

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

Electronically Filed  
Apr 28 2022 11:47 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

THE STATE OF NEVADA,

Plaintiff,

vs.

MARC PAUL SCHACHTER,

Defendant.

---

Sup. Ct. Case No. 84547

Case No. CR14-1044

Dept. 4

RECORD ON APPEAL

VOLUME 9 OF 10

DOCUMENTS

APPELLANT

Marc Schachter #91445  
S.D.C.C. PO Box 208  
Indian Springs, NV 89018

RESPONDENT

Washoe County District  
Attorney's Office  
Jennifer P. Noble, Esq. #9446  
P.O. Box 30083  
Reno, Nevada 89502-3083

APPEAL INDEX  
SUPREME COURT NO: 84547  
DISTRICT CASE NO: CR14-1044  
THE STATE OF NEVADA vs MARC PAUL SCHACHTER  
DATE: APRIL 28, 2022

PLEADING	DATE FILED	VOL.	PAGE NO.
ADDENDUM TO DEMAND FOR LEGAL MATERIALS AND LEGAL SUPPLIES	08-21-14	2	131-134
ADDENDUM TO MOTION FOR ROUGH DRAFT TRANSCRIPT AT PUBLIC EXPENSE	01-06-15	4	677-679
ADDENDUM TO MOTION TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE	12-13-21	9	1536-1538
ADDENDUM TO TRIAL STATEMENT	09-22-14	3	360-361
AFFIDAVIT OF SERVICE	08-26-14	2	193-194
AMENDED INFORMATION	07-14-14	2	29-33
AMENDED SUPPLEMENTAL TO PRESENTENCE INVESTIGATION REPORT – DATED DEC 31, 2014	02-23-15	10	31-50
ANSWER TO MOTION IN LIMINE RE: PRIOR BAD ACTS OF THE STATES WITNESSES	08-26-14	2	174-176
ANSWER TO STATE’S MOTION IN LIMINE AS DEFENDANT’S EXAMINATION OF WITNESSES	08-26-14	2	177-179
APPLICATION FOR ORDER TO PRODUCE PRISONER	12-08-21	9	1526-1527
APPLICATION FOR SETTING	08-14-14	2	86
APPLICATION FOR SETTING	10-28-14	3	440
APPLICATION FOR SETTING	12-08-14	4	531-532
APPLICATION FOR SETTING	12-09-14	4	614-615
CASE APPEAL STATEMENT	03-26-15	7	1281-1283
CASE APPEAL STATEMENT	04-08-22	9	1570-1571
CERTIFICATE OF CLERK AND TRANSMITTAL	07-21-15	8	1411
CERTIFICATE OF CLERK AND TRANSMITTAL	08-03-15	8	1424
CERTIFICATE OF CLERK AND TRANSMITTAL	08-03-15	8	1425
CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL	03-27-15	7	1295
CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL	04-08-22	9	1572
CERTIFICATE OF CLERK AND TRANSMITTAL – ORIGINAL EXHIBITS	05-02-16	8	1433
CERTIFICATE OF CLERK AND TRANSMITTAL – ORIGINAL EXHIBITS	05-02-16	8	1434-1436
CORRECTED JUDGMENT	07-30-15	8	1415-1416

APPEAL INDEX  
SUPREME COURT NO: 84547  
DISTRICT CASE NO: CR14-1044  
THE STATE OF NEVADA vs MARC PAUL SCHACHTER  
DATE: APRIL 28, 2022

PLEADING	DATE FILED	VOL.	PAGE NO.
COURT SERVICES REPORT	07-03-14	2	16-18
DECLARATION OF A PRO PER DEFENDANT	07-24-14	10	3-5
DEMAND FOR LEGAL MATERIALS AND LEGAL SUPPLIES	08-21-14	2	126-130
DESIGNATION OF RECORD ON APPEAL	04-08-22	9	1567-1569
INFORMATION	07-10-14	2	21-25
JOINT MOTION TO UNSEAL EX PARTE MOTION FILE WITH THE COURT	06-11-15	8	1390-1393
JUDGMENT	03-05-15	7	1263-1264
JURY INSTRUCTIONS	09-24-14	3	367-394
JURY INSTRUCTIONS READ TO THE JURY PRIOR TO COMMENCEMENT OF TRIAL	09-22-14	3	353-354
MINUTES – ARRAIGNMENT	07-17-14	2	37
MINUTES – CONTINUED ARRAIGNMENT – 07-24-14	08-18-14	2	90
MINUTES – ENTRY OF JUDGMENT AND IMPOSITION OF SENTENCE – 2-26-15	03-23-15	7	1268-1274
MINUTES – IN-CHAMBERS CONFERENCE REGARDING JUDGMENT OF CONVICTION – 3-5-15	03-30-15	7	1299
MINUTES – JURY TRIAL – DAY ONE 9-22-14	10-22-14	3	412-416
MINUTES – JURY TRIAL – DAY THREE – 9-24-14	10-23-14	3	427-432
MINUTES – JURY TRIAL – DAY TWO – 9-23-14	10-23-14	3	420-423
MINUTES – MOTION TO SET TRIAL – 7-31-14	08-19-14	2	94
MINUTES – ONGOING PRE-TRIAL MOTIONS/MOTION TO CONFIRM TRIAL DATE – 9-11-14	05-12-15	8	1373-1376
MINUTES – ORAL ARGUMENTS ON MOTON TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE	03-25-22	9	1554
MINUTES – PRE-TRIAL MOTIONS 9-3-14	09-10-14	2	242-245
MINUTES – STATUS HEARING – 11-20-14	12-09-14	4	619
MINUTES – STATUS HEARING – 12-11-14	02-06-15	5	966
MINUTES – STATUS HEARING REGARDING DISCOVERY 08-21-14	09-09-14	2	238

APPEAL INDEX  
SUPREME COURT NO: 84547  
DISTRICT CASE NO: CR14-1044  
THE STATE OF NEVADA vs MARC PAUL SCHACHTER  
DATE: APRIL 28, 2022

PLEADING	DATE FILED	VOL.	PAGE NO.
MINUTES – STATUS HEARING REGARDING SELF-REPRESENTATION – 10-2-14	10-24-14	3	436
MINUTES – STATUS HEARING REGARDING SELF-REPRESENTATION 11-13-14	12-11-14	4	623
MOTION AND ORDER TO OBTAIN MATERIAL AND EXCULPATORY VIDEO RECORDING	08-21-14	2	113-117
MOTION FOR CLARIFICATION OF PRE-TRIAL ORDER	11-18-14	3	444-446
MOTION FOR PRELIMINARY HEARING TRANSCRIPTS	08-21-14	2	107-109
MOTION FOR ROUGH DRAFT TRANSCRIPT AT PUBLIC EXPENSE	12-23-14	4	627-629
MOTION FOR THE PRODUCTION OF REPLACEMENT AND/OR SUBSTITUTE LOST / DESTROYED EVIDENCE	08-21-14	2	118-120
MOTION FOR TRIAL TRANSCRIPTS AT PUBLIC EXPENSE	11-18-14	3	451-453
MOTION IN COMPEL RE: SURVEILLANCE VIDEO EVIDENCE	08-21-14	2	121-125
MOTION IN LIMINE REGARDING DEFENDANT’S EXAMINATION OF WITNESSES	08-22-14	2	160-163
MOTION IN LIMINE REGARDING PRIOR BAD ACTS, IF ANY, OF THE STATE’S WITNESSES	08-22-14	2	164-167
MOTION TO ADVISE WITNESSES FOR THE STATE OF THEIR PRIVILEGE AGAINST SELF-INCRIMINATION	08-21-14	2	104-106
MOTION TO APPOINT INVESTIGATOR FOR A PR PER DEFENDANT AT THE EXPENSE OF THE STATE	07-24-14	10	1-2
MOTION TO COMPEL PRODUCTION OF CLIENT FILE	01-02-15	4	645-653
MOTION TO COMPEL THE STATE TO PROVIDE EXCULPATORY MATERIAL (BRADY) IN ITS POSSESSION	08-21-14	2	110-112
MOTION TO DISMISS CASE FOR PREJUDICIAL DELAY CAUSING LOSS OF EXCULPATORY MATERIAL EVIDENCE	08-22-14	2	147-153
MOTION TO DISMISS CASE ON GROUNDS THAT THE STATE HAS LOST AND/OR DESTROYED MATERIAL EXCULPATORY EVIDENCE	08-21-14	2	98-103
MOTION TO DISMISS CASE ON GROUNDS THAT THE STATE HAS LOST AND/OR DESTROYED MATERIAL EXCULPATORY EVIDENCE	08-21-14	2	135-140
MOTION TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE	06-11-21	9	1463-1487
MOTION TO SUBMIT REQUEST FOR CASE FILE FOR JUDICIAL DECISION	05-11-15	8	1365-1371

APPEAL INDEX  
SUPREME COURT NO: 84547  
DISTRICT CASE NO: CR14-1044  
THE STATE OF NEVADA vs MARC PAUL SCHACHTER  
DATE: APRIL 28, 2022

PLEADING	DATE FILED	VOL.	PAGE NO.
NOTICE AND ORDER FOR AUDIO/VISUAL HEARING AN ORAL ARGUMENTS HEARING ON MOTION TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE IN THIS MATTER IS SET FOR MARCH 25, 2022 AT 1:30 PM	03-15-22	9	1547-1550
NOTICE OF APPEAL	03-26-15	7	1284-1285
NOTICE OF APPEAL	04-08-22	9	1565-1566
NOTICE OF APPEARANCE	09-17-14	3	336
NOTICE OF APPEARANCE OF STAND-BY COUNSEL	11-26-14	4	502
NOTICE OF CHANGE OF ADDRESS	05-11-15	8	1372
NOTICE OF CHANGE OF RESPONSIBLE ATTORNEY	06-17-21	9	1491-1492
NOTICE OF ENTRY OF ORDER	01-14-15	4	705-706
NOTICE OF FAMILIAL EMPLOYMENT IN THE WASHOE COUNTY DISTRICT ATTORNEY'S OFFICE	01-12-22	9	1542-1543
NOTICE OF STATE'S INTENT TO IMPEACH DEFENDANT'S CREDIBILITY WITH HIS PRIOR FELONY CONVICTIONS IF HE DECIDES TO TESTIFY	08-22-14	2	157-159
NOTICE OF WITHDRAWAL OF MOTION TO COMPEL PRODUCTION OF CLIENT FILE	01-15-15	4	710-712
NOTICE OF WITNESS PURSUANT TO NRS 174.234	09-17-14	3	337-340
NOTICE OF WITNESSES PURSUANT TO NRS 174.234	09-18-14	3	347-349
OBJECTION TO PRESENTENCE REPORT	11-20-14	10	18-20
OMNIBUS OPPOSITION TO DEFENDANT'S POST-TRIAL FILINGS	12-02-14	4	512-517
OMNIBUS OPPOSITION TO DEFENDANT'S PRETRIAL MOTIONS	08-28-14	2	205-221
OPPOSITION TO MOTION TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE	06-17-21	9	1493-1496
ORDER	07-30-15	8	1417
ORDER	09-10-21	9	1514-1516
ORDER	12-07-21	9	1520-1522
ORDER CONTINUING SENTENCING	12-08-14	4	526-527

APPEAL INDEX  
SUPREME COURT NO: 84547  
DISTRICT CASE NO: CR14-1044  
THE STATE OF NEVADA vs MARC PAUL SCHACHTER  
DATE: APRIL 28, 2022

PLEADING	DATE FILED	VOL.	PAGE NO.
ORDER DENYING DEFENDANT'S MOTION TO DISMISS CASE ON GROUNDS THAT THE STATE HAS LOST AND/OR DESTROYED MATERIAL EXCULPATORY EVIDENCE	09-16-14	3	327-332
ORDER DENYING MOTION TO MODIFY AND/OR CORRECT ILLEGAL SENTENCE	03-28-22	9	1558-1561
ORDER FOR ROUGH DRAFT TRANSCRIPTS AT PUBLIC EXPENSE	01-13-15	4	701
ORDER GRANTING WITHDRAWAL OF COUNSEL	11-26-14	4	503-505
ORDER OF SELF-REPRESENTATION AND APPOINTMENT OF STAND-BY COUNSEL	07-31-14	2	41-43
ORDER TO PRODUCE PRISONER VIA SIMULTANEOUS AUDIO/VISUAL TRANSMISSION	12-10-21	9	1531-1532
ORDER TO UNSEAL EX PARTE MOTION FILE WITH THE COURT	07-02-15	8	1403
PETITION FOR WRIT OF HABEAS CORPUS	11-18-14	3	454-481
PRESENTENCE INVESTIGATION REPORT	11-12-14	10	9-17
PRETRIAL ORDER	08-05-14	2	47-51
PROCEEDINGS	07-03-14	2	1-15
REPLY TO STATE'S OPPOSITION TO MOTION TO MODIFY AND/OR CORRECT AN ILLEGAL SENTENCE	07-06-21	9	1500-1504
REQUEST FOR CASE FILE OF STAND-BY COUNSEL INCLUDING ALL WORK-PRODUCT	11-18-14	3	447-450
REQUEST FOR ROUGH DRAFT TRANSCRIPT	03-26-15	7	1278-1280
REQUEST FOR SUBMISSION	06-11-15	8	1397-1399
REQUEST FOR SUBMISSION	07-06-21	9	1508-1510
REQUEST FOR SUBMISSION	12-13-21	9	1539-1541
REQUEST FOR SUBMISSIONS	01-13-15	4	695-697
REQUEST, STIPULATION AND ORDER RE PRE-PRELIMINARY HEARING AND PRE-TRIAL RECIPROCAL DISCOVERY (FELONY AND GROSS MISDEMEANOR CASES)	08-26-14	2	186-189
RETURN OF NEF	07-03-14	2	19-20
RETURN OF NEF	07-10-14	2	26-28
RETURN OF NEF	07-14-14	2	34-36

APPEAL INDEX  
SUPREME COURT NO: 84547  
DISTRICT CASE NO: CR14-1044  
THE STATE OF NEVADA vs MARC PAUL SCHACHTER  
DATE: APRIL 28, 2022

PLEADING	DATE FILED	VOL.	PAGE NO.
RETURN OF NEF	07-17-14	2	38-40
RETURN OF NEF	07-31-14	2	44-46
RETURN OF NEF	08-05-14	2	52-54
RETURN OF NEF	08-11-14	2	83-85
RETURN OF NEF	08-14-14	2	87-89
RETURN OF NEF	08-18-14	2	91-93
RETURN OF NEF	08-19-14	2	95-97
RETURN OF NEF	08-21-14	2	141-143
RETURN OF NEF	08-22-14	2	144-146
RETURN OF NEF	08-22-14	2	154-156
RETURN OF NEF	08-22-14	2	168-170
RETURN OF NEF	08-22-14	2	171-173
RETURN OF NEF	08-26-14	2	180-182
RETURN OF NEF	08-26-14	2	183-185
RETURN OF NEF	08-26-14	2	190-192
RETURN OF NEF	08-26-14	2	195-197
RETURN OF NEF	08-28-14	2	222-224
RETURN OF NEF	09-02-14	2	235-237
RETURN OF NEF	09-09-14	2	239-241
RETURN OF NEF	09-10-14	2	246-248
RETURN OF NEF	09-15-14	3	324-326
RETURN OF NEF	09-16-14	3	333-335
RETURN OF NEF	09-17-14	3	341-343
RETURN OF NEF	09-17-14	3	344-346
RETURN OF NEF	09-18-14	3	350-352
RETURN OF NEF	09-29-14	3	409-411

APPEAL INDEX  
 SUPREME COURT NO: 84547  
 DISTRICT CASE NO: CR14-1044  
 THE STATE OF NEVADA vs MARC PAUL SCHACHTER  
 DATE: APRIL 28, 2022

PLEADING	DATE FILED	VOL.	PAGE NO.
RETURN OF NEF	10-22-14	3	417-419
RETURN OF NEF	10-23-14	3	424-426
RETURN OF NEF	10-23-14	3	433-435
RETURN OF NEF	10-24-14	3	437-439
RETURN OF NEF	11-12-14	3	441-443
RETURN OF NEF	11-18-14	3	482-484
RETURN OF NEF	11-19-14	4	499-501
RETURN OF NEF	11-26-14	4	506-508
RETURN OF NEF	11-26-14	4	509-511
RETURN OF NEF	12-02-14	4	518-520
RETURN OF NEF	12-03-14	4	523-525
RETURN OF NEF	12-08-14	4	528-530
RETURN OF NEF	12-08-14	4	533-535
RETURN OF NEF	12-08-14	4	611-613
RETURN OF NEF	12-09-14	4	616-618
RETURN OF NEF	12-09-14	4	620-622
RETURN OF NEF	12-11-14	4	624-626
RETURN OF NEF	12-23-14	4	630-632
RETURN OF NEF	12-30-14	4	642-644
RETURN OF NEF	01-02-15	4	654-656
RETURN OF NEF	02-04-15	4	674-676
RETURN OF NEF	01-06-15	4	680-682
RETURN OF NEF	01-11-15	4	692-694
RETURN OF NEF	01-13-15	4	698-700
RETURN OF NEF	01-13-15	4	702-704
RETURN OF NEF	01-14-15	4	707-709



APPEAL INDEX  
 SUPREME COURT NO: 84547  
 DISTRICT CASE NO: CR14-1044  
 THE STATE OF NEVADA vs MARC PAUL SCHACHTER  
 DATE: APRIL 28, 2022

PLEADING	DATE FILED	VOL.	PAGE NO.
RETURN OF NEF	01-15-15	4	713-715
RETURN OF NEF	01-26-15	4	716-718
RETURN OF NEF	02-03-15	5	819-821
RETURN OF NEF	02-03-15	5	929-931
RETURN OF NEF	02-03-15	5	963-965
RETURN OF NEF	02-06-15	6	967-969
RETURN OF NEF	02-11-15	7	1247-1249
RETURN OF NEF	02-20-15	7	1257-1259
RETURN OF NEF	02-23-15	7	1260-1262
RETURN OF NEF	03-05-15	7	1265-1267
RETURN OF NEF	03-23-15	7	1275-1277
RETURN OF NEF	03-26-15	7	1286-1288
RETURN OF NEF	03-27-15	7	1289-1291
RETURN OF NEF	03-27-15	7	1292-1294
RETURN OF NEF	03-27-15	7	1296-1298
RETURN OF NEF	03-30-15	7	1300-1302
RETURN OF NEF	04-16-15	8	1358-1360
RETURN OF NEF	04-24-15	8	1362-1364
RETURN OF NEF	05-12-15	8	1377-1379
RETURN OF NEF	06-02-15	8	1387-1389
RETURN OF NEF	06-11-15	8	1394-1396
RETURN OF NEF	06-12-15	8	1400-1402
RETURN OF NEF	07-02-15	8	1404-1406
RETURN OF NEF	07-15-15	8	1408-1410
RETURN OF NEF	07-21-15	8	1412-1414
RETURN OF NEF	07-30-15	8	1418-1420

APPEAL INDEX  
 SUPREME COURT NO: 84547  
 DISTRICT CASE NO: CR14-1044  
 THE STATE OF NEVADA vs MARC PAUL SCHACHTER  
 DATE: APRIL 28, 2022

PLEADING	DATE FILED	VOL.	PAGE NO.
RETURN OF NEF	07-30-15	8	1421-1423
RETURN OF NEF	08-03-15	8	1426-1428
RETURN OF NEF	04-27-16	8	1430-1432
RETURN OF NEF	05-02-16	8	1437-1439
RETURN OF NEF	08-18-16	8	1445-1447
RETURN OF NEF	09-13-16	8	1449-1451
RETURN OF NEF	09-13-16	9	1460-1462
RETURN OF NEF	06-11-21	9	1488-1490
RETURN OF NEF	06-17-21	9	1497-1499
RETURN OF NEF	07-06-21	9	1505-1507
RETURN OF NEF	07-06-21	9	1511-1513
RETURN OF NEF	09-10-21	9	1517-1519
RETURN OF NEF	12-07-21	9	1523-1525
RETURN OF NEF	12-08-21	9	1528-1530
RETURN OF NEF	12-10-21	9	1533-1535
RETURN OF NEF	01-12-22	9	1544-1546
RETURN OF NEF	03-15-22	9	1551-1553
RETURN OF NEF	03-25-22	9	1555-1557
RETURN OF NEF	03-28-22	9	1562-1564
RETURN OF NEF	04-08-22	9	1573-1575
RETURN OF NEF	04-15-22	9	1577-1579
RETURN OF NEF	04-21-22	9	1582-1584
RETURN OF NEF	10-28-14	10	6-8
ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS – JURY TRIAL – SEPT 22, 2014	02-11-15	6	970-1104
ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS – JURY TRIAL – SEPT 23, 2014	02-11-15	7	1105-1246

APPEAL INDEX  
SUPREME COURT NO: 84547  
DISTRICT CASE NO: CR14-1044  
THE STATE OF NEVADA vs MARC PAUL SCHACHTER  
DATE: APRIL 28, 2022

PLEADING	DATE FILED	VOL.	PAGE NO.
SENTENCING MEMORANDUM	02-20-15	7	1250-1256
STIPULATION TO CONTINUE	12-03-14	4	521-522
SUPPLEMENTAL PROCEEDINGS	08-27-14	2	198-204
SUPPLEMENTAL TO PRESENTENCE INVESTIGATION REPORT – DATED OCT 29, 2014	01-26-15	10	21-30
SUPREME COURT CLERK’S CERTIFICATE & JUDGMENT	09-13-16	8	1453
SUPREME COURT NOTICE OF RETURN OF RECORD	09-13-16	8	1448
SUPREME COURT ORDER DIRECTING TRANSMISSION OF EXHIBIT	04-27-16	8	1429
SUPREME COURT ORDER DIRECTING TRANSMISSION OF EXHIBITS	07-15-15	8	1407
SUPREME COURT ORDER DIRECTING TRANSMISSION OF RECORD AND REGARDING BRIEFING	04-21-22	9	1580-1581
SUPREME COURT ORDER OF AFFIRMANCE	08-18-16	8	1440-1444
SUPREME COURT ORDER OF AFFIRMANCE	09-13-16	8	1454-1459
SUPREME COURT RECEIPT FOR DOCUMENTS	04-24-15	8	1361
SUPREME COURT RECEIPT FOR DOCUMENTS	04-15-22	9	1576
SUPREME COURT REMITTITUR	09-13-16	8	1452
TRANSCRIPT OF PROCEEDINGS – ARRAIGNMENT – JULY 17, 2014	06-02-15	8	1380-1386
TRANSCRIPT OF PROCEEDINGS - ARRAIGNMENT – JULY 24, 2014	08-11-14	2	55-82
TRANSCRIPT OF PROCEEDINGS – MOTION TO SET TRIAL – JULY 31, 2014	09-02-14	2	225-234
TRANSCRIPT OF PROCEEDINGS – PRE-TRIAL MOTIONS – SEPT 3, 2014	02-03-15	5	719-768
TRANSCRIPT OF PROCEEDINGS – PRE-TRIAL MOTIONS – SEPT 3, 2014	02-03-15	5	769-818
TRANSCRIPT OF PROCEEDINGS – PRE-TRIAL MOTIONS – SEPT 13, 2014	02-03-15	5	822-928
TRANSCRIPT OF PROCEEDINGS – PRE-TRIAL MOTIONS PARTIAL TRANSCRIPT – SEPT 11, 2014	09-15-14	3	249-323
TRANSCRIPT OF PROCEEDINGS – PRE-TRIAL MOTIONS PARTIAL TRANSCRIPT – SEPT 11, 2014	12-08-14	4	536-610
TRANSCRIPT OF PROCEEDINGS – SENTENCING – FEB 26, 2015	04-16-15	8	1303-1357

APPEAL INDEX  
 SUPREME COURT NO: 84547  
 DISTRICT CASE NO: CR14-1044  
 THE STATE OF NEVADA vs MARC PAUL SCHACHTER  
 DATE: APRIL 28, 2022

PLEADING	DATE FILED	VOL.	PAGE NO.
TRANSCRIPT OF PROCEEDINGS – STATUS HEARING – NOV. 13, 2014	12-30-14	4	633-641
TRANSCRIPT OF PROCEEDINGS – STATUS HEARING – 11-20-14	01-04-15	4	657-673
TRANSCRIPT OF PROCEEDINGS – STATUS HEARING – DEC. 11, 2014	01-11-15	4	683-691
TRANSCRIPT OF PROCEEDINGS – STATUS HEARING – OCT 2, 2014	11-19-14	3	485-498
TRANSCRIPT OF PROCEEDINGS – STATUS HEARING – SEPT 23, 2014	09-29-14	3	399-408
TRANSCRIPT OF PROCEEDINGS – TRIAL – SEPT 24, 2014	02-03-15	5	932-962
TRIAL STATEMENT	09-22-14	3	355-359
TRIAL STATEMENT	09-22-14	3	362-366
UNUSED VERDICT FORMS	09-24-14	3	396
UNUSED VERDICT FORMS	09-24-14	3	397
UNUSED VERDICT FORMS	09-24-14	3	398
VERDICT	09-24-14	3	395

**Return Of NEF****Recipients**

**TERRENCE MCCARTHY, ESQ.** - Notification received on 2016-09-13 15:47:43.42.  
**ZELALEM BOGALE, ESQ.** - Notification received on 2016-09-13 15:47:43.264.  
**JENNIFER LUNT, ESQ.** - Notification received on 2016-09-13 15:47:43.545.  
**JARROD HICKMAN, ESQ.** - Notification received on 2016-09-13 15:47:43.607.  
**KELLY KOSSOW, ESQ.** - Notification received on 2016-09-13 15:47:43.358.  
**DIV. OF PAROLE & PROBATION** - Notification received on 2016-09-13 15:47:43.67.  
**NICKOLAS GRAHAM, ESQ.** - Notification received on 2016-09-13 15:47:43.483.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***

**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR14-1044

**Judge:**

HONORABLE CONNIE J. STEINHEIMER

**Official File Stamp:**

09-13-2016:15:46:36

**Clerk Accepted:**

09-13-2016:15:47:11

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. MARC PAUL SCHACHTER (D4)

**Document(s) Submitted:**

Supreme Court Remittitur  
Supreme Ct Clk's Cert & Judg  
Supreme Court Order Affirming

**Filed By:**

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

ZELALEM BOGALE, ESQ. for STATE OF  
NEVADA

JENNIFER L. LUNT, ESQ. for MARC PAUL  
SCHACHTER

KELLY ANN KOSSOW, ESQ. for STATE OF  
NEVADA

TERRENCE P. MCCARTHY, ESQ. for STATE  
OF NEVADA

DIV. OF PAROLE & PROBATION

JARROD T. HICKMAN, ESQ. for MARC PAUL  
SCHACHTER

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

1 MARC SCHACHTER # 91445  
2 Defendant/ In Propria Person  
3 Post Office Box 253  
4 Indian Springs, Nevada 89070

5 IN THE 2<sup>ND</sup> JUDICIAL DISTRICT COURT OF THE STATE  
6 OF NEVADA IN AND FOR THE COUNTY OF WASHOE

7  
8 The State of Nevada  
9 Plaintiff,

10 VS

Case No. CR-14-1044

11 MARC PAUL SCHACHTER  
12 Defendant,

Dept NO. 4

13  
14  
15 MOTION TO MODIFY AND/OR CORRECT  
16 ILLEGAL SENTENCE

17 Date of hearing :

18 Time of hearing :

19  
20 COMES NOW, DEFENDENT, MARC PAUL SCHACHTER, proceeding  
21 in proper person, hereby motion this Honorable Court  
22 pursuant to N.R.S 176.555 and Edwards v. state.

23 This motion is made in based upon all papers and pleadings  
24 on file, the points and authorities and exhibits attached  
25 here to.

26  
27 Dated; this 18 day of June, 2021.

28  
Marc Paul Schachter 9/14/5  
DEFENDENT/ 770-8 V9. 1463



POINTS AND AUTHORITIES

"Motion to modify sentence" is limited in scope to sentences based on mistaken assumptions about defendant's criminal record which work to defendant's extreme detriment, while "Motion to correct illegal sentence" addresses only facial legality of sentence. State v. District Court, 100 Nev. 90, 97, 677 p.2d 1044 1048 (1984), and Edwards v. State, 918 p.2d 321 (Nev. 1996).

Further N.R.S 176.555 Motion to Modify and/or Correct a sentence, may be filed at any time.

Defendant herein alleges that his sentence should be modified and/or corrected pursuant to the following facts.

A. BACKGROUND: FOLLOWING A JURY TRIAL, DEFENDANT WAS FOUND GUILTY OF ATTEMPTED ROBBERY (COUNT #1). THE STATE FURTHER FILED A CHARGE OF BEING A HABITUAL CRIMINAL (COUNT #3). AT A SENTENCING HEARING HELD ON FEBRUARY 26, 2015, THIS COURT PRONOUNCED A SENTENCE OF TWELVE (12) TO FORTY-EIGHT MONTHS FOR COUNT #1; AND FIVE (5) TO TWENTY YEARS (20) CONCURRENT FOR COUNT #3. AS THE COURT WANTED TO MAKE SURE THE WORDING WAS CORRECT A FORMAL WRITTEN JUDGEMENT WAS NOT FILED UNTIL MARCH 5, 2015 NUNC PRO TUNC TO THE FEBRUARY 26, 2015 HEARING DATE. [SEE EXHIBIT #1] ON MARCH 31, 2015 A FAST-TRACK APPEAL WAS FILED ON MR. SCHACHTEL'S BEHALF ALLEGING, AMONG OTHER ISSUES, THAT SEPARATE AND CONCURRENT SENTENCES WAS

IMPROPER ACCORDING TO N.R.S. 207.010 AND  
LISBY V. STATE, 82 N.W. 183 (1966). THE STATE  
 AGREED THAT THE SENTENCE WAS ILLEGAL.  
 THE COURT FILED A "CORRECTED" JUDGMENT  
 ON JULY 30, 2015 [EXHIBIT #2]. THE CORRECTED  
 JUDGMENT RENAMES COUNT #1 AS "ATTEMPTED  
 ROBBERY BY A HABITUAL CRIMINAL" AND  
 PRONOUNCES A SENTENCE OF FIVE(5) TO TWENTY  
 (20) YEARS FOR COUNT #1. IT IS SIGNED  
NUNC PRO TUNC TO FEBRUARY 24, 2015.

THE NEVADA SUPREME COURT FOUND THE  
 ISSUE MOOT AND ISSUED A REMITTITOR ON  
 SEPTEMBER 7, 2015. [EXHIBIT #3]. ON MARCH 21,  
 2019 AND AGAIN ON MARCH 22, 2021, THE  
 PAROLE BOARD DENIED MR SCHACHTER'S PAROLE  
 BASED SOLELY ON HIS PRIOR CRIMINAL  
 RECORD [EXHIBIT #4].

### B. ARGUMENT:

N.R.S. 176.555 STATES: "THE COURT MAY  
 CORRECT AN ILLEGAL SENTENCE AT ANY TIME."

THE NEVADA SUPREME COURT DEFINES AN  
 ILLEGAL SENTENCE AS:

"...ONE AT VARIANCE WITH THE CONTROLLING SENTENCING STATUTE, OR ILLEGAL IN THE SENSE THAT THE COURT GOES BEYOND ITS AUTHORITY BY ACTING WITHOUT JURISDICTION OR IMPOSING A SENTENCE IN EXCESS OF THE STATUTORY MAXIMUM PROVIDED..." [EDWARDS V. STATE, 112 N.W. 708]

AT THE ORIGINAL SENTENCING HEARING THE COURT CORRECTLY SENTENCE THE DEFENDANT TO TWELVE (12) TO FORTY-EIGHT (48) MONTHS FOR THE ATTEMPTED ROBBERY (COUNT #1) INCLUDING STATING ITS REASONS ON THE RECORD:

"I AM NOT GOING TO PUNISH YOU BECAUSE YOU WENT TO TRIAL... IT WASN'T THE MOST VIOLENT OFFENSE THAT I'VE EVER SEEN I'M NOT SURE WHAT EVERYONE'S MOTIVATION WAS, BUT I DO KNOW THE JURY FOUND YOU GUILTY BEYOND A REASONABLE DOUBT... BUT ITS NOT THE WORST ATTEMPTED ROBBERY I'VE EVER SEEN." [PAGE 46-47].

THE COURT THEN FOUND THE DEFENDANT OF BEING A LESSER (SMALL) HABITUAL CRIMINAL BASED ON TWO (2) NEVADA GRAND LARCANY CONVICTIONS. THE SEPARATE AND CONCURRENT FIVE (5) TO TWENTY (20) YEAR SENTENCE WAS INCORRECT. THE SENTENCES ARE NOT TO RUN CONCURRENT.

"THE TRIAL COURT MUST SENTENCE ON THE SUBSTANTIVE CRIME CHARGED... AND THEN INVOKE THE RECIDIVIST STATUTE TO DETERMINE THE PENALTY." HOLLANDER V. STATE, 82 N.W. 345, 353, 418 P.2d 802, 807 (1966)

WHEN THIS COURT FILED ITS CORRECTED JUDGEMENT OF CONVICTION IN JULY OF 2015 IT AGAIN INCORRECTLY SENTENCED DEFENDANT TO ~~5~~ FIVE (5) TO TWENTY (20) YEARS FOR COUNT #1 ATTEMPTED ROBBERY BY A HABITUAL CRIMINAL. A DEFENDANT CANNOT BE A HABITUAL CRIMINAL WHEN HE/SHE COMITS THE CRIME. IT IS THE CONVICTION OF THE CRIME THAT ALLOWS FOR THE ADJUDICATION OF HABITUALITY.

THE STATUS CHANGE THAT ALLOWS FOR THE ENHANCED SENTENCE DOES NOT COME INTO PLAY UNTIL AFTER A CONVICTION IN COUNT #1 - ATTEMPTED ROBBERY, A VIOLATION OF NRS 193.330 BEING AN ATTEMPT TO VIOLATE NRS 200.380. THE STATUTORY MAXIMUM SENTENCE FOR COUNT #1 IS TEN (10) YEARS. THE FINDING OF A LESSER (SMALL) HABITUALLY PURSUANT TO NRS 207.010 IS BASED ON THE GUILTY CONVICTION OF COUNT #1 AND THE FINDING OF TWO (2) VALID PRIOR CONVICTIONS FOR GRAND LARCENY. THIS FINDING OF HABITUALLY MUST BE ATTRIBUTED TO COUNT #3 IN ORDER TO SATISFY THE STATUTORY MAXIMUM SENTENCE REQUIREMENTS.

THE CORRECTED JUDGMENT SENTENCE OF FIVE (5) TO TWENTY (20) YEARS FOR COUNT #1 IS ILLEGAL PURSUANT TO THE DEFINITION FOUND IN EDWARDS, SUPRA.

THIS MISTAKEN CORRECTION WOULD

LEAD TO THE INCORRECT INPUT OF TWO(2) TWENTY YEAR SENTENCES ON THE C.O.D.I.S. COMPUTER SOFTWARE WHICH WOULD LEAD TO THE PAROLE BOARD TO ACT INCORRECTLY THAT DEFENDANT WAS PAROLING FROM ONE (1) TWENTY YEAR SENTENCE OF COUNT #1 TO A SECOND TWENTY-YEAR SENTENCE IN COUNT #3. [THE PAROLE BOARD WILL NOT RELEASE THE RECORDING OF THE HEARING (3/21/19) UNLESS THE COURT MAKES THE REQUEST]

ALTHOUGH THE NEVADA DEPT. OF CORRECTIONS DID EVENTUALLY CORRECT THE C.O.D.I.S. SENTENCE MISTAKE, THE CORRECTED JUDGMENT STILL CONTAINS THE ILLEGAL SENTENCE OF TWENTY (20) YEARS FOR COUNT #1 AND SHOULD BE CORRECTED PER NRS 176.535.

IN ADDITION, THE CORRECTED JUDGMENT IS AT VARIANCE WITH THE FOLLOWING CONTROLLING SENTENCING STATUTES.

IN BOTHINGTON V. STATE, 110 NEV 124, 868 P.2D. 643 (1984), THE NEVADA SUPREME COURT MAKES IT CLEAR BY DECLARING:

JURISDICTION IN AN APPEAL IS VESTED SOLELY BY THE SUPREME COURT UNTIL THE REMITTITUR ISSUES TO THE DISTRICT COURT. WE CONCLUDE THAT THE DISTRICT COURT JUDGE LACKS JURISDICTION OVER A CASE UNTIL THE REMITTITUR IS RECEIVED.

THE NEVADA SUPREME COURT ISSUED ITS REMITTITUR ON SEPTEMBER 7, 2015. FROM MARCH 31, 2015 THRU SEPTEMBER 7, 2015, THE DISTRICT COURT DID NOT HAVE JURISDICTION OR LEGAL AUTHORITY TO ISSUE A CORRECTED JUDGEMENT. THEREFORE THE SENTENCE IS ILLEGAL. [THE COURT SHOULD HAVE WAITED UNTIL IT RECEIVED THE REMITTITUR; THEN FILED A CORRECTED JUDGEMENT.]

IN THE LOCALLY INFAMOUS CASE, MACK V. MACK 125 NEV. 80, 200 P.3D. 101, THE NEVADA SUPREME COURT DECLARED (@ 125 NEV. 93):

AN ORDER NUNC PRO TUNC CANNOT BE MADE USE OF NOR RESORTED TO, TO SUPPLY OMITTED ACTION, POWER TO ORDER THE ENTRY OF JUDGEMENT NUNC PRO TUNC CANNOT BE USED FOR THE PURPOSE OF CORRECTING JUDICIAL ERRORS OR OMISSIONS OF THE COURT. NOR

CAN THIS PROCEDURE BE EMPLOYED TO CHANGE THE JUDGEMENT ACTUALLY RENDERED TO ONE WHICH NEITHER RENDERED NOR INTENDED TO RENDER.

IT IS ABUNDANTLY CLEAR BY BOTH DEFENDANT'S ARRAIGNMENT TRANSCRIPT (7/24/14) AND THE SENTENCING HEARING TRANSCRIPT THAT THE MISTAKES MADE IN THE MARCH 5, 2015 JUDGEMENT ARE JUDICIAL ERRORS AND NOT SIMPLY CLERICAL ERRORS. THE COURT EVEN TOOK THE EXTRAORDINARY PRECAUTION OF DELAYING THE WRITTEN ORDER OF JUDGEMENT PENDING APPROVAL OF ALL PARTIES. (SEE PAGE 54 LINES 1-7 SENTENCING TRANSCRIPT).

SO ALTHOUGH, ALL THE PARTIES AGREED TO THE WORDING FOR THE JUDGEMENT OF CONVICTION ON MARCH 5, 2015, ~~WITH~~ WITHIN WEEKS, THE DIRECT APPEAL WOULD ARRISE THE SENTENCE WAS ILLEGAL AND IN THE STATE'S RESPONSE (7/20/15) THE STATE AGREED THE SENTENCE SCHEME WAS ILLEGAL. NINE (9) DAYS LATER, THE COURT WOULD AGAIN CORRECT THE JUDGEMENT THROUGH THE USE OF NUNC PRO TUNC. IN THE CASE OF FINLEY V. FINLEY, 65 NEV 113 @ 120 THE COURT STATED:

NEVERTHELESS, THE COURT WOULD NOT HAVE THE POWER TO MODIFY ITS



DECREE SO AS TO AFFECT THE  
SUBSTANTIAL RIGHTS OF THE  
PARTIES AS THEY EXISTED.  
UNDER THE ORIGINAL ORDER  
AND HAVE IT ENTERED NUNC  
PRO TUNC.

THE USE OF NUNC PRO TUNC TO CORRECT  
THE JUDGMENT PREVENTED THE DEFENDANT  
FROM RAISING THESE ISSUES ALONG WITH  
SEVERAL TOWNSEND AND STOCKMEIR ISSUES  
THAT ARE PERTAINENT TO SENTENCING  
BUT NOT THIS MOTION. [UNLESS THE COURT  
WISHES THE DEFENDANT TO ELABORATE  
MORE FULLY].

FOR THE REASONS CITED ABOVE, THIS  
COURT SHOULD RULE THAT THE SENTENCE  
RECORDED IN THE CORRECTED JUDGMENT  
IS ILLEGAL.

IN A LONG LINE OF CASES, THE  
FEDERAL COURTS HAVE ESTABLISHED  
GUIDELINES FOR REIMPOSING A  
SENTENCE AFTER A SENTENCE

HAS BEEN RULED ILLEGAL. IN U.S. V. SILVERS, 90 F.3d 95 (1996), THE COURT DISCUSSES THE "EXPECTATION OF FINALITY" OF A SENTENCE:

ALTHOUGH AN EXPECTATION OF FINALITY DOES NOT LEGITIMATELY ARISE BY THE COMMENCEMENT OF THE SENTENCE, ONCE A DEFENDANT FULLY SERVES A SENTENCE FOR A PARTICULAR CRIME, THE DOUBLE ~~JEOPARDY~~ CLAUSE'S BAR ON MULTIPLE PUNISHMENTS PREVENTS ANY ATTEMPT TO INCREASE THEREAFTER A SENTENCE FOR THAT CRIME. (SEE EX PARTE LANCE, 85 US 163 (1874) AND US V. LUNDEN 769 F.2d 981, 984-985 (4TH CIR. 1985)). THE COURT CANNOT REIMPOSE SENTENCE ONCE DEFENDANT HAS FULLY SERVED A LAWFUL SENTENCE FOR HIS CRIMES. [EMPHASIS ADDED] (CERTIFICATE DENIED 414 US 1064 (1986))

— SILVERS, SUPRA @ 90 F.3d. 101

HERE MR. SCHACHTER HAS SERVED SEVEN (7) YEARS. THIS SEVEN YEARS MORE

THAN FULLY SATISFIES THE TEN (10) YEAR STATUTORY MAXIMUM SENTENCE FOR ATTEMPTED ROBBERY (WITH GOOD-TIME CREDITS) IN COUNT #1 OF THE INFORMATION. SO WHETHER THE COURT DECLARES THE ORIGINAL TWELVE (12) TO FORTY-EIGHT (48) MONTH SENTENCE OR SOME OTHER SENTENCE FOR THE ATTEMPTED ROBBERY, ANY ATTEMPT TO REIMPOSE THE ENHANCED HABITUAL SENTENCE IN COUNT #3 IS BARRED BY DOUBLE JEOPARDY.

### C. DEFENDANT'S OFFER OF COMPROMISE

IN THE NAME OF JUDICIAL ECONOMY, COST OF TRANSPORTATION AND CONFORMITY OF SENTENCING, THE DEFENDANT MAKES THE FOLLOWING OFFER TO THE COURT AND STATE:

THAT THE COURT VACATE THE TWENTY (20) YEAR SENTENCE IN COUNT #1, IMPOSE A SENTENCE THAT FALLS WITHIN THE

TEN (10) YEAR STATUTORY LIMIT FOR  
COUNT #1 ATTEMPTED ROBBERY. AND  
THEN IMPOSE A MODIFIED FIVE (5) TO  
TWELVE AND A HALF (12½) YEAR SENTENCE  
FOR COUNT #3 - HABITUAL CRIMINAL (SMALL).  
[THIS SIXTY (60) TO ONE-HUNDRED AND  
FIFTY (150) MONTH SENTENCE IS HOW  
THE VAST MAJORITY OF SMALL HABITUAL  
CRIMINAL OFFENDERS ARE SENTENCED  
IN CLARK COUNTY THE EIGHTH JUDICIAL  
DISTRICT OF NEVADA. THIS SENTENCE  
WOULD ALSO ALLOW THE DEFENDANT  
TO SERVE OUT HIS REMAINING SENTENCE  
WITHOUT PAROLE SUPERVISION, WHICH  
THE PAROLE BOARD SEEMS TO PREFER  
(SEE REASONS FOR DENIAL OF PAROLE  
IN EXHIBIT #4). DEFENDANT WOULD  
ALSO WAIVE ALL APPEARANCES  
IN EXCHANGE FOR THIS MODIFIED  
SENTENCE.

Theraby, pursuant to the facts and the law stated herein,  
Defendant, request that his sentence be modified/corrected as  
follows: FOR COUNT #1 (ATTEMPTED ROBBERY) TWELVE (12)

TO FORTY-EIGHT (48) MONTHS SUPERCEDED AND  
ENHANCED TO A TERM OF SIXTY (60) TO ONE  
HUNDRED FIFTY (150) MONTHS FOR BEING A  
LESSER (SMALL) HABITUAL CRIMINAL AS  
CHARGED IN COUNT #3.

Dated; this 21 DAY OF June, 2021.

Amph 491445  
#

Defendant/propria person

# **EXHIBIT 1**

# **EXHIBIT 1**

1 CODE 1850  
2  
3  
4  
5

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE  
8

9 STATE OF NEVADA,

10 Plaintiff,

Case No. CR14-1044

11 vs.

Dept. No. 4

12 MARC PAUL SCHACHTER,

13 Defendant.  
14 \_\_\_\_\_ /

15 JUDGMENT

16 The Defendant, having been found Guilty by a Jury of Attempted Robbery, a  
17 violation of NRS 193.330, being an attempt to violate NRS 200.380, a felony, as charged  
18 in Count I of the Amended Information, and no sufficient cause being shown by Defendant  
19 as to why judgment should not be pronounced against him, the Court renders judgment as  
20 follows:

21 That Marc Paul Schachter is guilty of the crime of Attempted Robbery, a  
22 violation of NRS 193.330, being an attempt to violate NRS 200.380, a felony, as charged  
23 in Count I of the Amended Information.

24 The State further filed a charge of Being A Habitual Criminal, as defined in  
25 NRS 207.010, as charged in Count III of the Amended Information. The matter was heard  
26 and the Court finds that the Defendant suffered constitutionally valid previous convictions  
27 to support the adjudication of habitual criminal. In addition, after considering all factors in  
28 mitigation, the prior lectures he has received, the prior chances from the State through

1 negotiations as well as his prior chances on parole, this Court finds that it is just and  
2 proper that the Defendant deserves to be declared a habitual criminal. Based upon those  
3 findings, this Court finds the Defendant to be a habitual criminal. The Defendant shall be  
4 sentenced as a Habitual Criminal, as defined in NRS 207.010(a).

5 The Defendant shall be punished by imprisonment in the Nevada  
6 Department of Corrections for the term of forty-eight (48) months with minimum parole  
7 eligibility of twelve (12) months with credit for two hundred sixty-three (263) days time  
8 served, for Count I; by imprisonment in the Nevada Department of Corrections for the  
9 maximum term of twenty (20) years with the minimum parole eligibility of five (5) years,  
10 with credit for two hundred sixty-three (263) days time served, for Count III, to be served  
11 concurrently with sentence imposed in Count I; and by payment of attorney's fees in the  
12 amount of One Thousand Dollars (\$1,000.00) for reimbursement of legal expenses.  
13 Defendant is further ordered to pay a Three Dollar (\$3.00) administrative assessment for  
14 obtaining a biological specimen and conducting a genetic marker analysis and a Twenty-  
15 Five Dollar (\$25.00) administrative assessment fee to the Clerk of the Second Judicial  
16 District Court.

17 The fees are subject to removal from the Defendant's books at the Nevada  
18 Department of Corrections.

19 Dated this 5 day of March, 2015.  
20 NUNC PRO TUNC to February 26, 2015.

21  
22 Connie J. Steinheimer  
23 DISTRICT JUDGE  
24  
25  
26  
27  
28



# **EXHIBIT 2**

# **EXHIBIT 2**

1 CODE 1860  
2  
3  
4  
5

6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE  
8

9 STATE OF NEVADA,

10 Plaintiff,

Case No. CR14-1044

11 vs.

Dept. No. 4

12 MARC PAUL SCHACHTER,

13 Defendant.  
14

15 CORRECTED JUDGMENT

16 The Defendant, having been found Guilty by a Jury of Attempted Robbery, a  
17 violation of NRS 193.330, being an attempt to violate NRS 200.380, a felony, as charged  
18 in Count I of the Amended Information, and no sufficient cause being shown by Defendant  
19 as to why judgment should not be pronounced against him, the Court renders judgment as  
20 follows:

21 That Marc Paul Schachter is guilty of the crime of Attempted Robbery, a  
22 violation of NRS 193.330, being an attempt to violate NRS 200.380, a felony, as charged  
23 in Count I of the Amended Information.

24 The State further filed a charge of Being A Habitual Criminal, as defined in  
25 NRS 207.010, as charged in Count III of the Amended Information. The matter was heard  
26 and the Court finds that the Defendant suffered constitutionally valid previous convictions  
27 to support the adjudication of habitual criminal. In addition, after considering all factors in  
28 mitigation, the prior lectures he has received, the prior chances from the State through

1 negotiations as well as his prior chances on parole, this Court finds that it is just and  
2 proper that the Defendant deserves to be declared a habitual criminal. Based upon those  
3 findings, this Court finds the Defendant to be a habitual criminal. The Defendant shall be  
4 sentenced as a Habitual Criminal, as defined in NRS 207.010, a felony.

5 For Count I, Attempted Robbery by a habitual criminal, the Defendant shall  
6 be punished by imprisonment in the Nevada Department of Corrections for the maximum  
7 term of twenty (20) years with the minimum parole eligibility of five (5) years, with credit for  
8 two hundred sixty-three (263) days time served; and by payment of attorney's fees in the  
9 amount of One Thousand Dollars (\$1,000.00) for reimbursement of legal expenses.  
10 Defendant is further ordered to pay a Three Dollar (\$3.00) administrative assessment for  
11 obtaining a biological specimen and conducting a genetic marker analysis and a Twenty-  
12 Five Dollar (\$25.00) administrative assessment fee to the Clerk of the Second Judicial  
13 District Court.

14 The fees are subject to removal from the Defendant's books at the Nevada  
15 Department of Corrections.

16 Dated this 29 day of July, 2015.  
17 NUNC PRO TUNC to February 26, 2015.

18  
19 Connie F. Steinheimer  
20 DISTRICT JUDGE  
21  
22  
23  
24  
25  
26  
27  
28

# **EXHIBIT 3**

# **EXHIBIT 3**

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

MARC PAUL SCHACHTER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 67673**  
District Court Case No. CR141044

04

**REMITTITUR**

TO: Jacqueline Bryant, Washoe District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.  
Receipt for Remittitur.

DATE: September 07, 2016

Tracie Lindeman, Clerk of Court

By: Amanda Ingersoll  
Chief Deputy Clerk

cc (without enclosures):

Hon. Connie J. Steinheimer, District Judge  
Washoe County Alternate Public Defender  
Washoe County District Attorney  
Attorney General/Carson City

**RECEIPT FOR REMITTITUR**

Received of Tracie Lindeman, Clerk of the Supreme Court of the State of Nevada, the  
REMITTITUR issued in the above-entitled cause, on September 13, 2016.

  
District Court Clerk

# **EXHIBIT 4**

# **EXHIBIT 4**

WHITE - Board File  
PINK - "P" FileCANARY - Inmate  
GOLDENROD - F&P

Page 1 of 2

**STATE OF NEVADA  
CERTIFICATION OF  
BOARD OF PAROLE COMMISSIONERS ACTION  
ORDER DENYING PAROLE**

SCHACHTER, MARC PAUL	91445	2015-075405	SDCC-U4-A-30-A	03/21/2019
Inmate Name	NDOC Number	Booking #	Location	Date

It is the Order of the Board that further consideration of parole is **denied** until 06/01/2021.

**THIS ACTION APPLIES TO THE FOLLOWING SENTENCE(S):**

Controlling sentence denoted by \*, Case #: Count: Offense Description:

CR14 1044; 1; HABITUAL CRIMINAL (LESSER)

**Reason(s) for action:**

Denial Reason: Prior prison term did not deter future criminal activity.

Denial Reason: Prior conviction for a violent offense.

Denial Reason: Repetitive criminal conduct.

Denial Reason: Significant prior criminal history.

Specific Recommendation: Do not engage in disciplinary misconduct during denial period.

Specific Recommendation: Participate or continue to participate in programs that address the behaviors that led to your incarceration.

**Recommendation of the panel who conducted the hearing: Deny Parole**

Commissioner Susan Jackson; Deny Parole

Commissioner Tony Corda; Deny Parole

Commissioner Adam Endel; Deny Parole

**The final action was ratified by the following Members of the Board of Parole Commissioners:**

Commissioner Susan Jackson; Deny Parole

Commissioner Adam Endel; Deny Parole

Commissioner Tony Corda; Deny Parole

Commissioner Michael Keeler; Deny Parole



FOR THE NEVADA BOARD OF PAROLE COMMISSIONERS

This document was prepared by JMEADOR at 1/26/2019 2:35 PM

RECEIVED APR 04 2019

**STATE OF NEVADA  
CERTIFICATION OF  
BOARD OF PAROLE COMMISSIONERS ACTION  
ORDER DENYING PAROLE**

<b>SCHACHTER, MARC PAUL</b>	<b>91445</b>	<b>2015-075405</b>	<b>SDCC-U3-B-16-B</b>	<b>03/22/2021</b>
Inmate Name	NDOC Number	Booking #	Location	Date

It is the Order of the Board that further consideration of parole is denied until 06/01/2023.

**THIS ACTION APPLIES TO THE FOLLOWING SENTENCE(S):**

*Controlling sentence denoted by \*, Case #: Court: Offense Description:*  
CRI4 1044;1; HABITUAL CRIMINAL (LESSER)

**Reason(s) for action:**

Denial Reason: Prior prison term did not deter future criminal activity.

Denial Reason: Prior conviction for a violent offense.

Denial Reason: Repetitive criminal conduct.

Denial Reason: Significant prior criminal history.

Specific Recommendation: Participate or continue to participate in programs that address the behaviors that led to your incarceration.

**Recommendation of the panel who conducted the hearing: Deny Parole**

Commissioner Eric Christiansen; Deny Parole

Commissioner Lancia Bailey; Deny Parole

Commissioner Donna Verchio; Deny Parole

**The final action was ratified by the following Members of the Board of Parole Commissioners:**

Commissioner Eric Christiansen; Deny Parole

Commissioner Lancia Bailey; Deny Parole

Commissioner Donna Verchio; Deny Parole

Commissioner Susan Jackson; Deny Parole

RECEIVED APR 09 2021

  
FOR THE NEVADA BOARD OF PAROLE COMMISSIONERS

This document was prepared by KRAKER at 3/30/2021 11:43 AM



**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2021-06-11 15:31:54.04.  
**JARROD HICKMAN, ESQ.** - Notification received on 2021-06-11 15:31:53.998.  
**KELLY KOSSOW, ESQ.** - Notification received on 2021-06-11 15:31:53.899.  
**DIV. OF PAROLE & PROBATION** - Notification received on 2021-06-11 15:31:53.933.  
**NICKOLAS GRAHAM, ESQ.** - Notification received on 2021-06-11 15:31:54.076.  
**ADAM CATE, ESQ.** - Notification received on 2021-06-11 15:31:53.969.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
PROOF OF SERVICE OF ELECTRONIC FILING

-

**A filing has been submitted to the court RE:** CR14-1044

**Judge:**

HONORABLE CONNIE J. STEINHEIMER

**Official File Stamp:**

06-11-2021:15:30:50

**Clerk Accepted:**

06-11-2021:15:31:20

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. MARC PAUL SCHACHTER (D4)

**Document(s) Submitted:**

Mtn to Modify/Correct Sentence

- \*\*Continuation
- \*\*Continuation
- \*\*Continuation
- \*\*Continuation

**Filed By:**

Deputy Clerk BBlough

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

ADAM D. CATE, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

JARROD T. HICKMAN, ESQ. for MARC PAUL  
SCHACHTER

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

JENNIFER L. LUNT, ESQ. for MARC PAUL  
SCHACHTER

CODE No. 2526  
CHRISTOPHER J. HICKS  
#7747  
One South Sierra Street  
Reno, Nevada 89501  
(775) 328-3200  
districtattorney@da.washoecounty.us  
Attorney for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF WASHOE

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

Case No. CR14-1044

v.

Dept. No. 4

MARC PAUL SCHACHTER,

Defendant.

\_\_\_\_\_ /

NOTICE OF CHANGE OF RESPONSIBLE ATTORNEY

COMES NOW, Plaintiff, by and through Kevin Naughton, Appellate Deputy, and hereby provides notice to the Court, all parties, and their respective counsel that Kevin Naughton, Appellate Deputy, has replaced Jennifer P. Noble, Chief Appellate Deputy, as the responsible attorney for Plaintiff in all future matters related hereto.

Plaintiff herein requests that the Court and all parties herein update their service list with Kevin Naughton's name and address in order to facilitate timely service of all documents in the matter.

///

///

///

///

AFFIRMATION PURSUANT TO NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: June 17, 2021.

CHRISTOPHER J. HICKS  
District Attorney

By /s/ Kevin Naughton  
KEVIN NAUGHTON  
Appellate Deputy  
Nevada Bar No. 12834

**CERTIFICATE OF MAILING**

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Washoe County District Attorney's Office and that, on June 17, 2021, I deposited for mailing through the U.S. Mail Service at Reno, Washoe County, Nevada, postage prepaid, a true copy of the foregoing document, addressed to:

Marc Schachter #91445  
Southern Desert Correctional Center  
P.O. Box 208  
Indian Springs, NV 89070

/s/ Tatyana Kazantseva  
TATYANA KAZANTSEVA

CODE No. 2645  
CHRISTOPHER J. HICKS  
#7747  
One South Sierra Street  
Reno, Nevada 89501  
(775) 328-3200  
districtattorney@da.washoecounty.us  
Attorney for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF WASHOE

\*\*\*

THE STATE OF NEVADA,

Plaintiff,

Case No. CR14-1044

v.

Dept. No. 4

MARC PAUL SCHACHTER,

Defendant.

\_\_\_\_\_ /

**OPPOSITION TO MOTION TO MODIFY AND/OR  
CORRECT ILLEGAL SENTENCE**

COMES NOW, the State of Nevada, by and through CHRISTOPHER J. HICKS, District Attorney, and Kevin Naughton, Appellate Deputy, and hereby opposes the Motion to Modify and/or Correct Illegal Sentence filed by Marc Paul Schachter (hereinafter, "Defendant") on June 11, 2021. This Opposition is based on the pleadings and papers on file with this Court, and the following points and authorities.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**Statement of the Case**

The Defendant was convicted by a jury of Attempted Robbery. At sentencing, the Court found the Defendant to be a habitual criminal. See Judgment filed March 5, 2015.

In the Judgment, the Court sentenced the Defendant to 12 to 48 months imprisonment for the Attempted Robbery conviction and a concurrent term of 5 to 20 years for being a habitual criminal. *Id.* The Court later entered a Corrected Judgment on July 30, 2015, wherein it sentenced the Defendant solely to a term of 5 to 20 years on Count I, which the Court titled “Attempted Robbery by a habitual criminal.”

On June 11, 2021, the Defendant filed his Motion to Modify and/or Correct Illegal Sentence (“Motion”). This Opposition follows.

### Argument

#### i. Motion to Modify

A district court has jurisdiction to modify a sentence only if “(1) the district court actually sentenced appellant based on a materially false assumption of fact that worked to appellant’s extreme detriment, and (2) the particular mistake at issue was of the type that would rise to the level of a violation of due process.” Passanisi v. State, 108 Nev. 318, 323, 831 P.2d 1371, 1374 (1992).

The Motion does not allege that the Court sentenced Defendant under any misunderstanding or misapprehension of fact. Thus, it fails as a Motion to Modify and should be denied on that ground.

#### ii. Motion to Correct

The Motion argues, *inter alia*, that: 1) The Court erred in the first Judgment when it sentenced Defendant on both the Attempted Robbery conviction and separately but concurrently as a habitual criminal, 2) The Court lacked jurisdiction to enter the Corrected Judgment because the case was then on appeal before the Nevada Supreme Court, 3) That the Defendant has now served enough time to satisfy even a maximum sentence on a conviction for Attempted Robbery, and 4) That the Defendant should be

sentenced to a modified and reduced term on the habitual criminal adjudication such that he would essentially immediately be released from custody without parole supervision.

The Defendant is correct, and both the State and the Court agreed, that the first Judgment erroneously imposed a separate sentence for his adjudication as a habitual criminal. “[T]he purpose of the habitual criminal statute is not to charge a separate substantive crime, but to allege a fact which may enhance the punishment. Only one sentence may be imposed.” Cohen v. State, 97 Nev. 166, 169, 625 P.2d 1170, 1172 (1981) (citations omitted). This error was remedied when the Court entered its Corrected Judgment and imposed a single sentence based upon the Defendant’s habitual criminal adjudication.

Because the Defendant has now been properly sentenced to a single sentence for his crime, and that sentence was properly enhanced based upon the Court’s finding that the Defendant is a habitual criminal, the Defendant’s sentence is not illegal in the sense that it is facially invalid. The Court correctly sentenced the Defendant to an enhanced term of imprisonment as reflected in the Corrected Judgment. To the extent that the Defendant argues that the Corrected Judgment was entered at a time that the Court was divested of jurisdiction as a result of his appeal, the issue is moot. The Defendant has been correctly sentenced. The remedy at this point would be the Court re-entering its Corrected Judgment which would be a mere formality.

### Conclusion

The Motion should be denied. The error in the Judgment was fixed by the Court in its Corrected Judgment and the Defendant is now serving his enhanced sentence after being adjudged a habitual criminal. The Defendant apparently does not like that the



parole board has elected to consider his prior criminal history in denying his requests for parole, but that is not a basis to deem his sentence illegal. The Corrected Judgment correctly and appropriately imposed a single enhanced sentence based on the Defendant's status as a habitual criminal. The sentence as imposed is not illegal and the Motion must be denied.

**AFFIRMATION PURSUANT TO NRS 239B.030**

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: June 17, 2021.

CHRISTOPHER J. HICKS  
District Attorney

By /s/ Kevin Naughton  
KEVIN NAUGHTON  
Appellate Deputy

**CERTIFICATE OF MAILING**

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Washoe County District Attorney's Office and that, on June 17, 2021, I deposited for mailing through the U.S. Mail Service at Reno, Washoe County, Nevada, postage prepaid, a true copy of the foregoing document, addressed to:

Marc Schachter #91445  
Southern Desert Correctional Center  
P.O. Box 208  
Indian Springs, NV 89070

/s/ Tatyana Kazantseva  
TATYANA KAZANTSEVA

**Return Of NEF****Recipients**

**KEVIN NAUGHTON, ESQ.** - Notification received on 2021-06-17 11:31:58.777.

**JARROD HICKMAN, ESQ.** - Notification received on 2021-06-17 11:31:58.753.

**KELLY KOSSOW, ESQ.** - Notification received on 2021-06-17 11:31:58.679.

**DIV. OF PAROLE & PROBATION** - Notification received on 2021-06-17 11:31:58.704.

**NICKOLAS GRAHAM, ESQ.** - Notification received on 2021-06-17 11:31:58.801.

**ADAM CATE, ESQ.** - Notification received on 2021-06-17 11:31:58.729.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***

**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR14-1044

**Judge:**

HONORABLE CONNIE J. STEINHEIMER

**Official File Stamp:**

06-17-2021:11:06:22

**Clerk Accepted:**

06-17-2021:11:31:22

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. MARC PAUL SCHACHTER (D4)

**Document(s) Submitted:**

Notice of Change of Attorney  
Opposition to Mtn

**Filed By:**

Kevin Naughton

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

ADAM D. CATE, ESQ. for STATE OF NEVADA

JARROD T. HICKMAN, ESQ. for MARC PAUL  
SCHACHTER

DIV. OF PAROLE & PROBATION

KELLY ANN KOSSOW, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

JENNIFER L. LUNT, ESQ. for MARC PAUL  
SCHACHTER

MARC SCHACHTER  
#91445  
SDCC  
P.O. Box 208  
INDIAN SPRINGS, NV 89070

FILED  
Electronically  
CR14-1044  
2021-07-06 04:26:21 PM  
Alicia L. Lerud  
Clerk of the Court  
Transaction # 8528984 :: khudson

IN THE SECOND JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,

PLAINTIFF,

VS.

MARC PAUL SCHACHTER,

DEFENDANT.

CASE # CR-14-1044

DEPT. # 4

REPLY TO STATE'S OPPOSITION TO MOTION TO MODIFY  
AND/OR CORRECT AN ILLEGAL SENTENCE

DEFENDANT, MARC SCHACHTER, IN PRO SE, COMES  
NOW AND REPLIES TO THE STATE OPPOSITION BASED  
ON THE PLEADINGS AND PAPERS FILED IN THE COURT  
AND THE FOLLOWING POINTS AND AUTHORITIES.

### INTRODUCTION

THE STATE'S OPPOSITION CONTAINS ADMISSIONS  
THAT THE COURT LACKED JURISDICTION TO  
CORRECT THE JUDGMENT, HALF-TRUTHS AS  
TO WHAT IS AN ILLEGAL SENTENCE, INCORRECT  
INFORMATION ON THE SENTENCING OF HABITUAL  
CRIMINALS AND FALSE ASSUMPTIONS AS TO THE  
BASIS OF THE MOTION.

ARGUMENT

THE STATE'S FAILURE TO OPPOSE THE DEFENDANT'S CLAIM THAT THE COURT'S USE OF NUNC PRO TUNC TO CORRECT A JUDICIAL ERROR (PAGES 8-10 OF THE MOTION) ARE A DEFACTO ADMISSION THAT FACTS ARE TRUE AND THE ARGUMENT IS VALID. THE STATE ARGUES THAT ALTHOUGH THE COURT WAS DIVESTED OF JURISDICTION DURING DIRECT APPEAL, THE ISSUE IS moot BECAUSE THE OUTCOME WOULD BE THE SAME. (PAGE 3, LINE 16-18) THE STATE CONTRADICTS THAT VERY SAME ARGUMENT WHEN IT STATES:

THE DEFENDANT IS CORRECT, AND BOTH THE STATE AND COURT AGREED, THAT THE FIRST JUDGMENT ERRONEOUSLY IMPOSED A SEPARATE SENTENCE FOR HIS ADJUDICATION AS A HABITUAL CRIMINAL [PAGE 3 LINE 4-6].

THE OUTCOME OF THE CORRECTED JUDGMENT IS THE SAME AS THE ORIGINAL JUDGMENT (FIVE TO TWENTY YEARS). ILLEGAL SENTENCES ARE CORRECTED BECAUSE THEY ARE ILLEGAL NOT BECAUSE OF THEIR OUTCOME.

THE STATE ARGUES INCORRECTLY THAT ONLY A SINGLE SENTENCE IS REQUIRED WHEN A

DEFENDANT IS ADJUDICATED AS A HABITUALLY. THE COURT IS STILL REQUIRED TO PRONOUNCE SENTENCE OF THE PRIMARY FELONY. UPON A FINDING OF HABITUALLY, THE COURT MUST IMPOSE THE ENHANCEMENT ONLY WHEN THE ENHANCEMENT IS LARGER THAN THE PRIMARY. SEE HOLLANDER V. STATE, 82 N.W.345, 353, 418 P.2d 802, 807 (1966) "THE TRIAL COURT MUST SENTENCE ON THE SUBSTANTIVE CRIME CHARGED... AND THEN INVOKE THE RECIDIVIST STATUTE TO DETERMINE THE PENALTY." THE COURT FAILED TO SENTENCE DEFENDANT ON THE ATTEMPTED ROBBERY (COUNT #1) IN THE CORRECTED JUDGMENT.

THIS IS A SIGNIFICANT ISSUE BECAUSE THE STATUTORY MAXIMUM SENTENCE FOR THE ATTEMPTED ROBBERY IS TEN (10) YEARS. THE DEFENDANT HAVING SERVED MORE THAN SEVEN (7) YEARS WITH HIS GOOD-TIME CREDITS HAS FULLY SATISFIED ANY TEN (10) YEAR SENTENCE THAT THE COURT COULD IMPOSE. AS STATED IN DEFENDANT'S MOTION, "ONCE A DEFENDANT HAS FULLY SERVED A SENTENCE FOR A PARTICULAR CRIME, THE DOUBLE JEOPARDY CLAUSE'S BAR ON MULTIPLE PUNISHMENTS PRESENTS ANY ATTEMPT TO INCREASE THEREAFTER A SENTENCE FOR THAT CRIME, AND, "THE COURT CANNOT REIMPOSE SENTENCE ONCE

DEFENDANT HAS FULLY SERVED A LAWFUL SENTENCE FOR HIS CRIMES." [US V. SILVERS, 90 F.3d 95, 101 (1996)] THE COURT'S ABILITY TO REIMPOSE THE HABITUAL ENHANCEMENT IN COUNT #3 ENDED WITH THE EXPIRATION OF THE ATTEMPTED ROBBERY IN COUNT #1.

CONTRARY TO THE STATE'S OPPOSITION, THE DEFENDANT'S PROFFER FOR A COMPROMISE SENTENCE OF ~~SIX~~ FIVE(5) TO 12 1/2 YEARS WOULD NOT RESULT IN DEFENDANT'S IMMEDIATE RELEASE.

THE OFFER TO MODIFY IS MEANT AS A COMPROMISE WHICH WOULD KEEP THE DEFENDANT INCARCERATED IN EXCHANGE FOR THE STATE NOT OPPOSING THE MOTION, WHICH IF THE COURT FINDS IN FAVOR FOR WOULD RESULT IN DEFENDANT'S RELEASE.

IF THE COURT WISHES TO CONSIDER A MODIFICATION BASED ON "MATERIALLY FALSE ASSUMPTION OF FACT" IT NEEDS TO LOOK NO FURTHER THAN PAGE 2 LINE #1 OF THE CORRECTED JUDGMENT WHERE THE COURT CITES NUMEROUS PAROLE VIOLATIONS AS A REASON TO DECLARE THE DEFENDANT A HABITUAL CRIMINAL. THESE PAROLE CHANCES/VIOLATIONS ARISE FROM AN INFIRMED CALIFORNIA CONVICTION THAT WAS NOT EVEN SUBMITTED AS A PRIOR CONVICTION BY THE STATE AT SENTENCING. IT WAS NOT PLED OR PROVEN DURING THE



HABITUAL ADJUDICATION, THE DEFENDANT WOULD ARGUE THAT IF THE CONVICTION IS NOT VALID THEN ANY PAROLE VIOLATIONS STEERING FROM THAT CONVICTION ARE ALSO NOT VALID, AND TO USE THEM IN THIS MANNER VIOLATES DEFENDANT'S "DUE PROCESS" PROTECTIONS, AS REQUIRED BY PASSANISI V. STATE, 108 N.W. 318 (1992)

FOR THE ABOVE REASONS, THE DEFENDANT PRAYS THIS HONORABLE COURT GRANT THE MOTION TO CORRECT AND/OR MODIFY AN ILLEGAL SENTENCE FILED 6-11-21.

DATED JUNE 26, 2021

RESPECTFULLY,

Marc Schachter

MARC SCHACHTER #91445

THIS DOCUMENT CONTAINS NO SOCIAL SECURITY NUMBERS AND A TRUE COPY WAS PLACED IN THE PRISON MAILBOX ADDRESSED TO: KEVIN NAUGHTON, ONE SOUTH SIERRA ST. RENO, NV 89501.

X Marc Schachter

MARC SCHACHTER  
IN PRISON

**Return Of NEF****Recipients**

**KEVIN NAUGHTON, ESQ.** - Notification received on 2021-07-06 16:28:23.042.

**JARROD HICKMAN, ESQ.** - Notification received on 2021-07-06 16:28:23.017.

**KELLY KOSSOW, ESQ.** - Notification received on 2021-07-06 16:28:22.943.

**DIV. OF PAROLE & PROBATION** - Notification received on 2021-07-06 16:28:22.968.

**NICKOLAS GRAHAM, ESQ.** - Notification received on 2021-07-06 16:28:23.066.

**ADAM CATE, ESQ.** - Notification received on 2021-07-06 16:28:22.993.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR14-1044

**Judge:**

HONORABLE CONNIE J. STEINHEIMER

**Official File Stamp:**

07-06-2021:16:26:21

**Clerk Accepted:**

07-06-2021:16:27:53

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. MARC PAUL SCHACHTER (D4)

**Document(s) Submitted:**

Reply to/in Opposition

**Filed By:**

Deputy Clerk KHudson

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

ADAM D. CATE, ESQ. for STATE OF NEVADA

JARROD T. HICKMAN, ESQ. for MARC PAUL  
SCHACHTER

DIV. OF PAROLE & PROBATION

KELLY ANN KOSSOW, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

JENNIFER L. LUNT, ESQ. for MARC PAUL  
SCHACHTER

1 CODE: 3860

2 Name: MARC SCHACHTER # 914453 Address: SDCC P.O. BOX 2084 INDIAN SPRINGS, NV 89070

5 Telephone: \_\_\_\_\_

6 Acting in Proper Person

7 THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
8 IN AND FOR THE COUNTY OF WASHOE  
910 STATE OF NEVADA

11 Plaintiff (Petitioner),

Case No. CR-14-1044

12 vs.

Dept. No. 413 MARC PAUL SCHACHTER14 Defendant (Respondent).  
1516 REQUEST FOR SUBMISSION17 I, MARC SCHACHTER, acting in Proper Person, request that the18 NOTION TO CORRECT ILLEGAL SENTENCE filed on 6-11-21

19 be submitted to the Court for consideration and determination.

20 I hereby certify that a copy of this Request has been mailed to all parties or their counsel.

21 DATE: 7/1/2122 Marc Schachter  
23 (Signature)24 MARC SCHACHTER # 91445  
25 (Name)26 P.O. BOX 208  
27 (Address)28 INDIAN SPRINGS, NV 89070

(Telephone Number)

CERTIFICATE OF SERVICE BY MAILING

I, MARC SCHACHTER, hereby certify, pursuant to NRCP 5(b), that on this  
day of JULY 1, 2021, I mailed a true and correct copy of the foregoing, "MOTION TO  
REQUEST FOR SUBMISSION"

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the  
United State Mail addressed to the following:

WASHOE CO. DISTRICT ATT.  
KEVIN NAUGHTON  
955 SOUTH SIERRA ST  
RENO, NV 89501

CC:FILE

DATED: this 1 day of JULY, 2021.

Marc Schachter  
MARC SCHACHTER # 91445  
/In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, \_\_\_\_\_

REQUEST FOR SUBMISSION

\_\_\_\_\_  
(Title of Document)

filed in case number: CR-14-1044



Document does not contain the social security number of any person

-OR-



Document contains the social security number of a person as required by:



A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific state or federal law)

-or-



For the administration of a public program

-or-



For an application for a federal or state grant

-or-



Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: 7/1/21

Marc Schachter  
(Signature)

MARC SCHACHTER  
(Print Name)

Pro Per  
(Attorney for)

**Return Of NEF****Recipients**

**KEVIN NAUGHTON, ESQ.** - Notification received on 2021-07-06 16:32:42.54.  
**JARROD HICKMAN, ESQ.** - Notification received on 2021-07-06 16:32:42.511.  
**KELLY KOSSOW, ESQ.** - Notification received on 2021-07-06 16:32:42.421.  
**DIV. OF PAROLE & PROBATION** - Notification received on 2021-07-06 16:32:42.452.  
**NICKOLAS GRAHAM, ESQ.** - Notification received on 2021-07-06 16:32:42.571.  
**ADAM CATE, ESQ.** - Notification received on 2021-07-06 16:32:42.482.



**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR14-1044

**Judge:**

HONORABLE CONNIE J. STEINHEIMER

**Official File Stamp:**

07-06-2021:16:30:05

**Clerk Accepted:**

07-06-2021:16:32:02

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. MARC PAUL SCHACHTER (D4)

**Document(s) Submitted:**

Request for Submission

**Filed By:**

Deputy Clerk KHudson

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

ADAM D. CATE, ESQ. for STATE OF NEVADA

JARROD T. HICKMAN, ESQ. for MARC PAUL  
SCHACHTER

DIV. OF PAROLE & PROBATION

KELLY ANN KOSSOW, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

JENNIFER L. LUNT, ESQ. for MARC PAUL  
SCHACHER

CODE 3347

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,

Plaintiff,

vs.

MARC PAUL SCHACHTER,

Defendant.

Case No. CR14-1044

Dept. No. 4

ORDER

On June 11, 2021, the Defendant, in pro per, filed a Motion to Modify and/or Correct Illegal Sentence. On June 17, 2021, the State of Nevada, by and through counsel, Christopher J. Hicks, Washoe County District Attorney, and Kevin Naughton, Deputy District Attorney, filed an Opposition to Motion to Modify and/or Correct Illegal Sentence. On July 6, 2021, the Defendant filed a Reply to State's Opposition to Motion to Modify and/or Correct Illegal Sentence and formally submitted the matter to the Court for decision.

The Court having reviewed the pleadings filed herein, finds that oral argument on the Motion to Modify and/or Correct Illegal Sentence would assist the Court in deciding the Motion.

///

///

///

///

Therefore, with good cause appearing and in the interests of justice,

IT IS HEREBY ORDERED that the State of Nevada shall contact Department Four's Court Clerk within twenty (20) days of the date of this Order to set oral arguments on the Motion to Modify and/or Correct Illegal Sentence. Once oral arguments on the Motion are set with the State and confirmed with the Nevada Department of Corrections, the Defendant will be notified of the hearing date by Order of the Court.

Dated this 9 day of SEPTEMBER, 2021.

  
DISTRICT JUDGE

**CERTIFICATE OF SERVICE**

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 10th day of September, 2021, I filed the attached document with the Clerk of the Court.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

       **Personal delivery to the following: [NONE]**

  X   **Electronically filed with the Clerk of the Court, using the eFlex system which constitutes effective service for all eFiled documents pursuant to the efile User Agreement:**

Kevin Naughton, Esq.  
Deputy District Attorney

  X   **Deposited in the mail a sealed envelope for postage and mailing with the United States Postal Service in Sparks, Nevada:**

Marc Schachter  
Inmate no. 91445  
Southern Desert Correction Center  
P.O. Box 208  
Indian Springs, NV 89070

       **Placed a true copy in a sealed envelope for service via:**

       Reno/Carson Messenger Service – **[NONE]**

       Federal Express or other overnight delivery service – **[NONE]**

       Via E-Mail – **[NONE]**

DATED this 10th day of September, 2021.



**Return Of NEF****Recipients**

**KEVIN NAUGHTON, ESQ.** - Notification received on 2021-09-10 08:30:34.447.

**JARROD HICKMAN, ESQ.** - Notification received on 2021-09-10 08:30:34.418.

**KELLY KOSSOW, ESQ.** - Notification received on 2021-09-10 08:30:34.333.

**DIV. OF PAROLE & PROBATION** - Notification received on 2021-09-10 08:30:34.361.

**NICKOLAS GRAHAM, ESQ.** - Notification received on 2021-09-10 08:30:34.475.

**ADAM CATE, ESQ.** - Notification received on 2021-09-10 08:30:34.389.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR14-1044

**Judge:**

HONORABLE CONNIE J. STEINHEIMER

**Official File Stamp:**

09-10-2021:08:29:27

**Clerk Accepted:**

09-10-2021:08:30:01

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. MARC PAUL SCHACHTER (D4)

**Document(s) Submitted:**

Ord to Set

**Filed By:**

Court Clerk MTrabert

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF  
NEVADA

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

ADAM D. CATE, ESQ. for STATE OF NEVADA  
DIV. OF PAROLE & PROBATION

JARROD T. HICKMAN, ESQ. for MARC PAUL  
SCHACHTER

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

JENNIFER L. LUNT, ESQ. for MARC PAUL  
SCHACHTER



**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE**

**THE STATE OF NEVADA,**

**Plaintiff,**

**vs.**

**MARC PAUL SCHACHTER,**

**Defendant.**

**Case No. CR14-1044**

**Dept. No. 4**

**ORDER**

On June 11, 2021, the Defendant, in pro per, filed a Motion to Modify and/or Correct Illegal Sentence. On June 17, 2021, the State of Nevada, by and through counsel, Christopher J. Hicks, Washoe County District Attorney, and Kevin Naughton, Deputy District Attorney, filed an Opposition to Motion to Modify and/or Correct Illegal Sentence. On July 6, 2021, the Defendant filed a Reply to State's Opposition to Motion to Modify and/or Correct Illegal Sentence and formally submitted the matter to the Court for decision. On September 10, 2021, the Court entered an Order to set oral arguments on the Motion to Modify and/or Correct Illegal Sentence.

///

///

///

///

///

Therefore, with good cause appearing and in the interests of justice,

IT IS HEREBY ORDERED that oral argument on the Defendant's Motion to Modify and/or Correct Illegal Sentence is set for March 25, 2022 at 10:00 a.m. This hearing shall be by audiovisual means.

Dated this 6 day of DECEMBER, 2021.

  
DISTRICT JUDGE

**CERTIFICATE OF SERVICE**

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 7<sup>th</sup> day of December, 2021, I filed the attached document with the Clerk of the Court.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

       **Personal delivery to the following: [NONE]**

  X   **Electronically filed with the Clerk of the Court, using the eFlex system which constitutes effective service for all eFiled documents pursuant to the efile User Agreement:**

Kevin Naughton, Esq.  
Deputy District Attorney

  X   **Deposited in the mail a sealed envelope for postage and mailing with the United States Postal Service in Sparks, Nevada:**

Marc Schachter  
Inmate no. 91445  
Southern Desert Correction Center  
P.O. Box 208  
Indian Springs, NV 89070

       **Placed a true copy in a sealed envelope for service via:**

       Reno/Carson Messenger Service – **[NONE]**

       Federal Express or other overnight delivery service – **[NONE]**

       Via E-Mail – **[NONE]**

DATED this 7<sup>th</sup> day of December, 2021.

  
\_\_\_\_\_

**Return Of NEF****Recipients**

**KEVIN NAUGHTON, ESQ.** - Notification received on 2021-12-07 10:46:30.359.

**KELLY KOSSOW, ESQ.** - Notification received on 2021-12-07 10:46:30.275.

**DIV. OF PAROLE & PROBATION** - Notification received on 2021-12-07 10:46:30.302.

**NICKOLAS GRAHAM, ESQ.** - Notification received on 2021-12-07 10:46:30.386.

**ADAM CATE, ESQ.** - Notification received on 2021-12-07 10:46:30.331.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***

**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR14-1044

**Judge:**

HONORABLE CONNIE J. STEINHEIMER

**Official File Stamp:**

12-07-2021:10:45:11

**Clerk Accepted:**

12-07-2021:10:45:45

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. MARC PAUL SCHACHTER (D4)

**Document(s) Submitted:**

Ord Setting Hearing

**Filed By:**

Court Clerk MTrabert

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

DIV. OF PAROLE & PROBATION

ADAM D. CATE, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF  
NEVADA

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

JARROD T. HICKMAN, ESQ. for MARC PAUL  
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL  
SCHACHTER

CODE #1260  
CHRISTOPHER J. HICKS  
#7747  
One South Sierra Street  
Reno, Nevada 89501  
(775) 328-3200  
districtattorney@da.washoecounty.us  
Attorney for Respondent

IN THE SECOND JUDICIAL DISTRICT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

\*\*\*

MARC PAUL SCHACHTER,

Petitioner,

Case No. CR14-1044

vs.

Dept. No. 4

THE STATE OF NEVADA,

Respondent.

\_\_\_\_\_ /

APPLICATION FOR ORDER TO PRODUCE PRISONER

COMES NOW, the State of Nevada, by and through CHRISTOPHER J. HICKS,  
District Attorney of Washoe County, by KEVIN NAUGHTON, Appellate Deputy, and  
alleges as follows:

1. That the Petitioner, MARC PAUL SCHACHTER #91445, is presently incarcerated at the Southern Desert Correctional Center, Indian Springs, Nevada.
2. That the above MARC PAUL SCHACHTER #91445 is scheduled for an audio/visual post-conviction hearing before the Second Judicial District Court on March 25, 2022, at 10:00 a.m.
3. Zoom Meeting Information: <https://www.washoecourts.com/OnlineHearings>

WHEREFORE, Applicant prays that an Order be made ordering the audio/visual appearance of the said MARC PAUL SCHACHTER #91445 before the Second Judicial District Court, and from time to time thereafter at such times and places as may be ordered and directed by the Court for such proceedings as thereafter may be necessary and proper in the premises and directing the execution of said Order by the Warden of Southern Desert Correctional Center, Indian Springs, Nevada.

AFFIRMATION

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: December 8, 2021.

CHRISTOPHER J. HICKS  
District Attorney

By /s/KEVIN NAUGHTON  
KEVIN NAUGHTON  
Appellate Deputy



**Return Of NEF****Recipients**

**KEVIN NAUGHTON, ESQ.** - Notification received on 2021-12-08 16:37:49.152.

**KELLY KOSSOW, ESQ.** - Notification received on 2021-12-08 16:37:49.072.

**DIV. OF PAROLE & PROBATION** - Notification received on 2021-12-08 16:37:49.098.

**NICKOLAS GRAHAM, ESQ.** - Notification received on 2021-12-08 16:37:49.178.

**ADAM CATE, ESQ.** - Notification received on 2021-12-08 16:37:49.125.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR14-1044

**Judge:**

HONORABLE CONNIE J. STEINHEIMER

**Official File Stamp:**

12-08-2021:16:31:20

**Clerk Accepted:**

12-08-2021:16:37:18

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. MARC PAUL SCHACHTER (D4)

**Document(s) Submitted:**

Application Produce Prisoner

**Filed By:**

Kevin Naughton

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

KELLY ANN KOSSOW, ESQ. for STATE OF  
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

ADAM D. CATE, ESQ. for STATE OF NEVADA

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

JARROD T. HICKMAN, ESQ. for MARC PAUL  
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL  
SCHACHTER

CODE #3340  
CHRISTOPHER J. HICKS  
#7747  
One South Sierra Street  
Reno, Nevada 89501  
(775) 328-3200  
districtattorney@da.washoecounty.us  
Attorney for Respondent

IN THE SECOND JUDICIAL DISTRICT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

\*\*\*

MARC PAUL SCHACHTER,

Petitioner,

Case No. CR14-1044

vs.

Dept. No. 4

THE STATE OF NEVADA,

Respondent.

\_\_\_\_\_ /

ORDER TO PRODUCE PRISONER VIA SIMULTANEOUS AUDIO/VISUAL  
TRANSMISSION

IT APPEARING to the satisfaction of the above-entitled Court that it is necessary that the Petitioner above named, MARC PAUL SCHACHTER #91445, presently incarcerated in the Southern Desert Correctional Center, Indian Springs, Nevada, be brought before the Second Judicial District Court for a post-conviction hearing in the above-entitled action.

NOW, THEREFORE, IT IS HEREBY ORDERED that the Southern Desert Correctional Center, Indian Springs, Nevada, with cooperative assistance from the Nevada System of Higher Education bring the said MARC PAUL SCHACHTER #91445 before the Second Judicial District Court via simultaneous audio/visual transmission

means on March 25, 2022, at 10:00 a.m. for a post-conviction hearing in the above-entitled action.

IT IS FURTHER ORDERED that it is not necessary for said MARC PAUL SCHACHTER #91445 to be physically located in Washoe County, Nevada, during the post-conviction hearing.

DATED this 10 day of DECEMBER, 2021.

  
DISTRICT JUDGE

**Return Of NEF****Recipients**

**KEVIN NAUGHTON, ESQ.** - Notification received on 2021-12-10 12:09:33.813.

**KELLY KOSSOW, ESQ.** - Notification received on 2021-12-10 12:09:33.714.

**DIV. OF PAROLE & PROBATION** - Notification received on 2021-12-10 12:09:33.758.

**NICKOLAS GRAHAM, ESQ.** - Notification received on 2021-12-10 12:09:33.841.

**ADAM CATE, ESQ.** - Notification received on 2021-12-10 12:09:33.785.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR14-1044

**Judge:**

HONORABLE CONNIE J. STEINHEIMER

**Official File Stamp:**

12-10-2021:12:08:27

**Clerk Accepted:**

12-10-2021:12:09:00

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. MARC PAUL SCHACHTER (D4)

**Document(s) Submitted:**

Ord to Produce Prisoner

**Filed By:**

Court Clerk MTrabert

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

KELLY ANN KOSSOW, ESQ. for STATE OF  
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

ADAM D. CATE, ESQ. for STATE OF NEVADA

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

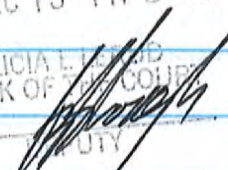
**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

JARROD T. HICKMAN, ESQ. for MARC PAUL  
SCHACHTER

JENNIFER L. LUNT, ESQ. for MARC PAUL  
SCHACHTER



MARC SCHACHTER #91445  
S.D.C.C.  
P.O. BOX 208  
INDIAN SPRINGS, NV 89870

FILED  
DEC 13 PM 2:22  
ALICIA L. LEE  
CLERK OF DISTRICT COURT  
BY 

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE  
OF NEVADA; IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,  
PLAINTIFF,

v.

CASE No. CR-14-1044  
DEPT. 4

MARC PAUL SCHACHTER,  
DEFENDANT.

ADDENDUM TO MOTION TO MODIFY AND/OR CORRECT  
ILLEGAL SENTENCE

COMES NOW, DEFENDANT, MARC SCHACHTER, IN PRO PER,  
AND REQUESTS THAT THIS HONORABLE COURT SET  
A HEARING DATE FOR A NEW SENTENCE AND/OR  
ORDER DEFENDANT'S RELEASE FROM CUSTODY  
PENDING SUCH A HEARING.

THE STATE HAS FAILED TO COMPLY WITH THIS  
COURT'S ORDER OF SEPTEMBER 9, 2021 TO SET  
A HEARING DATE. THE DEFENDANT HAS NOW



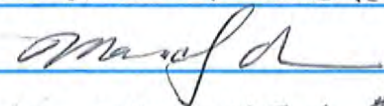
SERVED ONE HUNDRED AND FIFTY MONTHS (150) OF A HUNDRED AND TWENTY (120) MONTH MAXIMUM SENTENCE FOR THE ATTEMPTED ROBBERY (COUNT 1) FOR WHICH HE WAS FOUND GUILTY BY A JURY. HE, FURTHER, NO LONGER MEETS THE MINIMUM REQUIREMENTS TO BE ADJUDICATED A HABITUALLY CRIMINAL PURSUANT TO NRS 207.010. (COUNT 3)

BECAUSE THE DEFENDANT IS NOW OVERDUE FOR RELEASE, HE REQUESTS THAT THIS COURT HOLD AN EXPEDITED HEARING OR RELEASE THE DEFENDANT FROM CUSTODY PENDING A FULL SENTENCING HEARING.

THE STATE'S FAILURE TO COMPLY WITH THE COURT'S ORDER SHOULD BE CONSIDERED AN ABANDONMENT OF ITS OPPOSITION TO THE MOTION; AND THE DEFENDANT SHOULD BE GIVEN NINETY (90) MONTHS OF ACTUAL CUSTODY CREDITS AND SIXTY (60) MONTHS OF GOOD-TIME/MERIT CREDITS FOR A TOTAL OF ONE-HUNDRED FIFTY (150) MONTHS CREDIT FOR TIME-SERVED.

THE DEFENDANT PRAYS THAT THIS HONORABLE  
COURT GRANT THE ABOVE REQUEST  
WITHOUT DELAY.

DATED: DECEMBER 6, 2021

RESPECTFULLY SUBMITTED,  
  
MARC SCHACHTER #91465  
IN PRO PER.

1 CODE: 3860

2 Name: MARC SCHACHTER3 Address: SDCC PO BOX 2084 INDIAN SPRINGS, NV 89070

5 Telephone: \_\_\_\_\_

6 Acting in Proper Person

FILED

DEC 13 PM 2:22

ALICIA L. LEBRON  
CLERK OF THE COURT  
BY \_\_\_\_\_

7 THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
8 IN AND FOR THE COUNTY OF WASHOE  
9

10 STATE OF NEVADA

11 Plaintiff (Petitioner),

Case No. CR-14-1044

12 vs.

Dept. No. 413 MARC PAUL SCHACHTER14 Defendant (Respondent).  
15 \_\_\_\_\_16 REQUEST FOR SUBMISSION17 I, MARC SCHACHTER, acting in Proper Person, request that the18 ADDENDUM TO MOTIONfiled on 6-11-21

19 be submitted to the Court for consideration and determination.

20 I hereby certify that a copy of this Request has been mailed to all parties or their counsel.

21 DATE: 12/6/2122 Marc Schachter

23 (Signature)

24 MARC SCHACHTER

25 (Name)

26 SDCC PO BOX 208

27 (Address)

28 INDIAN SPRINGS, NV 89070

(Telephone Number)



CERTIFICATE OF SERVICE BY MAILING

I, Marc Schaefer, hereby certify, pursuant to NRCP 5(b), that on this \_\_\_\_\_ day of 12/6, 2021, I mailed a true and correct copy of the foregoing, "APPENDIX TO MOTION TO MODIFY AND/OR CORRECT JUDICIAL SENTENCE" by placing document in a sealed pre-postage paid envelope and deposited said envelope in the United State Mail addressed to the following:

CLERK OF THE COURT  
75 COURT ST  
RENO, NV  
89501

CC:FILE

DATED: this 6 day of December, 2021.

Marc Schaefer  
MARC SCHAEFER # 912/15  
/In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

SECOND JUDICIAL DISTRICT COURT  
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, \_\_\_\_\_

ADDEDUM TO MOTION TO MODIFY AND/OR CORRECT  
ILLEGAL SENTENCE.

(Title of Document)

filed in case number: CR-14-1044

☒ Document does not contain the social security number of any person

-OR-

☐ Document contains the social security number of a person as required by:

☐ A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific state or federal law)

-or-

☐ For the administration of a public program

-or-

☐ For an application for a federal or state grant

-or-

☐ Confidential Family Court Information Sheet  
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: 12/6/21

Marc Schepert  
(Signature)

MARC SCHEPERT  
(Print Name)

IN PROPER  
(Attorney for)

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF WASHOE

THE STATE OF NEVADA,

Plaintiff,

Case No.: CR14-1044

Dept. No.: 4

MARC PAUL SCHACHTER,

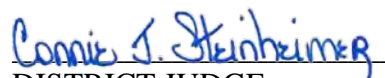
Defendant.

**NOTICE OF FAMILIAL EMPLOYMENT IN THE WASHOE COUNTY DISTRICT  
ATTORNEY'S OFFICE**

The Court hereby notices counsel and the parties in the above- entitled matter the Court's adult child commenced employment with the Washoe County District Attorney on January 10, 2022 ("employed family member"). The employed family member will not appear before this Judge or perform work on or discuss any case assigned to this Judge, on which the Washoe County District Attorney, personally or through a Deputy District Attorney, is counsel for any party ("Wall of Separation"). This Wall of Separation resolves any potential or perceived conflict with this Court presiding over a proceeding in which the Washoe County District Attorney is counsel for the State of Nevada. Code of Judicial Conduct, Rule 2.4(B).

NOTICE is given in this case of the relationship with the employed family member to ensure there is no perceived appearance of impropriety.

Dated this 12th day of January, 2022.

  
DISTRICT JUDGE

**CERTIFICATE OF SERVICE**

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 12th day of January, 2021, I filed the attached document with the Clerk of the Court.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

       **Personal delivery to the following: [NONE]**

  X   **Electronically filed with the Clerk of the Court, using the eFlex system which constitutes effective service for all eFiled documents pursuant to the efile User Agreement:**

Kevin Naughton, Esq.  
Deputy District Attorney

  X   **Deposited in the mail a sealed envelope for postage and mailing with the United States Postal Service in Sparks, Nevada:**

Marc Schachter  
Inmate no. 91445  
Southern Desert Correction Center  
P.O. Box 208  
Indian Springs, NV 89070

       **Placed a true copy in a sealed envelope for service via:**

       Reno/Carson Messenger Service – **[NONE]**

       Federal Express or other overnight delivery service – **[NONE]**

       Via E-Mail – **[NONE]**

DATED this 12th day of January, 2021.





## Return Of NEF

### Recipients

**KEVIN NAUGHTON, ESQ.** - Notification received on 2022-01-12 10:32:31.257.

**KELLY KOSSOW, ESQ.** - Notification received on 2022-01-12 10:32:30.763.

**DIV. OF PAROLE & PROBATION** - Notification received on 2022-01-12 10:32:31.191.

**NICKOLAS GRAHAM, ESQ.** - Notification received on 2022-01-12 10:32:31.292.

**ADAM CATE, ESQ.** - Notification received on 2022-01-12 10:32:31.226.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR14-1044

**Judge:**

HONORABLE CONNIE J. STEINHEIMER

**Official File Stamp:**

01-12-2022:10:25:21

**Clerk Accepted:**

01-12-2022:10:31:45

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. MARC PAUL SCHACHTER (D4)

**Document(s) Submitted:**

Notice

**Filed By:**

Court Clerk MTrabert

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

ADAM D. CATE, ESQ. for STATE OF NEVADA  
KELLY ANN KOSSOW, ESQ. for STATE OF  
NEVADA  
KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA  
DIV. OF PAROLE & PROBATION  
NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

JENNIFER L. LUNT, ESQ. for MARC PAUL  
SCHACHTER

JARROD T. HICKMAN, ESQ. for MARC PAUL  
SCHACHTER

IN THE SECOND JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA,

Plaintiff,

v.

MARC PAUL SCHACHTER,

Defendant.

Case No.: CR14-1044

Dept. No.: 4

**NOTICE OF AND ORDER FOR AUDIO/VISUAL HEARING**  
**AN ORAL ARGUMENTS HEARING ON MOTION TO MODIFY AND/OR CORRECT**  
**ILLEGAL SENTENCE IN THIS MATTER IS SET FOR**  
**MARCH 25, 2022 AT 1:30 P.M.**

Consistent with the Declaration of Emergency in Nevada and to effectuate resulting Directives issued by Governor Steve Sisolak, as renewed and extended<sup>1</sup>, and Second Judicial District Court Administrative Orders (“AOs”), as amended and extended, and to support the Washoe County Health Districts efforts to decrease the opportunity for transmission of COVID-19, the hearing in this matter shall be held by audio/visual platform. The hearing will be conducted pursuant to the Nevada Supreme Court Rules Governing Appearance by Simultaneous Audiovisual Transmission Equipment, Part IX.

**Details for the Zoom Webinar/Zoom Meeting hearing are attached as Exhibit 1 to this Notice/Order. Counsel, parties, and the public (unless the hearing is closed to the public by rule, statute, or order) may utilize the Zoom link by accessing [www.washoecourts.com](http://www.washoecourts.com),**

<sup>1</sup> The Declaration of Emergency for COVID-19 and all Directives issued are available at: <https://nvhealthresponse.nv.gov/state-information/governor-directives-and-declarations> (last visited 2/10/2022). The AOs are available at: [washoecourts.com/Main/AdminOrders](http://washoecourts.com/Main/AdminOrders) (last visited 2/18/2022).

1 clicking on "Online-Hearings-Click here to select the department", scrolling down to  
2 Department 4, and clicking on the link for this matter to view and hear the proceedings. The  
3 hearing may also be accessed by accessing Zoom.com and typing the webinar/meeting  
4 number.

5 Pursuant to issued AOs, the parties are reminded that although conducted on an audio/visual  
6 platform, a hearing is a formal proceeding and shall be conducted with proper decorum.

7 Appropriate attire is required.

8 If any party intends to introduce exhibits during the hearing, the exhibits shall be E-filed  
9 with the Court **twenty-four (24) hours** prior to the hearing. The exhibits will include a cover sheet  
10 with the case caption and document title, "PROPOSED EXHIBIT[S] SUBMITTED BY [PARTY]  
11 FOR [DATE] HEARING." The proposed exhibits shall be sequentially numbered. E-filing  
12 documents for the hearing does not operate to admit the evidence nor does it preclude objections by  
13 any party, both of which will be addressed during the hearing.

14 Any party who objects to this hearing proceeding by audio/visual means, must E-file an  
15 objection entitled "[PARTY]'s OBJECTION TO CONDUCTING HEARING BY  
16 AUDIO/VISUAL PLATFORM," with a contemporaneously E-filed Request for Submission of the  
17 objection not later than **twenty-four (24) hours** prior to the hearing. The Court may or may not  
18 vacate the hearing based on the objection. Unless and until an order is entered vacating or  
19 continuing this hearing, the matter will proceed as noticed and ordered.

20 IT IS SO ORDERED.

21 DATED this 15 day of March, 2022.

22  
23   
24 DISTRICT JUDGE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**EXHIBIT 1**

**ZOOM WEBINAR/ZOOM MEETING INFORMATION:**

<https://washoecourts.zoom.us/j/96064197675?pwd=YXora3dsbzJDd2p6cERqbStDdzBzQT09>

Passcode: 322186

Webinar ID: 960 6419 7675



**CERTIFICATE OF SERVICE**

CASE NO. CR14-1044

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 15 day of March, 2022, I filed the **NOTICE OF AND ORDER FOR AUDIO/VISUAL HEARING** with the Clerk of the Court.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

\_\_\_\_\_ **Personal delivery to the following: [NONE]**

   **I electronically filed with the Clerk of the Court, using the ECF which sends an immediate notice of the electronic filing to the following registered e-filers for their review of the document in the ECF system:**

ADAM CATE, ESQ. for STATE OF NEVADA

KELLY KOSSOW, ESQ. for STATE OF NEVADA

KEVIN NAUGHTON, ESQ. for STATE OF NEVADA

DIV. OF PAROLE &amp; PROBATION

NICKOLAS GRAHAM, ESQ. for STATE OF NEVADA

\_\_\_\_\_ **Deposited in the Washoe County mailing system in a sealed envelope for postage and mailing with the United States Postal Service in Reno, Nevada: [NONE]**

\_\_\_\_\_ **Placing a true copy thereof in a sealed envelope for service via:**

\_\_\_\_\_ Reno/Carson Messenger Service – [NONE]

\_\_\_\_\_ Federal Express or other overnight delivery service [NONE]

DATED this 15 day of March, 2022.



**Return Of NEF****Recipients**

**KEVIN NAUGHTON, ESQ.** - Notification received on 2022-03-15 16:19:10.674.

**KELLY KOSSOW, ESQ.** - Notification received on 2022-03-15 16:19:09.502.

**DIV. OF PAROLE & PROBATION** - Notification received on 2022-03-15 16:19:09.909.

**NICKOLAS GRAHAM, ESQ.** - Notification received on 2022-03-15 16:19:10.909.

**ADAM CATE, ESQ.** - Notification received on 2022-03-15 16:19:10.284.



**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR14-1044

**Judge:**

HONORABLE CONNIE J. STEINHEIMER

**Official File Stamp:**

03-15-2022:16:18:32

**Clerk Accepted:**

03-15-2022:16:18:50

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. MARC PAUL SCHACHTER (D4)

**Document(s) Submitted:**

Ord Re: Hearing Procedure

**Filed By:**

Judicial Asst. AAustin

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

ADAM D. CATE, ESQ. for STATE OF NEVADA  
KELLY ANN KOSSOW, ESQ. for STATE OF  
NEVADA  
KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA  
DIV. OF PAROLE & PROBATION  
NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

JENNIFER L. LUNT, ESQ. for MARC PAUL  
SCHACHTER

**Address:** JENNIFER L. LUNT,  
ESQ.  
P.O. Box 11130  
Reno, NV 89520

JARROD T. HICKMAN, ESQ. for MARC PAUL  
SCHACHTER

**Address:** JARROD T. HICKMAN,  
ESQ.  
DEPT INDEGENT  
DEFENSE SVCS  
896 W. NYE ST, STE.  
202  
CARSON CITY, NV  
89703

CASE NO. CR14-1044

**TITLE: THE STATE OF NEVADA VS. MARC PAUL  
SCHACHTER**

**DATE, JUDGE  
OFFICERS OF**

**COURT PRESENT****APPEARANCES-HEARING****CONT'D TO**

3/25/2022

**ORAL ARGUMENTS ON MOTION TO MODIFY AND/OR CORRECT**

HONORABLE

**ILLEGAL SENTENCE**

CONNIE

Deputy District Attorney Kevin Naughton, appearing from Washoe County,

STEINHEIMER

Nevada, represented the State. Defendant present, appearing from

DEPT. NO.4

Southern Desert Correctional Center, Clark County, Nevada, representing

M. Stone

himself.

(Clerk)

J. Schonlau

This hearing was held remotely based on the Administrative Orders entered in this District. The Court and all the participants appeared via simultaneous audiovisual transmission. The Court was physically located in Reno, Washoe County, Nevada which was the site of the court session. Counsel and the Defendant acknowledged receipt of Notice that the hearing was taking place pursuant to Nevada Supreme Court Rules- Part 9 relating to simultaneous audiovisual transmissions and all stated they had no objection to going forward in this manner.

(Reporter)

Appearances made for the record.

Court noted receipt of the pleadings filed in this matter.

The Defendant deferred argument on the Motion to Modify and/or Correct

Sentencing until after the State presents its argument against the motion.

State's counsel presented objection and argument against the motion; reply argument by Defendant.

At the direction of the Court, State's counsel addressed the changes in the habitual criminal statute since the conviction in this matter.

The Court found that the changes to the habitual criminal statute were not retro-active and do not apply in this case, that the Court had jurisdiction to correct the Judgment of conviction as the correction was structural in nature, not modifying the actual sentence, and that the Supreme Court upheld the Corrected Judgment of Conviction in its Order of Affirmance. Therefore, **COURT ENTERED ORDER** adopting the argument of the State in its opposition to the Motion and denied the Motion to Modify and/or Correct Illegal Sentence.

State's counsel to prepare order in accordance with the above ruling.

Defendant was advised that he has 30 days to file an appeal once the written order is entered.

Court recessed.

**Return Of NEF****Recipients**

**KEVIN NAUGHTON, ESQ.** - Notification received on 2022-03-25 11:37:23.041.

**KELLY KOSSOW, ESQ.** - Notification received on 2022-03-25 11:37:22.432.

**DIV. OF PAROLE & PROBATION** - Notification received on 2022-03-25 11:37:22.635.

**NICKOLAS GRAHAM, ESQ.** - Notification received on 2022-03-25 11:37:23.244.

**ADAM CATE, ESQ.** - Notification received on 2022-03-25 11:37:22.869.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR14-1044

**Judge:**

HONORABLE CONNIE J. STEINHEIMER

**Official File Stamp:**

03-25-2022:11:36:45

**Clerk Accepted:**

03-25-2022:11:37:01

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. MARC PAUL SCHACHTER (D4)

**Document(s) Submitted:**

\*\*\*Minutes

**Filed By:**

Court Clerk MTrabert

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

ADAM D. CATE, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

JARROD T. HICKMAN, ESQ. for MARC PAUL  
SCHACHTER

**Address:** JARROD T. HICKMAN,  
ESQ.  
DEPT INDEGENT  
DEFENSE SVCS  
896 W. NYE ST, STE.  
202  
CARSON CITY, NV  
89703

JENNIFER L. LUNT, ESQ. for MARC PAUL  
SCHACHTER

**Address:** JENNIFER L. LUNT,  
ESQ.  
P.O. Box 11130  
Reno, NV 89520

CODE No. 3370

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF WASHOE

\* \* \*

THE STATE OF NEVADA,

Plaintiff,

v.

Case No. CR14-1044

MARC PAUL SCHACHTER,

Dept. No. 4

Defendant.

\_\_\_\_\_ /

**ORDER DENYING MOTION TO MODIFY AND/OR CORRECT ILLEGAL  
SENTENCE**

**Statement of Proceedings**

Defendant MARC PAUL SCHACHTER was convicted by a jury of Attempted Robbery. At sentencing, the Court adjudicated the Defendant as a habitual criminal. See Judgment filed March 5, 2015. In the Judgment, the Court erroneously sentenced the Defendant to a term of 12 to 48 months imprisonment for the Attempted Robbery conviction and a concurrent term of 5 to 20 years imprisonment for being a habitual criminal. The Court corrected this error in a Corrected Judgment filed on July 30, 2015, sentencing the Defendant to a single sentence of 5 to 20 years.

The Defendant appealed from the Judgment of Conviction. The Nevada Supreme Court affirmed the Judgment of Conviction. Schachter v. State, Docket No. 67673 (Order of

Affirmance, August 10, 2016). In its Order of Affirmance, the Nevada Supreme Court noted that the Corrected Judgment of Conviction “properly impos[ed] a single sentence.” *Id.* at fn. 1.

On July 11, 2021, the Defendant filed a Motion to Modify and/or Correct Illegal Sentence (“Motion”). The State filed an Opposition on June 17, 2021. The Defendant filed a Reply on July 6, 2021, and formally submitted the matter for the Court’s consideration. On September 10, 2021, the Court entered an Order for the parties to set oral arguments on the Motion.

On March 25, 2022, the Court conducted oral arguments on the Defendant’s Motion via audiovisual means. The State was represented by Deputy District Attorney Kevin Naughton. The Defendant appeared in pro per from the custody of the Nevada Department of Corrections. Both parties presented argument in support of their positions.

Having considered the papers and pleadings on file herein, the applicable legal authority, and the oral arguments of the parties, the Court orally pronounced that the Defendant’s Motion was denied. This written Order follows.

### **Findings of Fact and Conclusions of Law**

First, the Court finds that the Defendant’s Motion fails as a motion to modify a sentence. A district court has jurisdiction to modify a sentence only if “(1) the district court actually sentenced appellant based on a materially false assumption of fact that worked to appellant’s extreme detriment, and (2) the particular mistake at issue was of the type that would rise to the level of a violation of due process.” *Passanisi v. State*, 108 Nev. 318, 323, 831 P.2d 1371, 1374 (1992). The Motion does not allege that the Court sentenced him under any misunderstanding or misapprehension of fact.

The Court further finds that it had jurisdiction to enter the Corrected Judgment in this case. The Corrected Judgment addressed a structural error in the Judgment of Conviction and did not impose a new sentence. As a result, the Court finds that its use of *nunc pro tunc* to

///



relate the Corrected Judgment back to the date the Judgment of Conviction was entered was also appropriate.

Moreover, even if this Court lacked jurisdiction, the Court finds that the issue is moot. As noted by the Nevada Supreme Court, “[f]ailure to properly sentence does not render the entire trial and proceeding a nullity....” Hollander v. State, 82 Nev. 345, 354, 418 P.3d 802, 807 (1966) *quoting* Lisby v. State, 82 Nev. 183, 414 P.2d 592 (1966). Even if this Court lacked jurisdiction to enter the Corrected Judgment because the matter was on appeal at the time, the remedy would not render the Defendant’s conviction and sentencing invalid. The Court would simply re-enter its Corrected Judgment imposing the same sentence. Therefore, the issue is moot.<sup>1</sup>

Finally, the Defendant asserts that he is entitled to retroactive application of the changes recently made to Nevada’s habitual criminal statutes. The Defendant’s position is contrary to the applicable caselaw. Absent a clear legislative intent to apply a law retroactively, “the proper penalty is the penalty in effect at the time of the commission of the offense.” State v. Second Judicial Dist. Court (Pullin), 124 Nev. 564, 567, 188 P.3d 1079, 1081 (2008). The Defendant has failed to provide any evidence in support of his position and there is no indication that the Legislature intended that the amended provisions of NRS 207.010 *et seq.* should apply retroactively. See 2019 Nev. Stat., ch. 633, § 86, at 4441-42; Nev. Stat., ch. 633, § 137, at 4488 (effective date July 1, 2020).

For all of those reasons, the Defendant’s Motion is DENIED.

DATED this 25 day of MARCH, 2021.

Connie J. Steinheimer  
DISTRICT JUDGE

<sup>1</sup> The Court also notes that the Nevada Supreme Court found that this Court’s Corrected Judgment properly sentenced the Defendant to a single sentence and that any issue with the Judgment of Conviction was moot at the time the Order of Affirmance was entered.

**CERTIFICATE OF SERVICE**

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 28th day of March, 2022, I filed the attached document with the Clerk of the Court.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

       **Personal delivery to the following: [NONE]**

  X   **Electronically filed with the Clerk of the Court, using the eFlex system which constitutes effective service for all eFiled documents pursuant to the efile User Agreement:**

Kevin Naughton, Esq.  
Deputy District Attorney

  X   **Deposited in the mail a sealed envelope for postage and mailing with the United States Postal Service in Sparks, Nevada:**

Marc Schachter  
Inmate no. 91445  
Southern Desert Correction Center  
P.O. Box 208  
Indian Springs, NV 89070

       **Placed a true copy in a sealed envelope for service via:**

       Reno/Carson Messenger Service – **[NONE]**

       Federal Express or other overnight delivery service – **[NONE]**

       Via E-Mail – **[NONE]**

DATED this 28th day of March, 2022.



**Return Of NEF****Recipients**

**KEVIN NAUGHTON, ESQ.** - Notification received on 2022-03-28 11:28:22.777.

**KELLY KOSSOW, ESQ.** - Notification received on 2022-03-28 11:28:20.965.

**DIV. OF PAROLE & PROBATION** - Notification received on 2022-03-28 11:28:21.793.

**NICKOLAS GRAHAM, ESQ.** - Notification received on 2022-03-28 11:28:23.246.

**ADAM CATE, ESQ.** - Notification received on 2022-03-28 11:28:22.277.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR14-1044

**Judge:**

HONORABLE CONNIE J. STEINHEIMER

**Official File Stamp:**

03-28-2022:11:26:36

**Clerk Accepted:**

03-28-2022:11:27:45

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. MARC PAUL SCHACHTER (D4)

**Document(s) Submitted:**

Ord Denying Motion

**Filed By:**

Court Clerk MTrabert

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

ADAM D. CATE, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

JARROD T. HICKMAN, ESQ. for MARC PAUL  
SCHACHTER

**Address:** JARROD T. HICKMAN,  
ESQ.  
DEPT INDEGENT  
DEFENSE SVCS  
896 W. NYE ST, STE.  
202  
CARSON CITY, NV  
89703

JENNIFER L. LUNT, ESQ. for MARC PAUL  
SCHACHTER

**Address:** JENNIFER L. LUNT,  
ESQ.  
P.O. Box 11130  
Reno, NV 89520

FILED

MARC SCHACHTER

#91445 In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018

2022 APR -8 PM 12: 20

ALICIA L. RUD  
CLERK OF THE COURT  
BY [Signature]

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADAIN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA  
Plaintiff,

vs.

MARC PAUL SCHACHTER  
Defendant.

Case No. CR-14-1044Dept. No. 4

Docket \_\_\_\_\_

**NOTICE OF APPEAL**

NOTICE IS HEREBY GIVEN, That the Petitioner/Defendant,

MARC PAUL SCHACHTER, in and through his proper person, hereby  
appeals to the Supreme Court of Nevada from the ORDER denying and/or  
dismissing the MOTION TO MODIFY/CORRECT ILLEGAL  
SENTENCE

ruled on the 28 day of MARCH, 2021.

Dated this 2 day of APRIL, 2022

Respectfully Submitted,

[Signature]

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding \_\_\_\_\_

NOTICE OF APPEAL

(Title of Document)

filed in District Court Case number CD-14-1044



Does not contain the social security number of any person.

-OR-



Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

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

Marc Schachter

Signature

4/2/22

Date

MARC SCHACHTER

Print Name

DEFENDANT

Title

MARC SCHACHTER, 91445

Petitioner/In Propria Persona  
Post Office Box 208, SDCC  
Indian Springs, Nevada 89070-0208

FILED

2022 APR -8 PM 12: 20

IN THE 2<sup>ND</sup> JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA

Plaintiff,

vs.

MARC PAUL SCHACHTER

Defendant.

CASE No. CR-14-10441  
DEPT. No. 4

DESIGNATION OF RECORD ON APPEAL

TO: MARC SCHACHTER  
#91445  
SDCC  
P.O. BOX 208  
INDIAN SPRINGS, NV 89070

The above-named Plaintiff hereby designates the entire record of the above-entitled case, to include all the papers, documents, pleadings, and transcripts thereof, as and for the Record on Appeal.

DATED this 2<sup>ND</sup> day of APRIL, 2022.

RESPECTFULLY SUBMITTED BY:

Marc Schachter  
MARC SCHACHTER # 91445  
Plaintiff/In Propria Persona



CERTIFICATE OF SERVICE BY MAILING

I, MARC SCHACHTER, hereby certify, pursuant to NRCP 5(b), that on this  
day of 4<sup>th</sup> APRIL 2022, I mailed a true and correct copy of the foregoing, "NOTICE OF APPEAL"  
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the  
United State Mail addressed to the following:

WASHOE CO. DISTRICT ATTORNEY  
KEVIN NAUGHTON, ADA  
ONE SIEKLA ST.  
RENO, NV 89521

CC: FILE

DATED: this 4<sup>th</sup> day of April, 2022.Marc Schachter  
Attorney# 91418

/In Propria Personam

Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding \_\_\_\_\_

NOTICE OF APPEAL

(Title of Document)

filed in District Court Case number CD-14-1044



Does not contain the social security number of any person.

-OR-



Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

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

Marc Schachter

Signature

4/2/22

Date

MARC SCHACHTER

Print Name

DEFENDANT

Title

Code 1310

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

**THE STATE OF NEVADA,**

**Plaintiff,**

**vs.**

**Case No. CR14-1044**

**Dept. No. 4**

**MARC PAUL SCHACHTER,**

**Defendant.**

---

**CASE APPEAL STATEMENT**

This case appeal statement is filed pursuant to NRAP 3(f).

1. Appellant is Marc Schachter.
2. This appeal is from an order entered by the Honorable Judge Connie J. Steinheimer.
3. Appellant is representing himself in Proper Person on appeal. The Appellant's address is:  
  
Marc Schachter #91445  
S.D.C.C. PO Box 208  
Indian Springs, NV 89018
4. Respondent is the State of Nevada. Respondent is represented by the Washoe County District Attorney's Office:  
  
Jennifer P. Noble, Esq., SBN: 9446  
P.O. Box 11130  
Reno, Nevada 89520

5. Respondent's attorney is not licensed to practice law in Nevada: NA
6. Appellant is represented by appointed counsel in District Court.
7. Appellant is not represented by appointed counsel on appeal.
8. Appellant was not granted leave to proceed in forma pauperis in the District Court.
9. Proceeding commenced by the filing of an Information on July 10<sup>th</sup>, 2014.
10. This is a criminal proceeding and the Appellant is appealing the Order Denying Motion to Modify and/or Correct Illegal Sentence filed March 28<sup>th</sup>, 2022.
11. The case has been the subject of a previous appeal to the Supreme Court.  
Supreme Court No.: 67673
12. This case does not involve child custody or visitation.
13. This is not a civil case involving the possibility of a settlement.

Dated this 8th day of April, 2022.

Alicia L. Lerud  
Clerk of the Court  
By: /s/ Y.Viloria  
Y.Viloria  
Deputy Clerk

Code 1350

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

**THE STATE OF NEVADA,**

**Plaintiff,**

**vs.**

**Case No. CR14-1044**

**MARC PAUL SCHACHTER,**

**Dept. No. 4**

**Defendant.**

\_\_\_\_\_ /

**CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL**

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on the 8th day of April, 2022, I electronically filed the Notice of Appeal in the above entitled matter to the Nevada Supreme Court.

I further certify that the transmitted record is a true and correct copy of the original pleadings on file with the Second Judicial District Court.

Dated this 8th day of April, 2022.

Alicia L. Lerud  
Clerk of the Court  
By /s/Y.Viloria  
Y.Viloria  
Deputy Clerk

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2022-04-08 16:09:09.686.  
**KEVIN NAUGHTON, ESQ.** - Notification received on 2022-04-08 16:09:09.92.  
**KELLY KOSSOW, ESQ.** - Notification received on 2022-04-08 16:09:09.076.  
**DIV. OF PAROLE & PROBATION** - Notification received on 2022-04-08 16:09:09.279.  
**ADAM CATE, ESQ.** - Notification received on 2022-04-08 16:09:10.154.  
**NICKOLAS GRAHAM, ESQ.** - Notification received on 2022-04-08 16:09:09.467.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR14-1044

**Judge:**

HONORABLE CONNIE J. STEINHEIMER

**Official File Stamp:**

04-08-2022:16:08:23

**Clerk Accepted:**

04-08-2022:16:08:48

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. MARC PAUL SCHACHTER (D4)

**Document(s) Submitted:**

Case Appeal Statement  
Certificate of Clerk

**Filed By:**

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

ADAM D. CATE, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF  
NEVADA

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

JARROD T. HICKMAN, ESQ. for MARC PAUL  
SCHACHTER

**Address:** JARROD T. HICKMAN,  
ESQ.  
  
DEPT INDEGENT  
DEFENSE SVCS  
  
896 W. NYE ST, STE.  
202  
  
CARSON CITY, NV  
89703

JENNIFER L. LUNT, ESQ. for MARC PAUL  
SCHACHTER

**Address:** JENNIFER L. LUNT,  
ESQ.  
  
P.O. Box 11130  
  
Reno, NV 89520



**IN THE SUPREME COURT OF THE STATE OF NEVADA  
OFFICE OF THE CLERK**

MARC PAUL SCHACHTER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 84547**  
District Court Case No. CR141044

**RECEIPT FOR DOCUMENTS**

TO: Marc Paul Schachter  
Washoe County District Attorney \ Jennifer P. Noble  
Alicia L. Lerud, Washoe District Court Clerk

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

04/13/2022 Appeal Filing Fee waived. Criminal. (SC)

04/13/2022 Filed Notice of Appeal/Proper Person. Appeal docketed in the  
Supreme Court this day. (SC)

DATE: April 13, 2022

Elizabeth A. Brown, Clerk of Court  
lh

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2022-04-15 13:44:06.715.  
**KEVIN NAUGHTON, ESQ.** - Notification received on 2022-04-15 13:44:07.23.  
**KELLY KOSSOW, ESQ.** - Notification received on 2022-04-15 13:44:04.558.  
**DIV. OF PAROLE & PROBATION** - Notification received on 2022-04-15 13:44:05.152.  
**ADAM CATE, ESQ.** - Notification received on 2022-04-15 13:44:07.808.  
**NICKOLAS GRAHAM, ESQ.** - Notification received on 2022-04-15 13:44:05.808.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR14-1044

**Judge:**

HONORABLE CONNIE J. STEINHEIMER

**Official File Stamp:**

04-15-2022:13:43:13

**Clerk Accepted:**

04-15-2022:13:43:40

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. MARC PAUL SCHACHTER (D4)

**Document(s) Submitted:**

Supreme Court Receipt for Doc

**Filed By:**

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

DIV. OF PAROLE & PROBATION

ADAM D. CATE, ESQ. for STATE OF NEVADA

KELLY ANN KOSSOW, ESQ. for STATE OF  
NEVADA

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

JARROD T. HICKMAN, ESQ. for MARC PAUL  
SCHACHTER

**Address:** JARROD T. HICKMAN,  
ESQ.  
  
DEPT INDEGENT  
DEFENSE SVCS  
  
896 W. NYE ST, STE.  
202  
  
CARSON CITY, NV  
89703

JENNIFER L. LUNT, ESQ. for MARC PAUL  
SCHACHTER

**Address:** JENNIFER L. LUNT,  
ESQ.  
  
P.O. Box 11130  
  
Reno, NV 89520

## IN THE SUPREME COURT OF THE STATE OF NEVADA

MARC PAUL SCHACHTER,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 84547

**FILED**

APR 19 2022

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK


*ORDER DIRECTING TRANSMISSION OF RECORD  
AND REGARDING BRIEFING*

Having reviewed the documents on file in this pro se appeal, this court has concluded that its review of the complete record is warranted. See NRAP 10(a)(1). Accordingly, the clerk of the district court shall have 30 days from the date of this order to transmit to the clerk of this court a certified copy of the complete trial court record of this appeal. See NRAP 11(a)(2). The record shall include copies of documentary exhibits submitted in the district court proceedings, but shall not include any physical, non-documentary exhibits or the original documentary exhibits. The record shall also include any presentence investigation reports submitted in a sealed envelope identifying the contents and marked confidential. See NRS 176.156(5).

Within 120 days, appellant may file either (1) a brief that complies with the requirements in NRAP 28(a) and NRAP 32; or (2) the "Informal Brief Form for Pro Se Parties" provided by the supreme court clerk. NRAP 31(a)(1). If no brief is submitted, the appeal may be decided on the record on appeal. NRAP 34(g). Respondent need not file a response to any brief filed by appellant, unless ordered to do so by this court. NRAP

46A(c). This court generally will not grant relief without providing an opportunity to file a response. *Id.*

It is so ORDERED.

 C.J.

cc: Marc Paul Schachter  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk

**Return Of NEF****Recipients**

**JENNIFER NOBLE, ESQ.** - Notification received on 2022-04-21 12:39:43.235.  
**KEVIN NAUGHTON, ESQ.** - Notification received on 2022-04-21 12:39:43.438.  
**KELLY KOSSOW, ESQ.** - Notification received on 2022-04-21 12:39:42.517.  
**DIV. OF PAROLE & PROBATION** - Notification received on 2022-04-21 12:39:42.735.  
**ADAM CATE, ESQ.** - Notification received on 2022-04-21 12:39:43.642.  
**NICKOLAS GRAHAM, ESQ.** - Notification received on 2022-04-21 12:39:42.97.

**\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\***  
**PROOF OF SERVICE OF ELECTRONIC FILING**

-

**A filing has been submitted to the court RE:** CR14-1044

**Judge:**

HONORABLE CONNIE J. STEINHEIMER

**Official File Stamp:**

04-21-2022:12:38:41

**Clerk Accepted:**

04-21-2022:12:39:11

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. MARC PAUL SCHACHTER (D4)

**Document(s) Submitted:**

Supreme Ct Order Directing

**Filed By:**

Deputy Clerk YViloria

You may review this filing by clicking on the following link to take you to your cases.

This notice was automatically generated by the courts auto-notification system.

-

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

NICKOLAS J. GRAHAM, ESQ. for STATE OF  
NEVADA  
KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA  
DIV. OF PAROLE & PROBATION  
ADAM D. CATE, ESQ. for STATE OF NEVADA  
KELLY ANN KOSSOW, ESQ. for STATE OF  
NEVADA  
JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA



**The following people have not been served electronically and must be served by traditional means** (see Nevada Electronic Filing Rules.):

JARROD T. HICKMAN, ESQ. for MARC PAUL  
SCHACHTER

**Address:** JARROD T. HICKMAN,  
ESQ.  
  
DEPT INDEGENT  
DEFENSE SVCS  
  
896 W. NYE ST, STE.  
202  
  
CARSON CITY, NV  
89703

JENNIFER L. LUNT, ESQ. for MARC PAUL  
SCHACHTER

**Address:** JENNIFER L. LUNT,  
ESQ.  
  
P.O. Box 11130  
  
Reno, NV 89520