

1 NOAS

2 Jesse Noble, ID # 1039146

3 High Desert State Prison

4 P.O. Box 650

5 Indian Springs, NV 89070-0650

6
7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

Electronically Filed
Jun 09 2021 08:05 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

9 JESSE NOBLE,

Case No.: C-18-336940-1

Dept. No.: IX

10 Petitioner,

11 vs.

12 CALVIN JOHNSON, WARDEN,

13 Respondent.

14 **NOTICE OF APPEAL**

15 Notice is hereby given that **JESSE NOBLE**, Petitioner above named,
16 hereby appeals to the Supreme Court of Nevada from the Order denying his
17 **PETITION FOR WRIT OF HABEAS CORPUS**, entered in this action on the
18 17th day of May 2021.

19 DATED this 5 day of 26 2021.

20
21 By Jesse Noble
22 Jesse Noble, ID # 1039146
23 High Desert State Prison
24 P.O. Box 650
25 Indian Springs, NV 89070-0650
26 *Petitioner*

27
RECEIVED
JUN 01 2021
CLERK OF THE COURT


1 **CERTIFICATE OF SERVICE**

2
3 I hereby certify that on the 5 day of 26 2021, I filed a
4 true and correct copy of the **NOTICE OF APPEAL** using the Eighth Judicial
5 District's electronic filing system and/or deposited a true and correct copy in the
6 United States Mail at Las Vegas, Nevada, enclosed in a sealed envelope, first
7 class mail, postage prepaid, addressed as follows:
8

9 CALVIN JOHNSON, Warden
10 P.O. Box 650
11 Indian Springs, Nevada 89070-0650
12 22010 Cold Creek Road
13 Indian Springs, Nevada 89070

14 STEVEN B. WOLFSON, ESQ.
15 Clark County District Attorney
16 200 Lewis Avenue, 3rd Floor
17 Las Vegas, NV 89101

18 AARON FORD, ESQ.
19 Nevada Attorney General
20 100 North Carson Street
21 Carson City, Nevada 89701-4717

22 By 
23 Jesse Noble, ID # 1039146
24 High Desert State Prison
25 P.O. Box 650
26 Indian Springs, NV 89070-0650
27 *Petitioner*
28

Jesse Noble #1039146

H.D.S.P.

P.O. Box 650

Indian Spring, NV 89107

Confidential Legal
Mail

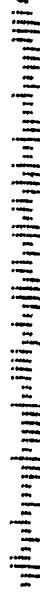
LAS VEGAS NV 890

27 MAY 2021PM 5 L

Steven D. Erickson, Clerk of the Court
200 Lewis Ave. 3rd floor
Las Vegas NV, 89155-1100

3762

000000-10168





1 ASTA

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5
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**

9 STATE OF NEVADA,

10 Plaintiff(s),

11 vs.

12 JESSE D. NOBLE aka JESSE NOBEL, JR.,

13 Defendant(s),

Case No: C-18-336940-1

Dept No: IX

14
15
16 **CASE APPEAL STATEMENT**

17 1. Appellant(s): Jesse Noble

18 2. Judge: Cristina D. Silva

19 3. Appellant(s): Jesse Noble

20 Counsel:

21 Jesse Noble #1039146
22 P.O. Box 650
23 Indian Springs, NV 89070

24 4. Respondent: The State of Nevada

25 Counsel:

26 Aaron D. Ford, Attorney General
27 555 E. Washington Ave., Suite 3900
28 Las Vegas, NV 89101-1068

(702) 486-3825

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: Yes

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

9. Date Commenced in District Court: December 19, 2018

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

Type of Judgment or Order Being Appealed: Writ of Habeas Corpus

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 79739

12. Child Custody or Visitation: N/A

Dated This 3 day of June 2021.

Steven D. Grierson, Clerk of the Court

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Jesse Noble

CASE SUMMARY**CASE NO. C-18-336940-1**

State of Nevada
vs
Jesse Noble

§ Location: **Department 9**
 § Judicial Officer: **Silva, Cristina D.**
 § Filed on: **12/19/2018**
 § Case Number History:
 § Cross-Reference Case **C336940**
 § Number:
 § Defendant's Scope ID #: **2679811**
 § ITAG Booking Number: **0**
 § ITAG Case ID: **2068805**
 § Lower Court Case # Root: **18F18999**
 § Lower Court Case Number: **18F18999X**
 § Supreme Court No.: **79739**

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
Jurisdiction: District Court					
1. BATTERY BY PRISONER	200.481.2f	F	12/21/2017	Case Status:	05/24/2021 Closed
PCN: 0030542736 ACN: 0					
Arrest: 12/21/2017	MET - Metro				

Statistical Closures

05/24/2021 Other Manner of Disposition - Criminal
 03/22/2021 Other Manner of Disposition - Criminal
 04/11/2019 Guilty Plea with Sentence (before trial) (CR)





DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number	C-18-336940-1
Court	Department 9
Date Assigned	04/29/2019
Judicial Officer	Silva, Cristina D.

















PARTY INFORMATION

		<i>Lead Attorneys</i>
Defendant	Noble, Jesse D	Gersten, Joseph Z <i>Retained</i> 702-857-8777(W)
Plaintiff	State of Nevada	Ford, Aaron D. 775-684-1100(W)

DATE**EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**















12/19/2018	 Criminal Bindover - Confidential
12/19/2018	 Criminal Bindover Packet Justice Court
12/20/2018	 Information Party: Plaintiff State of Nevada <i>Information</i>
12/22/2018	 Reporters Transcript <i>REPORTER'S TRANSCRIPT OF PROCEEDINGS PRELIMINARY HEARING</i>

CASE SUMMARY
CASE NO. C-18-336940-1

01/10/2019	 Order Filed By: Plaintiff State of Nevada <i>Transport Order</i>
01/14/2019	 Notice Filed By: Plaintiff State of Nevada <i>Notice of Intent to Seek Punishment as Habitual Criminal</i>
01/15/2019	 Notice Filed By: Plaintiff State of Nevada <i>The State of Nevada's Notice of Witnesses</i>
01/25/2019	 Subpoena Electronically Issued Filed by: Defendant Noble, Jesse D <i>Subpoena</i>
01/25/2019	 Subpoena Electronically Issued Filed by: Defendant Noble, Jesse D <i>Subpoena</i>
01/29/2019	 Order Filed By: Plaintiff State of Nevada <i>Transport Order</i>
01/29/2019	 Order Filed By: Plaintiff State of Nevada <i>Transport Order</i>
01/29/2019	 Notice Filed By: Plaintiff State of Nevada <i>The State of Nevada's First Amended Notice of Witnesses</i>
02/11/2019	 Jury List
02/12/2019	 Verdict
02/12/2019	 Instructions to the Jury
02/15/2019	 Stipulation <i>Trial Stipulations</i>
03/19/2019	 PSI
03/21/2019	 PSI
04/11/2019	 Judgment of Conviction <i>Judgment of Conviction (Jury Trial)</i>
04/29/2019	Case Reassigned to Department 9 <i>Judicial Reassignment to Department 9 - Judge Cristina Silva</i>
07/23/2019	 Motion

CASE SUMMARY

CASE NO. C-18-336940-1

	Filed By: Defendant Noble, Jesse D <i>Motion for Withdrawal of Attorney of Record in the Alternative, Request for Records/Court Case Documents</i>
07/23/2019	 Notice of Motion Filed By: Defendant Noble, Jesse D
09/30/2019	 Notice of Appeal (Criminal) Party: Defendant Noble, Jesse D
10/01/2019	 Case Appeal Statement Filed By: Defendant Noble, Jesse D <i>Case Appeal Statement</i>
11/18/2019	 Motion Filed By: Defendant Noble, Jesse D <i>Motion Re: New Trial</i>
11/18/2019	 Ex Parte Motion Filed By: Defendant Noble, Jesse D <i>Ex Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing</i>
11/18/2019	 Notice of Motion Filed By: Defendant Noble, Jesse D <i>Notice of Motion</i>
11/19/2019	 NV Supreme Court Clerks Certificate/Judgment - Dismissed <i>Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed</i>
12/17/2019	 Order Filed By: Plaintiff State of Nevada <i>Transport Order</i>
05/11/2020	 Motion Filed By: Defendant Noble, Jesse D <i>Petitioner's Request for Enlargement of Time</i>
05/11/2020	 Clerk's Notice of Hearing <i>Clerk's Notice of Hearing</i>
05/12/2020	 Order <i>Order Re Petitioner's Request for Enlargement of Time</i>
05/12/2020	 Notice of Entry of Order Filed By: Defendant Noble, Jesse D <i>Notice of Entry of Order</i>
06/24/2020	 Recorders Transcript of Hearing <i>Recorder's Transcript of Hearing: Defendant's Ex Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing Defendant's Motion Re: New Trial Defendant's Notice of Motion December 9, 2019</i>
06/24/2020	 Recorders Transcript of Hearing <i>Recorder's Transcript of Hearing: Status Check: Confirmation of Counsel December 30, 2019</i>

CASE SUMMARY
CASE NO. C-18-336940-1

06/24/2020	 Recorders Transcript of Hearing <i>RECORDER'S TRANSCRIPT OF HEARING: STATUS CHECK: FILE/SET BRIEFING SCHEDULE. HEARD ON JANUARY 27, 2020</i>
06/24/2020	 Recorders Transcript of Hearing <i>Recorder's Transcript of Hearing: Status Check: Set Briefing Schedule February 12, 2020</i>
08/11/2020	 Petition for Writ of Habeas Corpus Filed by: Defendant Noble, Jesse D <i>Supplemental Petition for Writ of Habeas Corpus</i>
09/15/2020	 Recorders Transcript of Hearing <i>RECORDER'S TRANSCRIPT OF HEARING: JURY TRIAL - DAY 1. HEARD ON FEBRUARY 11, 2019</i>
09/15/2020	 Recorders Transcript of Hearing <i>RECORDER'S TRANSCRIPT OF HEARING: JURY TRIAL - DAY 2. HEARD ON FEBRUARY 12, 2019</i>
10/12/2020	 Stipulation Filed by: Plaintiff State of Nevada <i>STIPULATION TO MODIFY BRIEFING SCHEDULE AND CONTINUE HEARING</i>
10/14/2020	 Order <i>Order Granting Modified Briefing Schedule and Resetting Hearing</i>
11/13/2020	 Stipulation Filed by: Plaintiff State of Nevada <i>Stipulation to Modify Briefing Schedule and Continue Hearing</i>
12/14/2020	 Answer (Criminal) Filed By: Plaintiff State of Nevada <i>Answer to Motion for New Trial and Supplemental Petition for Writ of Habeas Corpus</i>
01/12/2021	 Reply Filed by: Defendant Noble, Jesse D <i>Petitioner's Reply to State's Answer to Motion for New Trial and Supplemental Petition for Writ of Habeas Corpus (Post-Conviction)</i>
03/22/2021	 Clerk's Notice of Nonconforming Document and Curative Action <i>Notice of Nonconforming Document and Curative Action</i>
05/17/2021	 Decision and Order <i>Decision and Order</i>
05/19/2021	 Notice of Entry of Order Filed By: Plaintiff State of Nevada <i>Notice of Entry of Order</i>
05/24/2021	 Criminal Order to Statistically Close Case <i>Criminal Order to Statistically Close Case</i>

CASE SUMMARY

CASE NO. C-18-336940-1

05/26/2021



Motion

Filed By: Defendant Noble, Jesse D

Motion for Withdrawal of Attorney of Record or in the Alternative Request for Records/Court Case Document

06/01/2021



Notice of Appeal (Criminal)

Notice of Appeal

06/03/2021



Case Appeal Statement

Filed By: Defendant Noble, Jesse D

Case Appeal Statement

HEARINGS

12/21/2018



Initial Arraignment (10:00 AM) (Judicial Officer: De La Garza, Melisa)

Trial Date Set;

Journal Entry Details:

Kent Kozal, Esq., appearing for Mr. Frizzell on behalf of the Deft. DEFT. NOBLE ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. COURT ORDERED, matter set for trial. NIC (COC-NDC) 1/09/19 8:30 AM PRE-TRIAL CONFERENCE (DEPT. 19) 2/06/19 8:30 AM CALENDAR CALL (DEPT. 19) 2/11/19 10:00 AM JURY TRIAL (DEPT. 19);

01/09/2019



Pre Trial Conference (8:30 AM) (Judicial Officer: Kephart, William D.)

Matter Heard;

Journal Entry Details:

Mr. Frizzell advised there is still outstanding discovery; although he is working toward the current trial date. Upon Court's inquiry, parties anticipate 2 - 3 days for trial. Ms. Kallas advised she will have the remaining discovery for counsel and State will be ready for trial. COURT ORDERED, trial date STANDS. NIC (COC-NDC);

02/06/2019



Calendar Call (8:30 AM) (Judicial Officer: Kephart, William D.)

Matter Heard;

Journal Entry Details:

Parties announced ready with 7 - 8 witnesses, no out of state witnesses and 3 - 4 days for trial. Ms. Kallas advised the only caveat would be she has requested information from NDOT which she was previously advised no information existed; however, she has requested the information again out of an abundance of caution and would be the only issue with trial readiness. COURT ORDERED, trial date VACATED and REFERRED to Overflow. CUSTODY 2/08/2019 8:30 AM OVERFLOW C. KALLAS / K. FRIZZELL 7 - 8 WITNESSES // 0 OUT OF STATE // 3 - 4 DAYS;

02/08/2019



Overflow (8:30 AM) (Judicial Officer: Jones, David M)

OVERFLOW: DEPT 19 C. KALLAS / K. FRIZZELL 3 - 4 DAYS 7 - 8 WITNESSES 0 - OUT OF STATE

Matter Heard;

Journal Entry Details:

Defendant NOT present. Court advised Defendant was in transit, noting that the hearing was scheduled for 8:30 am, and it was now after 8:50 am, and the Defendant was still not present. Upon Court's inquiry, counsel advised they are ready for trial. COURT ORDERED, matter SET for Trial in Department 8. NIC (COC-NDC) 02/11/19 9:30 AM JURY TRIAL (DEPT 8) ;

02/11/2019



Jury Trial (9:30 AM) (Judicial Officer: Smith, Douglas E.)

02/11/2019-02/12/2019

Trial Continues;

Verdict;

Journal Entry Details:

Chelsea Kallas, Dep AG, and Michael Kovac, Senior Dep AG, present on behalf of the State; Kenneth Frizzell, Esq., present on behalf of Deft. Noble, who is also present. 9:25 a.m. Jury Trial resumed. OUTSIDE THE PRESENCE OF THE JURY: Jury Instructions and Verdict

CASE SUMMARY

CASE NO. C-18-336940-1

form settled. **JURY PRESENT:** Court instructed the Jury. Closing arguments by Ms. Kallas and Mr. Frizzell; rebuttal by Mr. Kovac. At the hour of 10:45 a.m., the Jury retired to deliberate. Court thanked and excused the alternates. While deliberating, the Jury presented a question to the Court. Court telephonically conferenced with counsel to formulate an answer to the Jury's question. The Question and Answer were marked for identification as Court's Exhibit 2 and ADMITTED. At the hour of 12:06 p.m., the Jury returned with the following verdict: **GUILTY** of COUNT 1 - BATTERY BY A PRISONER Jury polled. Court thanked and excused the Jury. 12:11 p.m. Court ADJOURNED; COURT ORDERED, matter set for sentencing. CUSTODY 04/03/19 8:00 AM SENTENCING;

Trial Continues;

Verdict;

Journal Entry Details:

Chelsea Kallas, Dep AG, and Michael Kovac, Senior Dep AG, present on behalf of the State; Kenneth Frizzell, Esq., present on behalf of Deft. Noble, who is also present. 9:25 a.m. Jury Trial commenced. **OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS:** Ms. Kallas advised that the State made an offer to the Deft., the Deft. would plead guilty to one Count of Attempt Battery by Prisoner (F); the Deft. would be sentenced to nineteen (19) to forty-eight (48) months consecutive to his current sentence. The Deft. has rejected that offer. Trial Stipulation FILED IN OPEN COURT. Court canvassed Deft. with regard to his right not to testify or to testify in this case; Carter Instruction given. **PROSPECTIVE JURORS PRESENT:** Court and counsel begin Voir Dire examination of the prospective Jurors. Jury and two (2) alternates selected and sworn. Clerk read the Information to the Jury and stated the Deft. s plea thereto. Opening statements by Mr. Kovac and Mr. Frizzell. Testimony and exhibits presented (see worksheets). **OUTSIDE THE PRESENCE OF THE JURY:** Trial Stipulation FILED IN OPEN COURT. Ms. Kallas advised the Stipulation should be read to the Jury before they go to deliberate. 3:28 p.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED. CUSTODY CONTINUED TO: 02/12/19 9:30 AM ;

02/11/2019

CANCELED Jury Trial (10:00 AM) (Judicial Officer: Kephart, William D.)
Vacated - per Judge

04/03/2019



Sentencing (8:00 AM) (Judicial Officer: Smith, Douglas E.)

Defendant Sentenced;

Journal Entry Details:

Chelsea Kallas, Dep AG, present on behalf of the State and Kenneth Frizzell, Esq., present on behalf of Deft. Noble, who is also present. Court called case, Deft. stated that he did not get an opportunity to read his Presentence Investigation (PSI) report and he was not aware that the State may be seeking habitual criminal treatment. Mr. Frizzell advised that he spoke with Ms. Kallas earlier and they are not going to be seeking habitual treatment but the Deft. is eligible. Court trailed matter. **MATTER RECALLED:** all present as before. Pursuant to the Jury's verdict, **DEFT. NOBLE ADJUDGED GUILTY** of BATTERY BY A PRISONER (F). The State is seeking a sentence of nineteen (19) to forty-eight (48) months; since the Court heard the trial, it is familiar with the facts. Statement by Deft., he would like to file a Motion for a Mistrial. Argument by Mr. Frizzell; the altercation was not started by this Deft. There was some conflicting testimony between the Officers testimony and the inmates that testified. The Deft. is requesting the minimums and because the Deft. was already in prison the instant case must be **CONSECUTIVE** to his other case. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, the \$150.00 DNA Analysis fee including testing to determine genetic markers, which was collected on October 29, 2008, the \$3.00 DNA Collection fee, and an Indigent Defense Civil Assessment fee in the amount of \$250.00, Deft. SENTENCED to a MAXIMUM of SEVENTY-TWO (72) MONTHS and a MINIMUM of TWENTY-EIGHT (28) MONTHS in the Nevada Department of Corrections (NDC), CONSECUTIVE to C312733, with ZERO (0) DAYS credit for time served. Deft. wants to file an appeal; Court directed Mr. Frizzell to make sure that the appeal is filed and thereafter, he may withdraw as counsel of record. BOND, if any, EXONERATED;

08/14/2019



Motion (8:30 AM) (Judicial Officer: Silva, Cristina D.)

Defendant's Pro Per Motion for Withdrawal of Attorney of Record, or, In the Alternative, Request for Records / Court Case Documents





Granted;

Journal Entry Details:



Mr. Frizzell advised Defendant is in the Nevada Department of Corrections and was not transported. COURT ORDERED, Motion GRANTED and counsel shall forward a copy of the file to Defendant. NDC;

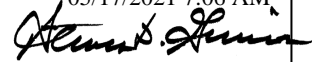
CASE SUMMARY

CASE NO. C-18-336940-1

12/09/2019	<p>Motion (8:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Deft.'s Motion for New Trial</i> Matter Heard;</p>
12/09/2019	<p>Motion for Appointment of Attorney (8:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Deft.'s Ex-Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing</i> Granted;</p>
12/09/2019	<p>Motion (8:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Deft.'s Notice of Motion</i> Matter Heard;</p>
12/09/2019	<p> All Pending Motions (8:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Deft.'s Ex-Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing . . . Deft.'s Motion for New Trial . . . Deft.'s Notice of Motion</i> Matter Heard; Journal Entry Details: DEFT.'S EX-PARTE MOTION FOR APPOINTMENT OF COUNSEL AND REQUEST FOR EVIDENTIARY HEARING . . . DEFT.'S MOTION FOR NEW TRIAL . . . DEFT.'S NOTICE OF MOTION Chelsea Kallas, Dep AG, present on behalf of the State; Deft. Noble is incarcerated in the Nevada Department of Corrections (NDC) and not present. This is the time set for hearing the above-named motions, which he filed pro se. Ms. Kallas advised that she just received notice of the Deft.'s Motion for New Trial on Friday (December 6) and would like an opportunity to file a response; she requested thirty (30) days. COURT SO ORDERED. Court noted that the Deft. also filed an Ex-Parte Motion for Appointment of Counsel. The Court is inclined to appoint counsel and directed Court staff to contact the office of appointed counsel. Therefore, COURT ORDERED, the Motion is GRANTED; matter set for status check. NDC 12/30/19 8:30 AM STATUS CHECK: CONFIRMATION OF COUNSEL CLERK'S NOTE: A copy of this minute order was mailed to Jesse Noble #1039146, Ely State Prison, P.O. Box 1989, Ely, Nevada, 89301. ;</p>
12/30/2019	<p> Status Check (8:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Status Check: Confirmation of Counsel</i> Matter Heard; Confirmation of Counsel Journal Entry Details: <i>Chelsea Kallas, Dep AG, present on behalf of the State and Joseph Gersten, Esq., present on behalf of Deft. Noble, who is also present. This is the time set for the Status Check on the Confirmation of Counsel. Upon Court's inquiry, Mr. Gersten advised that he could CONFIRM as counsel of record. Mr. Gersten was just notified of the appointment so he does not have the file or any information. Therefore, COURT ORDERED, matter set for status check. A briefing schedule on the Deft.'s Petition for Writ of Habeas Corpus will be set next date. NDC 01/27/20 8:30 AM STATUS CHECK: FILE/SET BRIEFING SCHEDULE ;</i></p>
01/27/2020	<p> Status Check (8:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Status Check: File/Set Briefing Schedule</i> Matter Heard; File/Set Briefing Schedule Journal Entry Details: <i>Alissa Engler, Sr. Dep AG, present on behalf of the State and Joseph Gersten, Esq., present on behalf of Deft. Noble, who is also present. This is the time set for the Status Check: File/Set Briefing Schedule. Mr. Gersten advised that he CONFIRMED as counsel of record the last time the parties were present. A briefing schedule needs to be set. The Deft. is being housed at High Desert State Prison and Mr. Gersten has had some scheduling difficulties in trying to arrange a visit with him; however, a visit has been scheduled for February 5, 2020. Therefore, Mr. Gersten would request that this matter be status checked a week thereafter to set the briefing schedule. There being no objection by the State, COURT ORDERED, matter set for status check. NDC 02/12/20 8:30 AM STATUS CHECK: SET BRIEFING SCHEDULE ;</i></p>
02/12/2020	<p> Status Check (8:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Status Check: Set Briefing Schedule</i> Matter Heard; Set Briefing Schedule</p>

CASE SUMMARY
CASE NO. C-18-336940-1

	<p>Journal Entry Details: <i>Chelsea Kallas, Dep AG, present on behalf of the State and Joseph Gersten, Esq., present on behalf of Deft. Noble, who is also present. This is the time set for the Status Check on Setting a Briefing Schedule. Mr. Gersten advised that he would like at least ninety (90) days to file his supplemental writ; he still needs to meet with the Deft. Mr. Gersten advised that the Deft. filed a Motion for a New Trial and he is treating that Motion as a Writ for Habeas Corpus. Court set the following briefing schedule: 05/13/20 - Supplemental Writ 07/13/20 - State's Response 08/13/20 - Reply COURT ORDERED, matter set for hearing. NDC 08/26/20 8:30 AM HEARING: PETITION FOR WRIT OF HABEAS CORPUS ;</i></p>
06/01/2020	<p>CANCELED Motion (1:45 PM) (Judicial Officer: Silva, Cristina D.) <i>Vacated - per Order</i> <i>Petitioner's Request for Enlargement of Time</i></p>
08/25/2020	<p> Minute Order (8:50 AM) (Judicial Officer: Silva, Cristina D.) Minute Order - No Hearing Held; Journal Entry Details: <i>After Petitioner's Request for Enlargement of Time was granted, Petitioner filed a Supplemental Writ on August 11, 2020. The Court set the following briefing schedule: 08/11/20 Supplemental Writ (filed) 10/12/20 State's Response 11/12/20 Reply COURT ORDERED, matter set for hearing. 11/30/20 - Hearing: Petition for Writ of Habeas Corpus ;</i></p>
08/26/2020	<p>CANCELED Hearing (1:45 PM) (Judicial Officer: Silva, Cristina D.) <i>Vacated - per Judge</i> <i>Hearing: Petition for Writ of Habeas Corpus</i></p>
03/24/2021	<p> Petition for Writ of Habeas Corpus (11:00 AM) (Judicial Officer: Silva, Cristina D.) COVID Eye surgery Denied; Journal Entry Details: <i>Defendant not present and in custody in the Nevada Department of Corrections. Mr. Gersten argued in support of the Petition, stating the Petition was filed timely, and addressed all the issues in the supplement, as they noted three issues that should be fleshed out in an evidentiary hearing with regards to ineffective assistance of counsel. Ms. Gersten requested an evidentiary hearing be set on behalf of Defendant. COURT STATED the Motion for a New Trial is untimely, and seems improper. Mr. Gersten stated they are treating it as a Writ of Habeas Corpus. COURT STATED there is nothing before the Court that would have changed the verdict, and the outcome of the case, or in the alternative how it was not trial strategy. Mr. Gersten argued there is over and over again the issue of impeachment, and there is ineffective assistance of counsel. COURT STATED the Motion for New Trial is DENIED, and the matter will be focused as a Petition. Mr. Solinger argued the Defendant didn't file a Petition for Writ of Habeas Corpus, he filed a Motion for a New Trial and Appointment of Counsel, and it cannot just be converted to a Petition for Writ. Mr. Solinger further argued his understanding was there is no video of the interaction, there is only video of the mass fighting, and he does not believe that would change things. Mr. Solinger argued there is no basis for an evidentiary hearing. Mr. Gersten stated he received the video from prior counsel, and it was not shown at trial. COURT FINDS this is a Petition for Writ of Habeas Corpus, and ORDERED the Post Conviction Writ DENIED; and DIRECTED the State to prepare a Findings of Fact and Conclusions of Law, and provide it to Mr. Gersten prior to submitting it to the Court on or before April 21, 2021. NDC;</i></p>
06/16/2021	<p>Motion (11:00 AM) (Judicial Officer: Silva, Cristina D.) <i>Motion for Withdrawal of Attorney of Record or in the Alternative Request for Records/Court Case Document</i></p>


CLERK OF THE COURT

1 **DAO**

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

5 JESSE NOBLE,

6 Petitioner,

7 vs.

8 CALVIN JOHNSON, WARDEN,

9 Respondent.

Case No. C-18-336940-1

Dept. No. IX

10 **DECISION AND ORDER**

11 THIS CAUSE came before the Honorable ~~Christina~~^{Cristina} Silva this 24th day of March 2021, for review
12 of Jesse Noble's *Supplemental Petition for Writ of Habeas Corpus* (Petition), and Respondents'
13 *Response*. After oral argument, the Court now makes the following findings of fact and conclusions of
14 law.

15 THE COURT FINDS that Noble filed a motion for a new trial and an ex-parte motion for
16 appointment of counsel on November 18, 2019.

17 THE COURT FINDS that Noble did not timely file a motion for a new trial and therefore denies
18 that motion, to the extent his intent was to request a new trial.

19 THE COURT FURTHER FINDS that Noble intended to file a petition for a writ of habeas corpus
20 pursuant to NRS Chapter 34. Therefore, the Court will treat Noble's November 18, 2019 filing as a
21 petition for writ of habeas corpus.

22 THE COURT FINDS that Noble has failed to plead with specificity facts that if true would entitle
23 him to relief.

24 THE COURT FURTHER FINDS that Noble has failed to allege how his attorney was deficient
25 in cross examining the witnesses called at trial. Merely stating that the witnesses were not impeached,
26 without specific allegations of how they could have been impeached, is not enough to show by a
27 preponderance of the evidence that Noble is entitled to relief and thus warrant an evidentiary hearing.
28

1 THE COURT FINDS that Noble has failed to show a reasonable probability of a different
2 outcome had the victim been cross examined over which hand he was punched with because the victim
3 consistently testified that Noble battered him.

4 THE COURT FINDS that Noble has failed to show that his counsel was deficient for not
5 introducing a video that does not show Noble in the video and counsel's strategic choices are entitled to
6 deference.

7 THEREFORE, IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus is
8 DENIED. **Dated this 17th day of May, 2021**

9 IT IS SO ORDERED this _____ day of _____, 2021.

10
11 
The Honorable Cristina Silva
District Court Judge EC

12 Submitted by:

13 /s/ Adam Solinger
14 Adam M. Solinger (13963)
15 Deputy Attorney General

1F8 8BD 60BF 1E32
Cristina D. Silva
District Court Judge

16 Approved as to form and content by:

17 /s/ Joseph Gersten
18 Joseph Gersten, Esq.
19 Attorney for Petitioner
20
21
22
23
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27
28

From: [Adam M. Solinger](#)
To: [Lucas J. Combs](#)
Subject: Fw: Jesse Noble Draft Order
Date: Thursday, April 8, 2021 2:56:55 PM

From: The Gersten Law Firm PLLC <joe@thegerstenlawfirm.com>
Sent: Thursday, April 8, 2021 12:36 PM
To: Adam M. Solinger <ASolinger@ag.nv.gov>
Subject: Re: Jesse Noble Draft Order

I approve. Thanks.

Joseph Gersten, Esq.



9680 W Tropicana Avenue, Suite 146
Las Vegas, NV 89147-8245
Office: (702) 857-8777 | Fax: (702) 857-8767

www.thegerstenlawfirm.com



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On Thu, Apr 8, 2021 at 12:33 PM Adam M. Solinger <ASolinger@ag.nv.gov> wrote:

Thank you. I'm sending this final pdf with your e-signature attached for final approval before I submit it to the court.

From: The Gersten Law Firm PLLC <joe@thegerstenlawfirm.com>
Sent: Thursday, April 8, 2021 12:02 PM
To: Adam M. Solinger <ASolinger@ag.nv.gov>
Subject: Re: Jesse Noble Draft Order

That's great. Let's go with it.

Joseph Gersten, Esq.

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 State of Nevada

CASE NO: C-18-336940-1

7 vs

DEPT. NO. Department 9

8 Jesse Noble
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 5/17/2021

15 Allison Herr

aherr@ag.nv.gov

16 Marsha Landreth

mlandreth@ag.nv.gov

17 Joseph Gersten

joe@thegerstenlawfirm.com

18 Rikki Garate

rgarate@ag.nv.gov

19 Chelsea Kallas

CKallas@ag.nv.gov

20 Mike Kovac

MKovac@ag.nv.gov

21 Cheryl Martinez

cjmartinez@ag.nv.gov

22 Adam Solinger

asolinger@ag.nv.gov

23 Nicara Brown

nicara@thegerstenlawfirm.com

24 Marcie Burris

mburris@ag.nv.gov

25 Lucas Combs

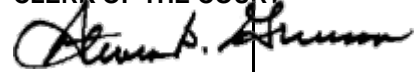
ljcombs@ag.nv.gov

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

JESSE NOBLE,

Petitioner,

Case No: C-18-336940-1

Dept. No: IX

vs.

THE STATE OF NEVADA,

Respondent,

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that on May 17, 2021, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on May 19, 2021.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk

CERTIFICATE OF E-SERVICE / MAILING

I hereby certify that on this 19 day of May 2021, I served a copy of this Notice of Entry on the following:

☒ By e-mail:

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

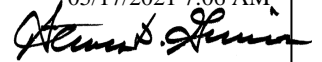
☒ The United States mail addressed as follows:

Jesse Noble # 1039146
P.O. Box 650
Indian Springs, NV 89070

Joseph Z. Gersten, Esq.
9680 W. Tropicana Ave., #146
Las Vegas, NV 89147

/s/ Amanda Hampton

Amanda Hampton, Deputy Clerk


CLERK OF THE COURT

1 **DAO**

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

5 JESSE NOBLE,

6 Petitioner,

7 vs.

8 CALVIN JOHNSON, WARDEN,

9 Respondent.

Case No. C-18-336940-1

Dept. No. IX

10 **DECISION AND ORDER**

11 THIS CAUSE came before the Honorable ~~Christina~~^{Cristina} Silva this 24th day of March 2021, for review
12 of Jesse Noble's *Supplemental Petition for Writ of Habeas Corpus* (Petition), and Respondents'
13 *Response*. After oral argument, the Court now makes the following findings of fact and conclusions of
14 law.

15 THE COURT FINDS that Noble filed a motion for a new trial and an ex-parte motion for
16 appointment of counsel on November 18, 2019.

17 THE COURT FINDS that Noble did not timely file a motion for a new trial and therefore denies
18 that motion, to the extent his intent was to request a new trial.

19 THE COURT FURTHER FINDS that Noble intended to file a petition for a writ of habeas corpus
20 pursuant to NRS Chapter 34. Therefore, the Court will treat Noble's November 18, 2019 filing as a
21 petition for writ of habeas corpus.

22 THE COURT FINDS that Noble has failed to plead with specificity facts that if true would entitle
23 him to relief.

24 THE COURT FURTHER FINDS that Noble has failed to allege how his attorney was deficient
25 in cross examining the witnesses called at trial. Merely stating that the witnesses were not impeached,
26 without specific allegations of how they could have been impeached, is not enough to show by a
27 preponderance of the evidence that Noble is entitled to relief and thus warrant an evidentiary hearing.
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1 THE COURT FINDS that Noble has failed to show a reasonable probability of a different
2 outcome had the victim been cross examined over which hand he was punched with because the victim
3 consistently testified that Noble battered him.

4 THE COURT FINDS that Noble has failed to show that his counsel was deficient for not
5 introducing a video that does not show Noble in the video and counsel's strategic choices are entitled to
6 deference.

7 THEREFORE, IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus is
8 DENIED. **Dated this 17th day of May, 2021**

9 IT IS SO ORDERED this _____ day of _____, 2021.

10
11 
The Honorable Cristina Silva
District Court Judge EC

12 Submitted by:

13 /s/ Adam Solinger
14 Adam M. Solinger (13963)
15 Deputy Attorney General

1F8 8BD 60BF 1E32
Cristina D. Silva
District Court Judge

16 Approved as to form and content by:

17 /s/ Joseph Gersten
18 Joseph Gersten, Esq.
19 Attorney for Petitioner
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I approve. Thanks.

Joseph Gersten, Esq.

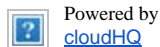


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Subject: Re: Jesse Noble Draft Order

That's great. Let's go with it.

Joseph Gersten, Esq.

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 State of Nevada

CASE NO: C-18-336940-1

7 vs

DEPT. NO. Department 9

8 Jesse Noble
9

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ljcombs@ag.nv.gov

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 21, 2018

C-18-336940-1 State of Nevada
 vs
 Jesse Noble

December 21, 2018 10:00 AM Initial Arraignment

HEARD BY: De La Garza, Melisa

COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Kristen Brown

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PRESENT:	Kallas, Chelsea	Attorney
	Noble, Jesse D	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Kent Kozal, Esq., appearing for Mr. Frizzell on behalf of the Deft.

DEFT. NOBLE ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. COURT ORDERED, matter set for trial.

NIC (COC-NDC)

1/09/19 8:30 AM PRE-TRIAL CONFERENCE (DEPT. 19)

2/06/19 8:30 AM CALENDAR CALL (DEPT. 19)

2/11/19 10:00 AM JURY TRIAL (DEPT. 19)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 09, 2019

C-18-336940-1	State of Nevada
	vs
	Jesse Noble

January 09, 2019 8:30 AM Pre Trial Conference

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Frizzell III, Kenneth G.	Attorney
	Kallas, Chelsea	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Frizzell advised there is still outstanding discovery; although he is working toward the current trial date. Upon Court's inquiry, parties anticipate 2 - 3 days for trial. Ms. Kallas advised she will have the remaining discovery for counsel and State will be ready for trial. COURT ORDERED, trial date STANDS.

NIC (COC-NDC)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 06, 2019

C-18-336940-1 State of Nevada
 vs
 Jesse Noble

February 06, 2019 8:30 AM Calendar Call

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Frizzell III, Kenneth G.	Attorney
	Kallas, Chelsea	Attorney
	Noble, Jesse D	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Parties announced ready with 7 - 8 witnesses, no out of state witnesses and 3 - 4 days for trial. Ms. Kallas advised the only caveat would be she has requested information from NDOT which she was previously advised no information existed; however, she has requested the information again out of an abundance of caution and would be the only issue with trial readiness. COURT ORDERED, trial date VACATED and REFERRED to Overflow.

CUSTODY

2/08/2019 8:30 AM OVERFLOW

C. KALLAS / K. FRIZZELL

7 - 8 WITNESSES // 0 OUT OF STATE // 3 - 4 DAYS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 08, 2019

C-18-336940-1 State of Nevada
vs
Jesse Noble

February 08, 2019 8:30 AM Overflow

HEARD BY: Jones, David M

COURTROOM: RJC Courtroom 15A

COURT CLERK: Nancy Maldonado

RECORDER: Melissa Delgado-Murphy

REPORTER:

PARTIES

PRESENT:	Frizzell III, Kenneth G.	Attorney
	Kallas, Chelsea	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant NOT present. Court advised Defendant was in transit, noting that the hearing was scheduled for 8:30 am, and it was now after 8:50 am, and the Defendant was still not present. Upon Court's inquiry, counsel advised they are ready for trial. COURT ORDERED, matter SET for Trial in Department 8.

NIC (COC-NDC)

02/11/19 9:30 AM JURY TRIAL (DEPT 8)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 11, 2019

C-18-336940-1 State of Nevada
 vs
 Jesse Noble

February 11, 2019 9:30 AM Jury Trial

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Chelsea Kallas, Dep AG, and Michael Kovac, Senior Dep AG, present on behalf of the State; Kenneth Frizzell, Esq., present on behalf of Deft. Noble, who is also present.

9:25 a.m. Jury Trial commenced. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURORS: Ms. Kallas advised that the State made an offer to the Deft., the Deft. would plead guilty to one Count of Attempt Battery by Prisoner (F); the Deft. would be sentenced to nineteen (19) to forty-eight (48) months consecutive to his current sentence. The Deft. has rejected that offer.

Trial Stipulation FILED IN OPEN COURT. Court canvassed Deft. with regard to his right not to testify or to testify in this case; Carter Instruction given.

PROSPECTIVE JURORS PRESENT: Court and counsel begin Voir Dire examination of the prospective Jurors. Jury and two (2) alternates selected and sworn. Clerk read the Information to the Jury and stated the Deft. s plea thereto.

Opening statements by Mr. Kovac and Mr. Frizzell. Testimony and exhibits presented (see worksheets).

OUTSIDE THE PRESENCE OF THE JURY: Trial Stipulation FILED IN OPEN COURT. Ms. Kallas advised the Stipulation should be read to the Jury before they go to deliberate.

3:28 p.m. Court ADJOURNED; COURT ORDERED, Jury Trial CONTINUED.

CUSTODY

CONTINUED TO: 02/12/19 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 12, 2019

C-18-336940-1 State of Nevada
 vs
 Jesse Noble

February 12, 2019 9:30 AM Jury Trial

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Chelsea Kallas, Dep AG, and Michael Kovac, Senior Dep AG, present on behalf of the State; Kenneth Frizzell, Esq., present on behalf of Deft. Noble, who is also present.

9:25 a.m. Jury Trial resumed. OUTSIDE THE PRESENCE OF THE JURY: Jury Instructions and Verdict form settled.

JURY PRESENT: Court instructed the Jury. Closing arguments by Ms. Kallas and Mr. Frizzell; rebuttal by Mr. Kovac.

At the hour of 10:45 a.m., the Jury retired to deliberate. Court thanked and excused the alternates.

While deliberating, the Jury presented a question to the Court. Court telephonically conferenced with counsel to formulate an answer to the Jury's question. The Question and Answer were marked for identification as Court's Exhibit 2 and ADMITTED.

At the hour of 12:06 p.m., the Jury returned with the following verdict:

GUILTY of COUNT 1 - BATTERY BY A PRISONER

PRINT DATE: 06/03/2021

Page 7 of 19

Minutes Date: December 21, 2018

Jury polled. Court thanked and excused the Jury.

12:11 p.m. Court ADJOURNED; COURT ORDERED, matter set for sentencing.

CUSTODY

04/03/19 8:00 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 03, 2019

C-18-336940-1 State of Nevada
vs
Jesse Noble

April 03, 2019 8:00 AM Sentencing

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Chelsea Kallas, Dep AG, present on behalf of the State and Kenneth Frizzell, Esq., present on behalf of Deft. Noble, who is also present.

Court called case, Deft. stated that he did not get an opportunity to read his Presentence Investigation (PSI) report and he was not aware that the State may be seeking habitual criminal treatment. Mr. Frizzell advised that he spoke with Ms. Kallas earlier and they are not going to be seeking habitual treatment but the Deft. is eligible. Court trailed matter.

MATTER RECALLED: all present as before.

Pursuant to the Jury's verdict, DEFT. NOBLE ADJUDGED GUILTY of BATTERY BY A PRISONER (F). The State is seeking a sentence of nineteen (19) to forty-eight (48) months; since the Court heard the trial, it is familiar with the facts. Statement by Deft., he would like to file a Motion for a Mistrial. Argument by Mr. Frizzell; the altercation was not started by this Deft. There was some conflicting testimony between the Officers testimony and the inmates that testified. The Deft. is requesting the minimums and because the Deft. was already in prison the instant case must be CONSECUTIVE to his other case.

COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, the \$150.00 DNA Analysis fee including testing to determine genetic markers, which was collected on October 29, 2008, the \$3.00 DNA Collection fee, and an Indigent Defense Civil Assessment fee in the amount of \$250.00, Deft. SENTENCED to a MAXIMUM of SEVENTY-TWO (72) MONTHS and a MINIMUM of TWENTY-EIGHT (28) MONTHS in the Nevada Department of Corrections (NDC), CONSECUTIVE to C312733, with ZERO (0) DAYS credit for time served.

Deft. wants to file an appeal; Court directed Mr. Frizzell to make sure that the appeal is filed and thereafter, he may withdraw as counsel of record.

BOND, if any, EXONERATED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 14, 2019

C-18-336940-1 State of Nevada
 vs
 Jesse Noble

August 14, 2019 8:30 AM Motion

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Tia Everett

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:	Frizzell III, Kenneth G.	Attorney
	Kallas, Chelsea	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Frizzell advised Defendant is in the Nevada Department of Corrections and was not transported. COURT ORDERED, Motion GRANTED and counsel shall forward a copy of the file to Defendant.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 09, 2019

C-18-336940-1 State of Nevada
 vs
 Jesse Noble

December 09, 2019 8:30 AM All Pending Motions

HEARD BY: Silva, Cristina D.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- DEFT.'S EX-PARTE MOTION FOR APPOINTMENT OF COUNSEL AND REQUEST FOR EVIDENTIARY HEARING . . . DEFT.'S MOTION FOR NEW TRIAL . . . DEFT.'S NOTICE OF MOTION

Chelsea Kallas, Dep AG, present on behalf of the State; Deft. Noble is incarcerated in the Nevada Department of Corrections (NDC) and not present.

This is the time set for hearing the above-named motions, which he filed pro se. Ms. Kallas advised that she just received notice of the Deft.'s Motion for New Trial on Friday (December 6) and would like an opportunity to file a response; she requested thirty (30) days. COURT SO ORDERED.

Court noted that the Deft. also filed an Ex-Parte Motion for Appointment of Counsel. The Court is inclined to appoint counsel and directed Court staff to contact the office of appointed counsel. Therefore, COURT ORDERED, the Motion is GRANTED; matter set for status check.

NDC

12/30/19 8:30 AM STATUS CHECK: CONFIRMATION OF COUNSEL

PRINT DATE: 06/03/2021

Page 12 of 19

Minutes Date: December 21, 2018

CLERK'S NOTE: A copy of this minute order was mailed to Jesse Noble #1039146, Ely State Prison, P.O. Box 1989, Ely, Nevada, 89301.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 30, 2019

C-18-336940-1 State of Nevada
vs
Jesse Noble

December 30, 2019	8:30 AM	Status Check	Confirmation of Counsel
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HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Chelsea Kallas, Dep AG, present on behalf of the State and Joseph Gersten, Esq., present on behalf of Deft. Noble, who is also present.

This is the time set for the Status Check on the Confirmation of Counsel. Upon Court's inquiry, Mr. Gersten advised that he could CONFIRM as counsel of record. Mr. Gersten was just notified of the appointment so he does not have the file or any information. Therefore, COURT ORDERED, matter set for status check. A briefing schedule on the Deft.'s Petition for Writ of Habeas Corpus will be set next date.

NDC

01/27/20 8:30 AM STATUS CHECK: FILE/SET BRIEFING SCHEDULE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****January 27, 2020**

C-18-336940-1 State of Nevada
vs
Jesse Noble

January 27, 2020**8:30 AM****Status Check****File/Set Briefing
Schedule****HEARD BY:** Silva, Cristina D.**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Carol Donahoo**RECORDER:** Gina Villani**REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Alissa Engler, Sr. Dep AG, present on behalf of the State and Joseph Gersten, Esq., present on behalf of Deft. Noble, who is also present.

This is the time set for the Status Check: File/Set Briefing Schedule. Mr. Gersten advised that he CONFIRMED as counsel of record the last time the parties were present. A briefing schedule needs to be set. The Deft. is being housed at High Desert State Prison and Mr. Gersten has had some scheduling difficulties in trying to arrange a visit with him; however, a visit has been scheduled for February 5, 2020. Therefore, Mr. Gersten would request that this matter be status checked a week thereafter to set the briefing schedule. There being no objection by the State, COURT ORDERED, matter set for status check.

NDC

02/12/20 8:30 AM STATUS CHECK: SET BRIEFING SCHEDULE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 12, 2020

C-18-336940-1 State of Nevada
 vs
 Jesse Noble

February 12, 2020

8:30 AM

Status Check

Set Briefing Schedule

HEARD BY: Silva, Cristina D.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Chelsea Kallas, Dep AG, present on behalf of the State and Joseph Gersten, Esq., present on behalf of Deft. Noble, who is also present.

This is the time set for the Status Check on Setting a Briefing Schedule. Mr. Gersten advised that he would like at least ninety (90) days to file his supplemental writ; he still needs to meet with the Deft. Mr. Gersten advised that the Deft. filed a Motion for a New Trial and he is treating that Motion as a Writ for Habeas Corpus. Court set the following briefing schedule:

05/13/20 - Supplemental Writ

07/13/20 - State's Response

08/13/20 - Reply

COURT ORDERED, matter set for hearing.

NDC

08/26/20 8:30 AM HEARING: PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 25, 2020

C-18-336940-1 State of Nevada
 vs
 Jesse Noble

August 25, 2020 8:50 AM Minute Order

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Kathryn Hansen-McDowell

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- After Petitioner s Request for Enlargement of Time was granted, Petitioner filed a Supplemental Writ on August 11, 2020. The Court set the following briefing schedule:

08/11/20 Supplemental Writ (filed)
10/12/20 State s Response
11/12/20 Reply
COURT ORDERED, matter set for hearing.

11/30/20 - Hearing: Petition for Writ of Habeas Corpus

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 24, 2021**

C-18-336940-1 State of Nevada
vs
Jesse Noble

**March 24, 2021 11:00 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Silva, Cristina D.**COURTROOM:** RJC Courtroom 11B**COURT CLERK:** Kory Schlitz**RECORDER:** Gina Villani**REPORTER:****PARTIES**

PRESENT:	Gersten, Joseph Z	Attorney
	Solinger, Adam	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant not present and in custody in the Nevada Department of Corrections.

Mr. Gersten argued in support of the Petition, stating the Petition was filed timely, and addressed all the issues in the supplement, as they noted three issues that should be fleshed out in an evidentiary hearing with regards to ineffective assistance of counsel. Ms. Gersten requested an evidentiary hearing be set on behalf of Defendant. COURT STATED the Motion for a New Trial is untimely, and seems improper. Mr. Gersten stated they are treating it as a Writ of Habeas Corpus. COURT STATED there is nothing before the Court that would have changed the verdict, and the outcome of the case, or in the alternative how it was not trial strategy. Mr. Gersten argued there is over and over again the issue of impeachment, and there is ineffective assistance of counsel. COURT STATED the Motion for New Trial is DENIED, and the matter will be focused as a Petition. Mr. Solinger argued the Defendant didn't file a Petition for Writ of Habeas Corpus, he filed a Motion for a New Trial and Appointment of Counsel, and it cannot just be converted to a Petition for Writ. Mr. Solinger further argued his understanding was there is no video of the interaction, there is only video of the mass fighting, and he does not believe that would change things. Mr. Solinger argued there is no basis for

an evidentiary hearing. Mr. Gersten stated he received the video from prior counsel, and it was not shown at trial. COURT FINDS this is a Petition for Writ of Habeas Corpus, and ORDERED the Post Conviction Writ DENIED; and DIRECTED the State to prepare a Findings of Fact and Conclusions of Law, and provide it to Mr. Gersten prior to submitting it to the Court on or before April 21, 2021.

NDC

Jury Trial Date: 02/11/19

Judge: Douglas Smith

Court Clerk: Carol Donahoo

Counsel for Plaintiff: Chelsea Kallas/Michael Kovac

Counsel for Defendant: Kenneth Frizzell

JURY TRIAL BEFORE THE COURT

[illegible]

Case No: C336940

The State of Nevada

V.

Jesse D. Noble

COURT'S EXHIBITS

[illegible]

Certification of Copy

State of Nevada }
County of Clark } SS:

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

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT
DOCKET ENTRIES; DECISION AND ORDER; NOTICE OF ENTRY OF ORDER; DISTRICT
COURT MINUTES; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

vs.

JESSE D. NOBLE
aka JESSE NOBEL, JR.,

Defendant(s).

Case No: C-18-336940-1

Dept No: IX

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 3 day of June 2021.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk