ of
13 Mandamus/Prohibition in the Nevada Supreme Court, asking for a decision on his amended
14 habeas petition and motion to vacate. His appendix was filed the same day.

15 The Court denied the writ, stating the district court would respond to his filings as
16 promptly as its docket and the pandemic would allow. Defendant filed a Petition for Rehearing
17 on January 1, 2021, which was denied on March 12, 2021. Notice in lieu of remittitur issued
18 on April 6, 2021.

19 **Second Motion to Modify (C-16-315718-1, A-19-793315-W, SCN 83274)**

20 On March 25, 2021, Defendant filed a Motion to Modify and/or Correct Illegal
21 Sentence. On April 21, 2021, Defendant filed a "Reply" without having received the State's
22 opposition, contending the State's failure to oppose his motion was an admission of its merits.
23 The State filed its opposition on April 22, 2021, and amended it the same day. Defendant filed
24 an Opposition to State's Amended Opposition to Defendant's Motion to Modify and/or
25 Correct Illegal Sentence on May 12, 2021. The motion to modify was denied on July 14, 2021,
26 when the district court found Defendant's sentence was legal.

27 Defendant filed an Affidavit of the District Court Acted in Excess of Its Jurisdiction on
28 June 3, 2021. A ruling on this affidavit does not appear in the record.

1 Defendant filed a Request for Submission for Motion to Modify and/or Correct Illegal
2 Sentence on June 23, 2021. The State filed its opposition to the motion to modify on July 7,
3 2021. Defendant filed Defendant's Opposition to State's Opposition to Defendant's Motion to
4 Modify and/or Correct Illegal Sentence on July 19, 2021. The request for submission was
5 denied July 14, 2021. The Findings of Fact, Conclusions of Law, and Order were filed August
6 13, 2021 (hereinafter "FOFCOL 8/13/21").

7 Defendant filed a Request for Submission Addendum on July 20, 2021, in which he
8 asked the court to consider his motion to modify and respond on the merits. The State filed an
9 opposition on August 6, 2021. The Submission Addendum was denied on August 11, 2021.

10 On August 9, 2021, Defendant filed a Motion for a Rehearing on Defendant's Motion
11 to Modify and/or Correct Illegal Sentence that Was Denied on July 14, 2021 Improperly;
12 Hearing Requested. The State filed its opposition to rehearing on August 19, 2021. The motion
13 for rehearing was denied August 30, 2021. The Findings of Fact, Conclusions of Law, and
14 Order were filed on August 13, 2021 (hereinafter "FOFCOL 8/20/21").

15 Defendant filed a Notice of Appeal on July 21, 2021. He filed his brief on November
16 5, 2021. This appeal is pending.

17 **Writ of Habeas Corpus (COVID) (A-19-793315-W, A-21-831979-W, SCN 83368, 83151)**

18 Defendant filed a "Petition for Writ of Habeas Corpus COVID-19 (Coronavirus)" on
19 March 30, 2021. On May 17, 2021, the court learned the State had not received the petition.
20 The State filed its Opposition on June 24, 2021, and this was filed again on July 19, 2021. On
21 May 4, 2021, the district court consolidated A-21-831979-W with A-19-793315-W. The court
22 denied the petition on July 19, 2021, as cruel and unusual punishment due to COVID is not an
23 appropriate claim for a habeas petition. Defendant filed his Opposition to State's Opposition
24 on July 22, 2021.

25 He filed a Notice of Appeal on August 12, 2021. This matter was combined with SCN
26 83151, *supra*, and is pending.

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1 **Second Supplemental Petition (A-19-793315-W)**

2 On April 7, 2021, Defendant filed a “Supplemental Petition for Writ of Habeas Corpus”
3 Petition (NRS 34.360-34.830) (hereinafter “Second Supplemental”). On April 14, 2021,
4 Defendant filed a Supplemental ‘Addendum.’ On June 6, 2021, Defendant filed an Affidavit
5 of “The State of Nevada Knowingly, Intelligently, Categorically Acted in Bad Faith.” On July
6 8, 2021, Defendant filed a Request for Submission of his Supplemental Petition for Writ of
7 Habeas Corpus.

8 Defendant filed Supplemental Petition Addendum 2 on November 12, 2021, in which
9 he claimed this Court has not responded to his April 7, 2021, Supplemental Petition. The
10 matter is set before the Court on December 13, 2021, at 8:30 a.m.

11 **Emergency Writ of Prohibition (SCN 82962)**

12 On May 27, 2021, Defendant filed an Emergency Petition for Writ of Prohibition,
13 asserting the district court abused its discretion in deciding his case without subject matter
14 jurisdiction. The Nevada Supreme Court transferred the matter to the Court of Appeals on June
15 14, 2021. The writ was denied on June 25, 2021, as the Court of Appeals found Defendant’s
16 challenge to his conviction must be raised on habeas. Defendant filed a Letter, a Question Is
17 Reviewed De Novo on June 28, 2021, and a Petition for Rehearing on July 7, 2021. The
18 petition was denied on August 19, 2021. The Supreme Court issued notice in lieu of remittitur
19 on September 14, 2021.

20 **Motion to Refer (C-16-315718-1)**

21 On July 7, 2021, the State filed a Motion to Refer Defendant to Department of
22 Corrections for Forfeiture of Statutory Credits. The court denied this motion on July 19, 2021.

23 **Supplemental Petition “Addendum 2” (A-19-793315-W, C-16-315718-1)**

24 Defendant filed a Supplemental Petition Addendum 2 on November 12, 2021. The State
25 filed its opposition on December 16, 2021. The petition was denied on November 22, 2021.

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1 **Second Motion to Refer (C-16-315718-1)**

2 On December 6, 2021, the State filed a Second Motion to Refer Defendant to
3 Department of Corrections for Forfeiture of Statutory Credits. This Court granted the Motion
4 on December 29, 2021.

5 **Motion for Discovery (A-19-793315-W)**

6 On December 7, 2021, Defendant filed a Motion for Discovery and Reconsideration of
7 Motion for Transcripts at State Expense. The State filed its opposition on December 16, 2021.
8 This matter is before the Court on January 10, 2021.

9 **Motion to Withdraw Plea (C-16-315718-1)**

10 Defendant filed a Motion to Withdraw Plea on November 16, 2021. The State filed its
11 opposition on December 6, 2021. The Motion was denied on December 8, 2021. Petitioner
12 filed his Opposition to State's Opposition to Defendant's Motion to Withdraw Alford Guilty
13 Plea On January 3, 2021.

14 **ANALYSIS**

15 Defendant's pattern of repeating arguments that have been expressly rejected as without
16 merit amounts to an abuse of access to this Court. Referral to the Department of Corrections
17 for the loss of statutory credits pursuant to NRS 209.451 may dissuade Defendant from further
18 abusing the Court and the State.

19 The United States Supreme Court has recognized "that prisoners have a constitutional
20 right of access to the courts." Bounds v. Smith, 430 U.S. 817, 821, 97 S.Ct. 1491, 1494 (1977).
21 That right of access, however, may be counterbalanced by the traditional right of courts to
22 manage their dockets and limit abusive filings. See In re McDonald, 489 U.S. 180, 184, 109
23 S.Ct. 993, 996 (1989); Wolfe v. George, 486 F.3d 1120, 1125 (9th Cir. 2007) ("[T]here is no
24 constitutional right to file frivolous litigation."). The Seventh Circuit has further noted:

25 An argument in the teeth of the law is vexatious, and a criminal defendant who
26 chooses to harass his prosecutor may not do so with impunity. The time of
27 prosecutors is valuable. If a defendant multiplies the proceedings, this takes time
28 that could more usefully be devoted to other prosecutions. When a defendant
makes an argument so empty that no reasonable lawyer could think the argument
supportable by any plausible plea for a change in the law the court may reply
with a penalty.

1 Wisconsin v. Glick, 782 F.2d 670, 673 (7th Cir. 1986).

2 The Nevada Supreme Court has relatedly concluded that district courts “may restrict a
3 litigant from filing petitions and motions that challenge a judgment of conviction.” Jones v.
4 Eighth Judicial Dist. Court, 130 Nev. 493, 495, 330 P.3d 475, 477 (2014). However, prior to
5 imposing such restrictions, “the district court must also consider whether there are other, less
6 onerous sanctions available to curb the repetitive or abusive activities. Id. at 499, 330 P.3d at
7 479-80. One such “alternative sanction is to refer the litigant to the Department of Corrections
8 for the forfeiture of credits previously earned.” Id. at 500, 330 P.3d at 480 (citing NRS
9 209.451(1)(d), (5)). In fact, the text of NRS 209.451 expressly authorizes the Department of
10 Corrections with the authority to impose meaningful consequences for prisoners who abuse
11 their access to the courts:

12 1. If an offender:

13 (d) In a civil action, in state or federal court, is found by the court
14 to have presented a pleading, written motion or other document in
writing to the court which:

15 (1) Contains a claim or defense that is included for an
16 improper purpose, including, without limitation, for the
17 purpose of harassing the offender’s opponent, causing
unnecessary delay in the litigation or increasing the cost of the
litigation;

18 (2) Contains a claim, defense or other argument which is
19 not warranted by existing law or by a reasonable argument for
20 a change in existing law or a change in the interpretation of
existing law; or

21 (3) Contains allegations or information presented as fact for
22 which evidentiary support is not available or is not likely to be
discovered after further investigation,

23 the offender forfeits all deductions of time earned by the offender
24 before the commission of that offense or act, or forfeits such par of
those deductions as the Director considers just.

25 NRS 209.451(1)(d). That statute also provides for collateral proceedings. NRS 209.451(5).

26 Defendant’s filing behavior has demonstrated a vexatious and abusive pattern of bad
27 faith litigation. Defendant has continued to assert the same claims regarding the validity of his
28 guilty plea in the context of the Justice Court proceedings. This Court has repeatedly rejected

1 these contentions, yet Defendant persists in re-filing these same claims under new pleadings
2 with Defendant's stylized titles.

3 Defendant, after accepting plea negotiations, then becoming dissatisfied with the results
4 of his own breach of the agreement, has repeatedly attempted to undermine the validity of his
5 guilty plea. It is burdensome in the extreme for the State to reply to filing after filing, and it is
6 obvious Defendant's strategy is to wear the State and the Court down in a campaign of attrition.
7 His motions cross each other in the mails and in the courts, so that it is no longer clear which
8 response belongs to which filing or in which case number. In addition, the various motions
9 and petitions for reconsideration and/or rehearing, and Defendant's several appeals, as set forth
10 in the Statement of Facts, *supra*, combined with Defendant's various rogue filings, including
11 Replies and Addenda filed weeks *after* the Court's determination of the issues, all merge into
12 a lump of litigation in which Defendant's Judgment of Conviction will never become final.

13 This continuous pattern of recycling previously-denied claims demonstrates Defendant
14 is acting in bad faith and in a vexatious manner that clearly runs afoul of NRS 209.451(1)(d).

15 **ORDER**

16 THEREFORE, IT IS HEREBY ORDERED that the State's Second Motion to Refer
17 Defendant to Department of Corrections for Forfeiture of Statutory Credits is GRANTED;

18 IT IS HEREBY FURTHER ORDERED that Defendant shall be referred to the Director
19 of the Department of Corrections for a determination as to whether Defendant should suffer
20 the loss of statutory credits pursuant to NRS 209.451(1)(d); and,

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1 IT IS HEREBY FURTHER ORDERED that the Director of the Department of
2 Corrections shall provide the Clark County District Attorney's Office a written account of the
3 outcome of the referral in case a motion under Jones to restrict Defendant's access to this Court
4 becomes necessary.

5 DATED this ____ day of January, 2022.

Dated this 6th day of January, 2022

6
7 DISTRICT JUDGE

8 **4C9 AA4 0C85 DB24**
9 **David Barker**
10 **District Court Judge**

11 STEVEN B. WOLFSON
12 Clark County District Attorney
13 Nevada Bar #001565

14 BY

BB

for

15 JONATHAN VANBOSKERCK
16 Chief Deputy District Attorney
17 Nevada Bar #6528

18 CERTIFICATE OF SERVICE

19 I certify that on the ____ day of ____, 2022, I mailed a copy of the foregoing
20 proposed Findings of Fact, Conclusions of Law, and Order to:

21 JAMES H. HAYES, BAC #1175077
22 SOUTHERN DESERT CORRECTIONAL CENTER
23 20825 COLD CREEK RD.
24 P.O. BOX 208
25 INDIAN SPRINGS, NV 89070

26 BY

27 C. Garcia
28 Secretary for the District Attorney's Office

JV/cg/L2

1 **CSERV**

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

5
6 State of Nevada

CASE NO: C-16-315718-1

7 vs

DEPT. NO. Department 3

8 James Hayes
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 1/6/2022

15 "Kelli DeVaney-Sauter, DPD" .

Kelli.Devaney-Sauter@clarkcountynv.gov

16 DC 12 Law Clerk .

Dept12LC@clarkcountycourts.us

17 Melissa A. Boudreault .

mezama@clarkcountynv.gov

18 Pam Rocha .

RochaP@clarkcountycourts.us

19 PDMotions .

Motions@clarkcountyda.com

20 Jessica Murphy

murphyjw@clarkcountynv.gov

21 Michael Sanft

michael@sanftlaw.com

22 Dept 19 Law Clerk

dept19lc@clarkcountycourts.us

23 Terri Elliott

elliottt@clarkcountycourts.us


24 Dept 3 Law Clerk

dept3lc@clarkcountycourts.us

25 Corinna Garcia

corinna.garcia@clarkcountyda.com

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ASTA

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF CLARK**

STATE OF NEVADA,

Plaintiff(s),

vs.

JAMES HOWARD HAYES
aka JAMES HOWARD HAYES, JR.,

Defendant(s),

Case No: C-19-338412-1

Dept No: III

CASE APPEAL STATEMENT

1. Appellant(s): James H. Hayes

2. Judge: Joseph T. Bonaventure

3. Appellant(s): James H. Hayes

Counsel:

James H. Hayes #1175077
P.O. Box 208
Indian Springs, NV 89070

4. Respondent: The State of Nevada

Counsel:

Steven B. Wolfson, District Attorney
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: February 26, 2019

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

Type of Judgment or Order Being Appealed: Misc. Order

11. Previous Appeal: No

Supreme Court Docket Number(s): N/A

12. Child Custody or Visitation: N/A

Dated This 16 day of March 2022.

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: James H. Hayes

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 28, 2019

C-19-338412-1 State of Nevada
 vs
 James Hayes

February 28, 2019 10:00 AM Initial Arraignment

HEARD BY: Wittenberger, Shannon **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Phyllis Irby

RECORDER: Sharon Nichols

REPORTER:

PARTIES

PRESENT: Hayes, James Howard Defendant

JOURNAL ENTRIES

- Deputy Law Clerk Austin Beaumont present on behalf of the State. Deft's counsel Mr. Sanft not present. COURT ORDERED, MATTER CONTINUED.

CUSTODY

3-04-19 10:00 AM ARRAIGNMENT CONTINUED (LLA)

CLERK'S NOTE: Mr. Sanft's office was contacted and a message was left with new court date to be present./pi

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 04, 2019

C-19-338412-1 State of Nevada
 vs
 James Hayes

March 04, 2019 10:00 AM Arraignment Continued

HEARD BY: Wittenberger, Shannon **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Kristen Brown
 April Watkins
 Carolyn Jackson
 Imelda Murrieta
 Shannon Reid
 Lauren Terralavoro

RECORDER: Sharon Nichols

REPORTER:

PARTIES

PRESENT: Hayes, James Howard Defendant

JOURNAL ENTRIES

- Deputized Law Clerk, Joshua Prince, present on behalf of the State.

COURT ORDERED, matter CONTINUED for the presence of counsel.

CUSTODY

CONTINUED TO: 3/7/19 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 07, 2019

C-19-338412-1 State of Nevada
 vs
 James Hayes

March 07, 2019 10:00 AM Arraignment Continued

HEARD BY: Wittenberger, Shannon **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Kristen Brown
 April Watkins
 Carolyn Jackson
 Imelda Murrieta
 Shannon Reid
 Lauren Terralavoro

RECORDER: Sharon Nichols

REPORTER:

PARTIES

PRESENT: MATSUDA, JESS Y. Attorney

JOURNAL ENTRIES

- Mr. Matsuda advised Deft. refused transport to court and requested matter be continued for Deft s presence. COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 03/13/2019 10:00 AM (LLA)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 13, 2019

C-19-338412-1 State of Nevada
 vs
 James Hayes

March 13, 2019 10:00 AM Arraignment Continued

HEARD BY: Wittenberger, Shannon **COURTROOM:** RJC Lower Level Arraignment

COURT CLERK: Kristen Brown

RECORDER: Sharon Nichols

REPORTER:

PARTIES

PRESENT: Hayes, James Howard Defendant

JOURNAL ENTRIES

- Deputized Law Clerk, Quanisha Holloway appearing for the State. Jess Matsuda, Esq., appearing for Mr. Sanft on behalf of the Deft.

DEFT. HAYES ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. COURT ORDERED, matter set for trial. COURT ORDERED, pursuant to Statute, Counsel has 21 days from today for the filing of any Writs; if the Preliminary Hearing Transcript has not been filed as of today, Counsel has 21 days from the filing of the Transcript.

CUSTODY

4/10/19 8:30 AM PRE TRIAL CONFERENCE (DEPT. 19)

5/08/19 8:30 AM CALENDAR CALL (DEPT. 19)

5/13/19 10:00 AM JURY TRIAL (DEPT. 19)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 10, 2019

C-19-338412-1 State of Nevada
 vs
 James Hayes

April 10, 2019 8:30 AM Pre Trial Conference

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Sanft, Michael W. Attorney
 State of Nevada Plaintiff
 Zadrowski, Bernard B. Attorney

JOURNAL ENTRIES

- Mr. Sanft advised Defendant is in custody with Nevada Department of Corrections on another case and was not transported this morning. Further, Mr. Sanft advised he anticipates read; although, Julian Gregory appeared this morning indicating he has spoken with Defendant about representing him in this case. COURT ORDERED, trial date STANDS.

CUSTODY (COC-NDC)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 24, 2019

C-19-338412-1 State of Nevada
 vs
 James Hayes

April 24, 2019 8:30 AM Motion

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: MATSUDA, JESS Y. Attorney
 State of Nevada Plaintiff
 Zadrowski, Bernard B. Attorney

JOURNAL ENTRIES

- Court noted Defendant not present and in custody with the Nevada Department of Corrections.
COURT ORDERED, matter CONTINUED; State to prepare the appropriate order to transport.

CUSTODY (COC-NDC)

CONTINUED TO: 5/06/2019 8:30 AM

CLERK'S NOTE in order to have defendant transported from NDC the date has been moved from
4/29/2019. te

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****May 06, 2019**

C-19-338412-1 State of Nevada
vs
James Hayes

May 06, 2019 8:30 AM Motion

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Hayes, James Howard	Defendant
	Sanft, Michael W.	Attorney
	State of Nevada	Plaintiff
	Zadrowski, Bernard B.	Attorney

JOURNAL ENTRIES

- Mr. Sanft advised parties have agreed that Defendant will plead guilty to a misdemeanor count of disorderly conduct with credit for time served. Upon Court's inquiry, Mr. Rowles agreed with the representations. DEFT. HAYES ARRAIGNED AND PLED NO CONTEST TO DISORDERLY CONDUCT (M). Court ACCEPTED plea. Court Sitting as Magistrate, COURT ORDERED, Defendant Sentenced to CREDIT FOR TIME SERVED; CASE CLOSED.

NIC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 15, 2019

C-19-338412-1 State of Nevada
 vs
 James Hayes

July 15, 2019 8:30 AM Motion

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: LoGrippo, Frank R. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Court noted Defendant not present and in custody with the Nevada Department of Corrections.
COURT ORDERED, Motion GRANTED as a Remittitur has been filed by the Supreme Court.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 21, 2019

C-19-338412-1 State of Nevada
 vs
 James Hayes

August 21, 2019 8:30 AM Motion

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Lamanna, Brianna K. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- COURT ORDERED, Motion OFF CALENDAR as previously granted on 7/15/2019 and the Order was signed 7/17/2019.

NIC (COC-NDC)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 07, 2022

C-19-338412-1 State of Nevada
 vs
 James Hayes

February 07, 2022 8:30 AM Motion

HEARD BY: Bixler, James **COURTROOM:** RJC Courtroom 11C

COURT CLERK: Grecia Snow

RECORDER: Rebeca Gomez

REPORTER:

PARTIES

PRESENT: Scarborough, Michael J. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- State submitted on the pleadings. COURT ORDERED, motion DENIED. State to prepare the Order.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 23, 2022

C-19-338412-1 State of Nevada
 vs
 James Hayes

March 23, 2022 8:30 AM Motion

HEARD BY: Trujillo, Monica **COURTROOM:** RJC Courtroom 11C

COURT CLERK: Stephanie Squyres

RECORDER: Rebeca Gomez

REPORTER:

PARTIES

PRESENT: Allmon, Michael Donovan Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

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

COURT NOTED there is no reply filed, this matter was heard by Judge Bixler who ruled on a reply being written, however he did not address the issues in the initial motion, and ORDERED Motion DENIED. State to prepare the Order.

NDC

Certification of Copy and Transmittal of Record

State of Nevada }
County of Clark } SS:

Pursuant to the Supreme Court order dated March 30, 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 two volumes with pages numbered 1 through 282.

STATE OF NEVADA,

Plaintiff(s),

vs.

JAMES HOWARD HAYES
aka JAMES HOWARD HAYES, JR.,

Defendant(s),

Case No: C-19-338412-1

Dept. No: III

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 31 day of March 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

