

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

Electronically Filed  
Feb 08 2022 11:00 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

CHARLES SKAGGS,

Petitioner,

vs.

Sup. Ct. Case No. 83889

Case No. CR18-2149

Dept. 9

THE STATE OF NEVADA,

Respondent.

---

RECORD ON APPEAL

VOLUME 3 OF 5

DOCUMENTS

APPELLANT

Charles Skaggs, #111743  
NNCC  
P.O. Box 7000  
Carson City, NV 89702

RESPONDENT

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

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 DISTRICT CASE NO: CR18-2149  
 CHARLES SKAGGS vs THE STATE OF NEVADA  
 DATE: FEBRUARY 8, 2022

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**Judge:**

HONORABLE SCOTT N. FREEMAN

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07-08-2019:15:28:11

**Clerk Accepted:**

07-08-2019:15:28:51

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Transcript  
Transcript

**Filed By:**

Julie Ann Kernan

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ANTHONY SKAGGS

BIRAY DOGAN, ESQ. for CHARLES ANTHONY  
SKAGGS

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ANTHONY SKAGGS

DIV. OF PAROLE & PROBATION

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IN THE SUPREME COURT OF THE STATE OF NEVADA

CHARLES ANTHONY SKAGGS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 78845

CR18-2148  
D9

CHARLES ANTHONY SKAGGS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 78847 CR18-2149

**FILED**

D9

AUG 23 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

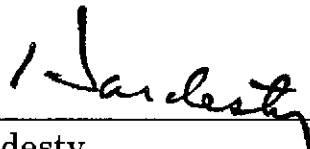
*ORDER DISMISSING APPEALS*


These are direct appeals from judgments of conviction. Second Judicial District Court, Washoe County; Scott N. Freeman, Judge.

Appellant's counsel has filed a notice of voluntary withdrawal of these appeals. Counsel advises this court that he has informed appellant of the legal consequences of voluntarily withdrawing these appeals, including that appellant cannot hereafter seek to reinstate these appeals, and that any issues that were or could have been brought in these appeals

are forever waived. Having been so informed, appellant consents to a voluntary dismissal of these appeals. Cause appearing, this court

ORDERS these appeals DISMISSED.<sup>1</sup>

, J.  
Hardesty

, J.  
Stiglich

, J.  
Silver

cc: Hon. Scott N. Freeman, District Judge  
Washoe County Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk

---

<sup>1</sup>Because no remittitur will issue in these matters, see NRAP 42(b), the one-year period for filing post-conviction habeas corpus petitions under NRS 34.726(1) shall commence to run from the date of this order.

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

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**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

08-26-2019:14:03:14

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08-26-2019:14:03:46

**Court:**

Second Judicial District Court - State of Nevada

Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Supreme Ct Ord Dismis Appeal

**Filed By:**

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ANTHONY SKAGGS

BIRAY DOGAN, ESQ. for CHARLES ANTHONY  
SKAGGS

JOANNA L. ROBERTS, ESQ. for CHARLES  
ANTHONY SKAGGS

DIV. OF PAROLE & PROBATION

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2019 OCT 22 PM 1:14

Charles A. Skaggs

(Name)

1117743

(I.D. Number)

Northern Nevada Correctional Center  
Post Office Box 7000  
Carson City, NV 89702

ORIGINAL

J. J. BROWN, JR.  
CLERK OF DISTRICT COURT  
BY *[Signature]*

Petitioner, In Proper Person

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADAIN AND FOR THE COUNTY OF WASHOECHARLES A. SKAGGS

Petitioner,

vs.

ISIDRO BACA, Warden, Northern,  
Nevada Correctional Center  
Respondent.

Case No: CR18-2148  
CR18-2149Dept. No.: 9

**PETITION FOR WRIT OF HABEAS  
CORPUS (POST-CONVICTION)**  
(Non Death Penalty)

**INSTRUCTIONS:**

**\* EVIDENTIARY HEARING \*  
REQUESTED**

1. This petition must be legibly handwritten or typewritten, signed by the petitioner and verified.
2. Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
3. If you want an attorney appointed, you must complete the Affidavit in Support of Motion for Leave to Proceed In Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
4. You must name as Respondent the person by whom you are confined or restrained. If you are in a specific institution of the department of corrections, name the warden or head of the

1 institution. If you are not in a specific institution of the department but within its custody, name the  
2 director of the department of corrections.

3 (5) You must include all grounds or claims for relief which you may have regarding your  
4 conviction or sentence. Failure to raise all grounds in this petition may preclude you from filing  
5 future petitions challenging your conviction and sentence.

6 (6) You must allege specific facts supporting the claims in the petition you file seeking  
7 relief from any conviction or sentence. Failure to allege specific facts rather than just conclusions  
8 may cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of  
9 counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which you  
10 claim your counsel was ineffective.

11 (7) When the petition is fully completed, the original and copy must be filed with the  
12 clerk of the state district court for the county in which you were convicted. One copy must be mailed  
13 to the respondent, one copy to the attorney general's office, and one copy to the district attorney of  
14 the county in which you were convicted or to the original prosecutor if you are challenging your  
15 original conviction or sentence. Copies must conform in all particulars to the original submitted for  
16 filing.

### 17 PETITION

18 1. Name of institution and county in which you are presently imprisoned or where and  
19 how you are presently restrained of you liberty: Northern NV Correctional Center, County  
of Carson City

20 2. Name and location of court which entered the judgment of conviction under attack:

21 2nd Jud. Dist. Ct/Washoe Co.; Reno, NV

22 3. Date of judgment of conviction: 4/18/19

23 4. Case Number: CR18-2148  
CR18-2149

24 5. (a) Length of sentence: \_\_\_\_\_

25 CR18-2148 ⇒ 12-32 mos. (\$25 Admin Assess, \$3 DNA, \$500 Att. Fee)

26 Credit 77 days served; Consecutive to:

27 CR18-2149 ⇒ 48-120 mos. (\$10000 Fine, \$25 Admin Assess, \$3 DNA,

28 \$500 Att., \$60 Chem.-Anal. Fee); Credit Zero days.

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion? Yes \_\_\_\_\_ No X

If "yes", list crime, case number and sentence being served at this time:

N/A

7. Nature of offense involved in conviction being challenged: \_\_\_\_\_

CR18-2148 ⇒ Attempted Assault w/Deadly Weapon

CR18-2149 ⇒ Possession of a Trafficking Qty of controlled substance

8. What was your plea? (check one)

(a) Not guilty \_\_\_\_\_ (c) Guilty but mentally ill \_\_\_\_\_

(b) Guilty X (d) Nolo contendere \_\_\_\_\_

9. If you entered a plea of guilty to one count of an indictment or information, and a plea of not guilty to another count of an indictment of information, or if a plea of guilty was negotiated, give details: CR2148 ⇒ Assault w/DW dropped to Attempt; Robbery,

TPD/EPD Violations, & Domestic Battery dismissed;

CR2149 ⇒ Level of trafficking dropped one level; Possession,

Possession For sales, & CCW dismissed.

10. If you were found guilty after a plea of not guilty, was the finding made by: (check one)

(a) Jury \_\_\_\_\_

N/A

(b) Judge without a jury \_\_\_\_\_

11. Did you testify at the trial? Yes \_\_\_\_\_ No N/A

12. Did you appeal from the judgment of conviction?

Yes X No \_\_\_\_\_

13. If you did appeal, answer the following:

(a) Name of court: NV Supreme Court

(b) Case number or citation: 78845 / 78847

(c) Result: Order Dismissing Appeals

(d) Date of result: 8/23/19

(Attach copy of order or decision, if available)

14. If you did not appeal, explain briefly why you did not:

Appeal, but appeal w/drawn by counsel as issues  
more recognizable on habeas corpus

15. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any court, state or federal? Yes \_\_\_\_\_ No X

16. If you answer to No. 15 was "yes," give the following information:

(a) (1) Name of court: N/A  
(2) Name of proceeding: N/A  
(3) Grounds raised: N/A

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes \_\_\_\_\_ No X N/A

(5) Result: N/A

(6) Date of result: N/A

(7) If known, citations of any written opinion or date of orders entered pursuant to such result:

(b) As to any second petition, application or motion, give the same information:

(1) Name of court: N/A

(2) Nature of proceeding: N/A

(3) Grounds raised: N/A

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes \_\_\_\_\_ No X

(5) Result: N/A

(6) Date of result: N/A

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: N/A

(c) As to any third or subsequent additional applications or motions, give the same information as above, list them on a separate sheet and attach. N/A

(d) Did you appeal to the highest state or federal court having jurisdiction, the result or action taken on any petition, application or motion? N/A

(1) First petition, application or motion?

Yes \_\_\_\_\_ No \_\_\_\_\_ N/A

(2) Second petition, application or motion?

Yes \_\_\_\_\_ No \_\_\_\_\_ N/A

(3) Third or subsequent petitions, applications or motions?

Yes \_\_\_\_\_ No \_\_\_\_\_ N/A

Citation or date of decision.

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length)

N/A

17. Has any ground being raised in this petition been previously presented to this or any other court by way of petition for habeas corpus, motion, application or any other post-conviction proceeding? If so, identify:

(a) Which of the grounds is the same: N/A

(b) The proceedings in which these grounds were raised: N/A

(c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 ½ by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

N/A

18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d), or listed on any additional pages you have attached, were not previously presented in any other court, state or federal, list briefly what grounds were not so presented, and give your reasons for not presenting them. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 ½ by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

Not Appropriately raised on direct appeal b/c guilty plea taken, so there is no trial record

19. Are you filing this petition more than 1 year following the filing of the judgment of conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 ½ by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) No - This Petition is Timely Filed

20. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? Yes \_\_\_\_\_ No X

If yes, state what court and the case number:

21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on direct appeal: Procteral through sentencing ⇒ Biray Dagan  
Appeal ⇒ Sohn Reese Petty

22. Do you have any future sentences to serve after you complete the sentence imposed by the judgment under attack:

Yes \_\_\_\_\_ No x

23. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary you may attach pages stating additional grounds and facts supporting same.

(a) Ground One:

PETITIONER'S 6<sup>TH</sup> and 14<sup>TH</sup> AMENDMENT RIGHTS UNDER THE  
US CONSTITUTION, AND HIS RIGHTS UNDER NY CONST. ART 1  
§ 8, TO EFFECTIVE ASSISTANCE OF COUNSEL<sup>^</sup>, WERE VIO-  
LATED WHERE: COUNSEL FAILED TO INVESTIGATE THE  
 (continued below)

Supporting Facts:

FACTS OF THE CASES AND/OR TO INTERVIEW IMPORTANT  
WITNESSES NECESSARY TO FORMULATE A DEFENSE, BEFORE  
CONVINCING PETITIONER THAT IT WAS IN HIS BEST INTEREST  
TO ACCEPT A GUILTY PLEA.

In Case No. CR 2148, the victim stated that Petitioner's  
mother and cousin (actually Petitioner's nephew) witnessed  
the incidents in question. Petitioner informed his attorney  
that his mother, Janet Skaggs, and his nephew, Samuel  
Stellingweeth, as well as several neighbors, did in fact,  
witness parts of the incidents. These people could have  
testified that: (1) Petitioner never pushed the victim into  
a chair; (2) The victim's purse and keys were never taken  
by the Petitioner - the victim stated her purse was in

(continued, P. 20)

(b) Ground Two:

PETITIONER'S 4<sup>TH</sup>, 6<sup>TH</sup>, and 14<sup>TH</sup> AMENDMENT RIGHTS UNDER  
THE US CONSTITUTION, AND HIS RIGHTS UNDER NV. CONST.  
ART. 1 § 8, TO PROTECTION FROM UNREASONABLE SEARCH  
AND SEIZURE, TO EFFECTIVE ASSISTANCE OF COUNSEL, AND  
(Continued below)

Supporting Facts:

TO DUE PROCESS OF LAW, WERE VIOLATED WHERE: COUNSEL  
CONVINCED PETITIONER TO WAIVE HIS PRELIMINARY HEARING  
AND ACCEPT A PLEA WITHOUT SEEKING SUPPRESSION OF  
QUESTIONABLY-OBTAINED EVIDENCE.

At the time of his arrest, Petitioner was receiving a ride  
from a friend, in what he presumed was her vehicle. He had  
no knowledge of what was in the vehicle. Detectives witnessed  
Petitioner purchase a small amount of cocaine, for personal  
use, and recognized Petitioner as a subject of a warrant.  
Police executed a traffic stop and did a vehicle search  
incident to arrest. There was a bag of methamphetamine  
in the vehicle, which the Petitioner believed to be  
approximately 2 oz, as he has experience with the  
drug culture and could make a fair estimate. Petitioner  
carried his drugs on his person and knew nothing of  
the other drugs in the vehicle until the police pulled  
them out. The driver and other passenger turned  
out to not be the registered owners, and it is there-  
fore questionable whether they had standing to consent  
to a vehicle search without police obtaining a search

(continued, P. 25)



(c) Ground Three:

PETITIONER'S 6<sup>TH</sup> AND 14<sup>TH</sup> AMENDMENT RIGHTS UNDER THE US CONSTITUTION, AND HIS RIGHTS UNDER NV. CONST. ART. 1<sup>ST</sup>, TO EFFECTIVE ASSISTANCE OF COUNSEL AND TO DUE PROCESS OF LAW, WERE VIOLATED WHERE:

Supporting Facts:

COUNSEL NEVER FULLY ADVISED PETITIONER AS TO THE DIRECT CONSEQUENCES OF ENTERING INTO THE PLEA CONTRACT AND THE REQUIREMENTS PETITIONER WAS EXPECTED TO MEET IN ORDER TO FULFILL THE PLEA CONTRACT.

Counsel for Petitioner did no investigation on these cases, save for reviewing the prosecutor's files. Counsel immediately advised Petitioner to waive his preliminary hearing and enter pleas on both cases because "the evidence was stacked against him and he had no defenses." Petitioner was never fully informed of the nature of the charges originally against him, as he was never arraigned on them. He could not make a knowing and intelligent entry of a plea when he did not know the true nature of the offenses against him, where counsel advised him to waive his preliminary, so he was unaware of the evidence against him, and his counsel would not investigate to formulate defenses. Further, counsel asked for Petitioner to be admitted to bail pending sentencing, but counsel failed to inform Petitioner that if Petitioner violated terms of bail in any way, the State could nullify the plea agreement.

(continued, P. 29)

(d) Ground Four:

PETITIONER'S 6<sup>TH</sup> and 14<sup>TH</sup> AMENDMENT RIGHTS UNDER THE US CONSTITUTION, AND HIS RIGHTS UNDER NV CONST. ART. 1 §8 TO EFFECTIVE ASSISTANCE OF COUNSEL, TO AN IMPARTIAL JUDGE, AND TO DUE PROCESS OF LAW,

Supporting Facts:

WERE VIOLATED WHERE: THE COURT NEVER FULLY ADVISED PETITIONER ON ALL CONSEQUENCES AND RAMIFICATIONS OF ACCEPTING THE PLEA CONTRACT AND THE REQUIREMENTS PETITIONER WAS EXPECTED TO MEET IN ORDER TO FULFILL THE PLEA CONTRACT, THE COURT MERELY ACCEPTED COUNSEL'S STATEMENT THAT HE EXPLAINED THE ENTIRE AGREEMENT TO PETITIONER, AND COUNSEL FAILED TO CHALLENGE WHEN THE COURT DID NOT SO ADVISE THE PETITIONER.

The Judge, when arraigning Petitioner on negotiated charges, with recommended sentences, Petitioner acknowledged that he had discussed the terms of the Guilty Plea Agreement with his attorney. However, Petitioner believed that the attorney had discussed the entire Guilty Plea Agreement with Petitioner, which he later discovered the attorney did not do. The Court went through an abbreviated colloquy with Petitioner, but did not go into detail about the provision #10 of the Guilty Plea Memorandum. Based on the judge's statements at the acceptance of the Guilty Plea, Petitioner believed that, taking this coupled with counsel's advice that he merely had to "show up" for sentencing in order

(continued, P. 33)

(e) Ground Five:

PETITIONER'S 6<sup>TH</sup> & 14<sup>TH</sup> AMENDMENT RIGHTS UNDER THE US CONSTITUTION, AND HIS RIGHTS UNDER NV CONST. ART. 1§8 TO EFFECTIVE ASSISTANCE OF COUNSEL AND TO DUE PROCESS OF LAW, WERE VIOLATED WHERE: COUNSEL

Supporting Facts:

PROVED INEFFECTUAL WHERE COUNSEL FAILED TO CHALLENGE PETITIONER'S COMPETENCY TO ACCEPT A PLEA, GIVEN PETITIONER'S PSYCHIATRIC TREATMENT WITH MEDICATIONS THAT WERE NOT STABILIZED AT THE TIME OF ENTRY OF HIS PLEA.

At the time of his offense and at the time of his entrance of guilty plea, Plaintiff was receiving treatment from Alta-Vista Mental Health and was on psychiatric medications for depression, antisocial personality disorder, and anxiety. Petitioner was additionally diagnosed with Use Disorders for Amphetamine, Alcohol, Cocaine, and Cannabis. Petitioner was being treated with <sup>Zoloft</sup> Prozac & Vistaril. The Combination made Plaintiff manic-happy, carefree, and careless. It made him not care about risk-taking and willing to not put thought into anything, and not put effort into understanding the plea agreements or its consequences, or the ramifications if he violated any provisions of the Agreement. Petitioner just accepted what the lawyer said and what his lawyer told him to do because the lawyer said there was nothing the Petitioner could do to fight the crime. In his dazed state,

(continued, P. 316)

#6

Ground: PETITIONER'S 6<sup>th</sup> and 14<sup>th</sup> AMENDMENTS RIGHTS UNDER THE US CONSTITUTION, AND HIS RIGHTS UNDER NY CONSTITUTIONAL ART. 198, TO EFFECTIVE ASSISTANCE OF COUNSEL, AND TO DUE PROCESS OF LAW, WERE VIOLATED WHERE: COUNSEL NEVER EXPLAINED THE OPTIONS TO PETITIONER AFTER THE PLEA AGREEMENT WAS "VIOLATED". HE MERELY SAID IT WAS ON TO  
(continued below)

## Supporting Facts:

SENTENCING WITH NO DEAL, AND MERELY CHOSE TO ARGUE FOR THE ORIGINAL SENTENCE, DESPITE PETITIONER DESIRING TO WITHDRAW PLEA.

The Plea Agreement had been "violated" upon rearrest of Petitioner, although it was never explained fully, by counsel or the Court, that if he was rearrested, his plea agreement would be voided. Upon rearrest, when Petitioner appeared for sentencing, counsel explained that, because he had "violated" the plea agreement, he was going on to sentencing "with no deal." Petitioner stated that he wished to withdraw his plea if there were no deal. Counsel did not explain that Petitioner had the right to withdraw his plea, and in fact, did not attempt to withdraw Petitioner's plea on his behalf. Rather, Counsel chose to argue for the original sentence, without "Global Resolution" for the new and existing charges. This could not feasibly be considered a reasonable strategic decision on the part of counsel.

A court has held that a case should be remanded  
(Continued, P. 39)

#7  
Ground: PETITIONER'S 6<sup>TH</sup> AND 14<sup>TH</sup> AMENDMENT RIGHTS UNDER THE  
US CONSTITUTION, AND HIS RIGHTS UNDER NV. CONST. ART. 1§8,  
TO EFFECTIVE ASSISTANCE OF COUNSEL AND TO DUE PROCESS OF LAW  
WERE VIOLATED WHERE: COUNSEL ALLOWED THE DISTRICT ATTOR-  
NEY TO BOLSTER THE VICTIM IMPACT LETTER FOR SENTENCING,  
FAILED USE MITIGATING EVIDENCE IN REGARD TO THE VICTIM IMPACT  
(continued below)

Supporting Facts:

LETTER AT SENTENCING, AND FAILED TO ADEQUATELY CHALLENGE  
THE VICTIM'S INCONSISTENT STATEMENTS OR APPRISE THE  
COURT OF THE MOTIVES BEHIND SAID INCONSISTENT STATEMENTS.

Petitioner requested counsel speak to the victim prior  
to his plea. Counsel failed to interview the victim to assess  
her credibility, due to her inconsistent police statements.  
This would have been a simple task for counsel, as the vic-  
tim had been going to Court and supporting Petitioner before  
entry of the plea, all the way up to a few weeks before  
sentencing. A few weeks before sentencing, Petitioner  
and the victim ended their relationship and the victim  
was going through financial problems due to her addiction  
issues.

The victim then sought assistance from the District  
Attorney's Victim Advocate. The victim wrote a "malicious"  
victim impact letter, as required of her by the victim advocate in  
order to obtain financial assistance, for use at the Peti-  
tioner's sentencing. This letter was written March 12, 2019.  
The victim subsequently text-messaged over the telephone  
(continued, p. 40)

Ground: <sup>d</sup> PETITIONER'S 6<sup>TH</sup> AND 14<sup>TH</sup> AMENDMENT RIGHTS UNDER THE  
 US CONSTITUTION, AND HIS RIGHTS UNDER NV. CONST. ART. 1§8, TO  
 EFFECTIVE ASSISTANCE OF COUNSEL AND TO DUE PROCESS OF LAW WERE  
 VIOLATED WHERE: COUNSEL FAILED TO ARGUE INCONSISTENCIES  
 IN THE VICTIM'S STATEMENTS/LETTERS, FAILED TO SHOW COERCION  
 OF THE VICTIM BY THE DA'S VICTIM ADVOCATE, FAILED TO  
 (continued below)

Supporting Facts:

SHOW VICTIM'S SUPPORT OF PETITIONER, AND ACTED AS A  
 "SECOND PROSECUTOR" IN ARGUING TO THE COURT UNADJUDICATED  
 CHARGES WHICH HE SHOULD HAVE KNOWN WOULD BE AGGRA-  
 VATORS.

At sentencing, counsel showed his incompetence by  
 elaborating on Petitioner's new and unadjudicated  
 charges to attempt to use future penalties as mitigators.  
 This was based on information provided to him by the  
 State. These crimes were unadjudicated and any com-  
 petent counsel would know that if they were brought  
 up, they would be aggravators. Further, counsel failed  
 to object where Deputy D.A. Lee argued at sentencing that  
 Petitioner had new charges with the same victim, knowing  
 that those charges were, or were scheduled to be, dismissed.

Counsel failed to bolster support for Petitioner at sen-  
 tencing by subpoenaing the victim, and bringing out testi-  
 mony showing that the victim was coerced by the DA's  
 Office Victim Advocate to write the First Victim Impact  
 letter; and rather than bring out testimony showing  
 (continued, p. 42)

FACTUAL BACKGROUND (CONT'D) AND MEMORANDUM OF POINTS AND AUTHORITIES

There are three ways in which a Sixth Amendment ineffective counsel claim may be brought: (1) the lawyer was actually ineffective (2) constructively ineffective; or, that he had a conflict of interest that caused him to be actually ineffective. Petitioner would allege that counsel was ineffective due to a combination of each of the three forms. Each type of claim requires Petitioner to prove different things.

1. Actual Ineffectiveness: The Strickland Test

In general, to show ineffective assistance of counsel under the US Constitution (USCA C.A. 6), Petitioner must pass the two-part Strickland test. See, STRICKLAND v. WASHINGTON, 466 US 668, 687, 104 S.Ct. 2052, 2064 (1984) (establishing Federal standard for ineffective assistance of counsel). The first part of this test, the "deficient performance prong," requires proof that the lawyer's performance was "deficient." See, STRICKLAND, *supra*. The Court must decide whether the lawyer's representation fell below an "objective standard of reasonableness." These basic professional standards could include, but are not limited to, a duty of loyalty, a duty to avoid conflicts of interest, a duty to advocate the Defendant's case, the duty to consult with defendant on important decisions and to keep defendant informed of important developments during the prosecution, and a duty to use a level of skill and knowledge that makes the trial truly adversarial. See, STRICKLAND, *supra*, @ 688-89 (outlining these duties but noting that they "neither exhaustively define the obligations

1 of counsel nor form a checklist for judicial evaluation of  
 2 attorney performance. ") The Court must determine whether  
 3 the lawyer acted in a way that other lawyers would think  
 4 is acceptable.

5 Since this standard can apply differently in different  
 6 situations, Petitioner identifies within the body of this  
 7 PETITION those specific things that counsel did [or did not do]  
 8 that were so bad that he was denied the right to counsel.  
 9 STRICKLAND, *supra*, ¶690 (in deciding the ineffectiveness claim,  
 10 the judge must look at the reasonableness of counsel's con-  
 11 duct based on facts of the particular case, viewed at the  
 12 time of counsel's conduct).

13 When the Court finds the lawyer's representation fell  
 14 below this "objective standard of reasonableness," it will  
 15 apply the second part of the STRICKLAND test. The second part,  
 16 the "prejudice prong," requires Petitioner to prove there is  
 17 a "reasonable probability that, but for counsel's unpro-  
 18 fessional errors, the result of the proceeding would have  
 19 been different." See, STRICKLAND, *supra*; WILLIAMS v. TAYLOR,  
 20 529 US 362, 390-91, 120 S.Ct 1495, 1511-12 (2000) (holding that anal-  
 21 ysis of the prejudice prong should focus solely on whether there  
 22 was reasonable probability that but for counsel's errors, the  
 23 result of the proceeding would have been different); and, WIG-  
 24 GLINS v. SMITH, 539 US 510, 534, 123 S.Ct 2527, 2542 (2003). The  
 25 ineffective counsel claim can only be won if both prongs  
 26 are met. STRICKLAND, *supra*, ¶700. The "prejudice prong" only  
 27 requires a showing of a "reasonable probability."

28 Petitioner, when requesting this Court to evaluate this  
 (16)



1 this case, would humbly and respectfully request this  
 2 Honorable Court to consider the TOTAL EFFECT of all coun-  
 3 sel's errors. See, MACKEY v. RUSSELL, No. 02-4237, 148 Fed. App'x  
 4 355, 369 (6<sup>th</sup> Cir, 8/9/05) (state court unreasonably applies  
 5 STRICKLAND when it fails to consider the cumulative effect  
 6 of counsel's errors).

### 7 2. Constructive Ineffectiveness: The Cronie Standard

8 The second type of ineffective counsel claim available under  
 9 the Sixth Amendment is a "constructive denial" of assistance of  
 10 counsel as described in UNITED STATES v. CRONIE, 466 US 648, 658,  
 11 104 S.Ct 2039, 2046 (1984) (recognizing a right where performance of  
 12 counsel deprived defendant of a fair trial). Constructive ineffec-  
 13 tive assistance can be claimed where the circumstances of the  
 14 case were so unfair that prejudice and ineffective assistance  
 15 can be presumed. See, CRONIE, supra. Under CRONIE, unlike  
 16 STRICKLAND, actual prejudice does not have to be proven.

17 The CRONIE standard applies in three situations. See,  
 18 CRONIE, supra, @ 659-62; and, BELL v. CONE, 535 US 685, 695-  
 19 98, 122 S.Ct 1843, 1850-52 (2002). First, prejudice may be pre-  
 20 sumed if you were completely denied counsel during a "critical  
 21 stage" of trial. See, WRIGHT v. VAN PATTON, 128 S.Ct 743, 746,  
 22 (2008); RICKMAN v. BELL, 131 F.3d 1150, 1156-60 (6<sup>th</sup> Cir, 1997);  
 23 and, JAVOR v. US, 724 F.2d 831, 833-34 (9<sup>th</sup> Cir, 1984).

24 The second way to claim ineffective assistance under  
 25 CRONIE is to show that the attorney "entirely failed to subject  
 26 the prosecution's case to meaningful adversarial testing." See,  
 27 CRONIE, supra, @ 648; See also, STATE v. CARTER, 270 Kan 426,  
 28 440-41, 14 P.3d 1138, 1148 (2000, Kan) (Finding that a breakdown

exists in the adversarial system of justice when counsel premised the defense on the defendant's guilt against his client's wishes). The attorney's failure to test the State's case must have been "complete," meaning he put up no opposition whatsoever. See, POWELL v. ALABAMA, 287 U.S. 45, 56-58, 53 S.Ct. 55, 59-60 (1932).

Finally, a CRONIC claim can be made if the circumstances of the case made it highly unlikely any lawyer could have provided effective assistance. See, CRONIC, supra, and, POWELL, supra. If the case is found to fall within this provision, i.e., Petitioner's counsel was provided no opportunity to investigate the facts or prepare due to appointment immediately before advising Petitioner to enter plea, then Petitioner does not have to prove his lawyer's performance was deficient.

### 3. Conflicts of Interest

The third type of Sixth Amendment ineffectiveness claim argues that counsel provided the ineffective assistance due to a conflict of interest. To show that counsel had a conflict of interest, Petitioner must demonstrate that there was an actual conflict of interest that "adversely affected" the lawyer's performance. See, CUYLER v. SULLIVAN, 446 U.S. 335, 350, 100 S.Ct. 1768, 1719 (1980); See also, US v. IORIZZO, 786 F.2d 52, 57-58 (2<sup>nd</sup> Cir. 1986) (applying CUYLER and finding that defendant's trial counsel had a conflict of interest because he had previously represented the State's key witness on a related matter and effectively failed to cross-examine this witness after the

1 tired judge had told him that he might encounter ethi-  
 2 cal problems if he pursued certain lines of questioning.)  
 3 The conflict must be actual, not just potential, which  
 4 means that the lawyer must have taken some action,  
 5 or refrained from acting in some way, which harmed  
 6 Petitioner and benefited another person. See, MICKENS  
 7 v. TAYLOR, 535 US 162, 174-76, 122 S.Ct 1237, 1245-46  
 8 (2002) (holding that CUYLER applied to petitioner's claim  
 9 that counsel was conflicted because he represented the  
 10 victim in an unrelated case); see also, LIPSON v. US, 233  
 11 F.3d 942 (7<sup>th</sup> Cir, 2000) (Sixth Amendment rights violated  
 12 where lawyer paid by codefendant). The Petitioner  
 13 is not required to show prejudice if the lawyer had  
 14 an actual conflict of interest that adversely affected  
 15 him, because prejudice is presumed.  
 16 MICKENS, supra, delineates that an "actual conflict" is a "con-  
 17 flict that affected counsel's performance -- as opposed to a mere  
 18 'theoretical' division of loyalties." In HALL v. US, it is shown that,  
 19 an actual conflict of interest exists "if the defense counsel was  
 20 faced with a choice between advancing his own interests above  
 21 those of his client". See, 371 F.3d 969, 973 (7<sup>th</sup> Cir, 2004); also,  
 22 MOSS v. US, 323 F.3d 445, 463 (6<sup>th</sup> Cir, 2003). The Nevada Sup-  
 23 reme Court adopted this same reasoning in the earlier case of  
 24 CLARK v. STATE, 108 Nev 324 (Nev, 1992), when it held:  
 25 " ... it would be foolish to ignore the very real possibility that  
 26 a lawyer may not be capable of properly balancing the obligation  
 27 to expend the proper amount of time in an appointed criminal matter  
 28 where the fees involved are nominal, with his personal concerns  
 to earn a decent living by devoting his time to matters wherein he  
 will be reasonably compensated. OKEECHOBEE CO. v. JENNINGS,  
 473 So. 2d 1314, 1318 (Fla. Dist. Ct. App, 1985)

1 The Nevada Supreme Court has continued to recognize such a  
 2 divided loyalty conflicts of interest. See, PENA v. STATE, 2012 Nev  
 3 unpub LEXIS 1507; SIMPSON v. STATE, 2015 Nev. unpub LEXIS 1047;  
 4 and, WILLIAMS v. STATE, 2016 Nev. unpub LEXIS 483. The Ninth  
 5 Circuit has also recognized the same reasoning in several  
 6 cases. See, TINKER v. MOORE, 255 F.3d 1331, 2001 US App LEXIS  
 7 15100; US v. LITTLE DOG, 744 Fed. Appx. 374 (2018); JAKES v. NEVEN,  
 8 2018 US Dist LEXIS 57970 (9<sup>th</sup> Cir, 2018); and, BRYANT v. NEVEN,  
 9 2018 US Dist LEXIS 67597 (9<sup>th</sup> Cir, 2018).

10

### 11 GROUND 1, CONT'D

12 the vehicle, and witnesses would testify that Petitioner has his  
 13 own keys to the vehicle, as he was an owner of the vehicle; (3)  
 14 that Petitioner never said "I'll fuck you up." while he had  
 15 the hammer; (4) That Petitioner never swung the hammer  
 16 at or toward his mother and Ms. Dutra; (5) his mother  
 17 never told Ms. Dutra that Petitioner is here with a hammer,  
 18 and, (6) the Petitioner left his mother's residence with  
 19 nothing. They also would say they never saw Petitioner  
 20 come out of the bedroom and threaten anyone with the  
 21 hammer as the victim claimed.

22 Had the attorney chosen to interview witnesses, and/or  
 23 the victim, he would have discovered that the victim  
 24 lied about the assault with a hammer, as well as  
 25 taking her purse and keys out of the residence. Pet  
 26 itioner's mother attempted to contact the attorney to talk  
 27 to him about this, and the attorney failed to return  
 28 the call. The Attorney never gave Petitioner the option

1 to formulate a defense, or even to investigate the case,  
2 but merely advised Petitioner he should take a plea  
3 based upon the prosecutor's File.

4 In case no. CR2149, despite being requested to do so  
5 by Petitioner, counsel failed to: (1) listen to jail calls cited in  
6 police reports; (2) interview the other witnesses in the car at the  
7 time of Petitioner's arrest and vehicle search; (3) research who  
8 the registered owner of the vehicle and request a background  
9 check on them; (4) request an independent lab weigh and test  
10 the drugs found in the case; (5) request the body cam footage of  
11 the search and arrest; and/or (6) investigate Petitioner's state  
12 of mind at the time of his arrest and phone calls.

13 Had counsel completed any or all of these [requested] tasks,  
14 Petitioner could have formulated a defense by proving that:  
15 (1) the amount of drugs in his possession did not amount  
16 to trafficking or an amount suitable for sales; (2) he was  
17 not the owner or driver of the vehicle, was merely getting  
18 a ride, and had no constructive possession or control of  
19 anything in the vehicle; (3) that Petitioner's state of mind  
20 was highly altered at the time of his search, arrest, and  
21 jail phone calls, which negated any intent on the part  
22 of Petitioner.

23 All of these failings of counsel, taken individually  
24 or cumulatively, affected Petitioner's considerations in  
25 regard to deciding whether to take a plea, where Pe-  
26 titioner felt forced when counsel did not investigate  
27 and recommended that his only shot would be in  
28 accepting a plea.

1 Evaluating in terms of STRICKLAND, *supra*, prejudice results  
 2 where Petitioner felt "forced" to accept a plea bargain due to  
 3 counsel's unwillingness to investigate and advising him  
 4 that his only shot was to accept a plea. When an attorney  
 5 advises his client to plea bargain to an offense which the  
 6 attorney has not investigated, such conduct is always unreason-  
 7 able. WOODWARD v. COLLINS, 898 F.2d 1027, 1029 (5<sup>th</sup> Cir, 1990);  
 8 RILEY v. PAYNE, 352 F.3d 1313 (9<sup>th</sup> Cir, 2003); and, WIGGINS v.  
 9 SMITH, 123 S.Ct 2527 (2003).

10 Though there may be unusual cases when an attorney  
 11 can make a rational decision that investigation is unneces-  
 12 sary, as a general rule, an attorney must investigate a  
 13 case in order to provide minimally competent representation.  
 14 CRISP v. DUCKWORTH, 743 F.2d 580, 583 (7<sup>th</sup> Cir, 1984); AMALOV.  
 15 RYAN, 2011 US Dist. LEXIS 75386 (9<sup>th</sup> Cir, 2011); and, COLEMAN v.  
 16 SWARTHOUT, 2013 US Dist. LEXIS 70550 (9<sup>th</sup> Cir, 2013). An investi-  
 17 gation consisting solely of reviewing the prosecutor's file "falls  
 18 short of what a reasonably competent attorney would have  
 19 done." KIRKSEY v. STATE, 112 Nev 980 (Nev, 1996); THOMAS v. LOCKHART,  
 20 738 F.2d 304, 308 (8<sup>th</sup> Cir, 1984); and, FLETCHER v. BLADES, 2019 US Dist.  
 21 LEXIS 1807 (9<sup>th</sup> Cir, 2019).

22 At a minimum, counsel has the duty to interview potential  
 23 witnesses & to make an independent investigation of the facts  
 24 & circumstances of the case. NEALY v. CABANA, 764 F.2d 1173, 1177  
 25 (5<sup>th</sup> Cir, 1985); and, CORBRAY v. CARTER, 2006 US Dist LEXIS 100453  
 26 (9<sup>th</sup> Cir, 2006). This duty to investigate includes the obligation  
 27 to investigate all witnesses who may have information con-  
 28 cerning his/her client's guilt or innocence. BRYANT v. SCOTT,

1 28 F.3d 1411, 1419 (5<sup>th</sup> Cir, 1994); and, CAPLES v. NEVIN, 2011 US  
 2 Dist LEXIS 60635 (9<sup>th</sup> Cir, 2011). In MONTGOMERY v. PETERSON, 846  
 3 F.2d 407, 413 (7<sup>th</sup> Cir, 1988), the 7<sup>th</sup> Circuit determined that "counsel  
 4 has a duty to contact a potential witness unless counsel 'can make  
 5 a rational decision that investigation is unnecessary.'" See also,  
 6 PRENTISS v. MCWHIRTER, 63 F.2d 712 (9<sup>th</sup> Cir, 1933); and, WOOD v.  
 7 CARPENTER, 101 US 135 (1879). However, counsel could not make  
 8 such a decision in this case. The rendition of events pro-  
 9 pounded by the victim and the Petitioner are in stark contrast.  
 10 Police reports indicate the victim claimed Petitioner's mother,  
 11 nephew, and neighbors as witnesses, yet counsel chose not  
 12 to interview these people even though police also did not.  
 13 Where police did not interview these witnesses, it was incum-  
 14 bent upon counsel to do so to discover "why?"

15 Counsel's failure to contact the only other witness(es) aside  
 16 from police who saw events surrounding the arrests was  
 17 ineffective assistance. See, WORKMAN v. TATE, 957 F.2d 1339  
 18 (6<sup>th</sup> Cir, 1992); and, WALKER v. MARTEL, 2011 US Dist LEXIS 75430  
 19 (9<sup>th</sup> Cir, 2011). The failure to interview eyewitnesses to a crime  
 20 may strongly support a claim of IAC, and when alibi witnesses  
 21 are involved, it is unreasonable for counsel not to try to con-  
 22 tact the witnesses and ascertain whether their testimony would  
 23 aid the defense. BRYANT, supra.; and, GROOMS v. SOLEM, 923  
 24 F.2d 88, 91 (8<sup>th</sup> Cir, 1991). An attorney's failure to investigate  
 25 potential alibi witnesses is not a "strategic choice" that  
 26 precludes a claim of ineffective counsel. See, NEALY, supra.

27 It is ineffective assistance where counsel "made absolutely  
 28 no attempt" to communicate with crucial witnesses that

1 would have testified that the Petitioner did not commit a crime.  
 2 TOWNS v. SMITH, 395 F.3d 251, 259 (6<sup>th</sup> Cir, 2005); and, HOSTETTER v.  
 3 BELLEQUE, 2006 US Dist LEXIS 30024 (2006, 9<sup>th</sup> Cir). Counsel has  
 4 a duty to investigate all witnesses who allegedly possessed know-  
 5 ledge concerning the Petitioner's guilt or innocence. See, KEMP v.  
 6 LEGGETT, 635 F.2d 453, 454 (5<sup>th</sup> Cir, 1981); GAINES v. HOPPER, 575  
 7 F.2d 1147, 1149 (5<sup>th</sup> Cir, 1978); US v. VERGARA, 714 F.2d 21, 23  
 8 (5<sup>th</sup> Cir, 1983); HENDERSON v. SARGENT, 926 F.2d 706-711 (8<sup>th</sup> Cir, 1991);  
 9 LAWRENCE v. ARMONTROUT, 900 F.2d 127, 130 (8<sup>th</sup> Cir, 1990).

10 It is ineffective assistance where counsel failed to in-  
 11 vestigate witness(es) that could have swung the case in his  
 12 client's favor. " ADAMS v. BELTRAND, 453 F.3d 428, 436 (7<sup>th</sup> Cir,  
 13 2006); and, MOLINA v. MADDEN, 2017 US Dist LEXIS 49630 (9<sup>th</sup> Cir,  
 14 2017). Finally, defense counsel's preparation for trial amounted  
 15 to "total failure to actively advocate his client's cause," where  
 16 he conducted no independent investigation. " RICKMAN v. BELL,  
 17 131 F.3d 1150, 1157 (6<sup>th</sup> Cir, 1997)

18 Under STRICKLAND, there was deficient performance, and  
 19 many circuits agree that counsel failure to investigate or  
 20 conduct witness interviews falls well below an objective  
 21 standard of reasonableness. In this respect, counsel caused  
 22 Petitioner enough harm that Petitioner believe counsel would  
 23 put forward no defense, where counsel failed to conduct  
 24 any investigation, said a plea was his best shot, and  
 25 purported it would be a waste of his valuable time to  
 26 investigate, thereby causing Petitioner to feel forced into  
 27 a plea. Counsel was therefore ineffective under STRICKLAND.

28 Under CRONIC and RICKMAN, counsel can be presumed



1 to be ineffective where he was lacking at a "critical stage  
 2 of the proceeding," namely, meaningful pretrial adversarial  
 3 testing. Counsel totally failed to subject the prosecutor's  
 4 case file to any investigation or adversarial testing, even  
 5 advising Petitioner to waive a preliminary examination.

6 Finally, under COTLER and MICKENS, Petitioner has  
 7 shown that counsel had a conflict - personal obligation  
 8 of time/finance when he claimed it would be a waste  
 9 of his time to investigate witness. Under CLARK, such  
 10 reasoning, where counsel was faced with a choice between  
 11 advancing his own interests above those of his client, is  
 12 a conflict that "adversely affects the lawyers performance."

13 Accordingly, Petitioner has shown ineffective assist-  
 14 ance of counsel under all three tests for ineffectiveness.  
 15 Petitioner need only show ineffectiveness under one test.  
 16 In this regard, Petitioner has advanced a showing of harm  
 17 and prejudice and Petitioner should be entitled to a  
 18 hearing on the merits of this issue

19

## 20 GROUND 2, CONT'D

21

22 warrant.

23 Petitioner was highly intoxicated on alcohol, narcotics,  
 24 and psychotropics at the time of his arrest. Washoe County  
 25 jail had to admit him to the infirmary for psychiatric  
 26 evaluation. Though Washoe County Jail did not sedate Petitioner,  
 27 Petitioner was highly intoxicated at the time of his question-  
 28 ing to the point where his will was overborne. Similarly,

1 Petitioner was highly intoxicated at the time of his jail  
2 calls, to the point where anything said could have been  
3 twisted to conform to the prosecution's cases. It was  
4 highly unprofessional for counsel to fail to listen to/  
5 watch the jail phone calls, body camera footage of Petitioner  
6 interview, and body camera footage of Petitioner's arrest  
7 and vehicle search. Had counsel investigated these issues  
8 he would have found that the State's summaries, via  
9 its detectives, were woefully inaccurate and skewed in  
10 the prosecution's favor. Further, counsel's failure to  
11 seek suppression of the methamphetamine, the jail  
12 phone calls, and Petitioner's interrogation in custody  
13 was ineffectiveness of counsel and prejudiced Petitioner  
14 in that he was forced to face numerous serious charges,  
15 namely, trafficking, robbery, and assault, that may not  
16 have existed were it not for this evidence, and thusly,  
17 Petitioner was not in the most favorable position he  
18 should have been when considering whether to plea or  
19 to go to trial.

20 The US Supreme Court determined that it is ineffective-  
21 ness when counsel fails to perform certain pretrial func-  
22 tions. It found ineffectiveness of counsel where counsel  
23 failed to conduct discovery and failed to file a timely  
24 motion to suppress. Where defense counsel's failure to litigate  
25 a Fourth Amendment claim, Petitioner must show that there  
26 is a reasonable probability that the outcome would have been  
27 different absent the excludable evidence in order to demon-  
28 strate actual prejudice. See KIMMELMAN v. MORRISON 477 US

365, 385-391, 106 S.Ct 2574, 2588-91 (1986). However, where counsel fails to conduct pretrial discovery and to file a motion to suppress, counsel is absent at a "critical stage of the proceedings," and "failed entirely to subject the prosecution's case to meaningful adversarial testing," and therefore, under CROWNE, prejudice is to be presumed.

The Supreme Court has held that the voluntariness of a "confession" is not a factual question, but a legal question that requires independent consideration in a habeas proceeding. See, MILLER v. FENTON, 474 US 104, 110-112, 106 S.Ct 445, 449-51 (1985). In MILLER, the police got a confession by questioning a suspect with mental problems & telling him he would receive medical help rather than punishment if he confessed.

When a Petitioner claims his confession was involuntary, the question is whether his will was overborne by the circumstances surrounding the confession. DICKERSON v. UNITED STATES, 530 US 428, 434, 120 S.Ct 2326, 2331 (2000). The Seventh Circuit explained that police are allowed to pressure, cajole, conceal facts, actively mislead, and commit minor acts of fraud, but are not allowed to magnify a suspect's fears, ignorance, anxieties, or uncertainties to the point where rational decision becomes impossible. UNITED STATES v. RUTLEDGE, 900 F.2d 1127, 1130-31 (7th Cir. 1990). A Petitioner's taped confession given to police was involuntarily given in response to a police officer's false promises of leniency and Petitioner's attorney's failure to seek suppression of this evidence is objectively unreasonable given the possibility of attaining a superior plea bargain. MOORE v. CZERNIAK, 534 F.3d 1128, 1135 n.10 (9th Cir. 2008). An attorney's failure to move

1 For suppression of confessions that were primary evidence  
2 against Petitioner states a claim of ineffective assistance.  
3 SMITH v. WAINWRIGHT, 777 F.2d 609 (11<sup>th</sup> Cir, 1985). Finally,  
4 a Court has remanded a case for an evidentiary on a claim  
5 that an attorney was ineffective for failing to seek suppression  
6 of drugs discovered after a warrant obtained to search  
7 the "premises" of a home that was a two-family dwelling;  
8 the warrant, where defendant did not have control over  
9 the "premises" was overbroad. UNITED STATES v. MATO, 905  
10 F.2d 30, 32-33 (2<sup>nd</sup> Cir, 1990).

11 In this case, Petitioner's will was overborne by drugs,  
12 alcohol, and psychotropics at the time of his arrest, jail  
13 calls, and questioning. He believed he was seeking "to  
14 clean things up" according to the officer. At the time of  
15 his arrest, he was merely receiving a ride. He had no con-  
16 trol over the vehicle or its contents. Indeed, the vehicle  
17 did not even belong to the driver. Petitioner did not  
18 know there were drugs [methamphetamine] in the vehicle -  
19 he had his personal use cocaine on his person. Had counsel  
20 investigated and sought suppression, there would have only  
21 been evidence to support the least serious charges against  
22 him, and even those charges counsel advised him to plea  
23 to would not have stood.

24 Accordingly, counsel should be deemed ineffective  
25 under all three tests. Petitioner has advanced a showing  
26 of harm and prejudice under at least one of the three  
27 tests, and thus, Petitioner should be afforded an eviden-  
28 tiary hearing on the merits of this issue.

GROUND 3, CONT'D

1  
2 Petitioner believed he merely had to "show up" for sentencing,  
3 and did not know that if he got rearrested, the State did  
4 not have to abide by the plea agreement. Counsel advised  
5 Petitioner to sign the Plea Agreement, stating he had explained  
6 everything in it to Petitioner, and Petitioner was not given  
7 time to fully read the Guilty Plea Agreement. Where Petitioner  
8 believed he was pleading guilty on a promise of concurrent  
9 terms amounting to a sentence of no more than three (3) to  
10 ten (10) years, and he received consecutive sentences of  
11 a total of five (5) to fourteen (14) years, eight (8) months,  
12 Petitioner was woefully advised inadequately as to the  
13 consequences of his plea, and did not enter the plea  
14 knowingly and voluntarily with full knowledge of the nature  
15 of the charges against him and the potential defenses available  
16 to him. If counsel had properly advised Petitioner as to his  
17 defenses and an investigation done, as to the nature of the  
18 original offenses against him, and the consequences of the  
19 plea and violating bail terms, Petitioner would not have  
20 pled guilty to charges that may have been negated had counsel  
21 properly investigated.

22 The United States Supreme Court held that the two-prong  
23 STRICKLAND standard is "applicable to ineffective assistance claims  
24 arising out of the plea process," and that if a defendant claims  
25 that he pleaded guilty because of ineffective assistance of counsel,  
26 the second prong of the STRICKLAND test would be satisfied by  
27 showing "a reasonable probability that, but for counsel's  
28 errors, he would not have pleaded guilty and would have

1 insisted on going to trial." HILL v. LOCKHART, 474 US 52, 57, 106 S.Ct.  
2 366, 370 (1985); and, UNITED STATES v. HANSEL, 70 F.3d 6, 8 (2<sup>nd</sup> Cir.  
3 1995).

4 It is common holding in jurisprudence that a guilty plea  
5 is unconstitutional if a defendant pleads guilty involuntarily.  
6 A petitioner is entitled to a hearing to determine whether or not  
7 his guilty plea was voluntary even though he had declared in open  
8 court that his plea was given voluntarily and knowingly. See,  
9 FONTAINE v. UNITED STATES, 411 US 213-15, 93 S.Ct 1461-63 (1973). A peti-  
10 tioner is entitled to a hearing on the issue of whether his  
11 guilty plea, which was based on the prosecutor's unkept  
12 promises was made involuntarily. FAIR v. ZANT, 715 F.2d 1519,  
13 1520-22 (11<sup>th</sup> Cir, 1983); MACHIBRODA v. UNITED STATES, 368 US  
14 487, 494, 82 S.Ct 510, 514; and, BOYKIN v. ALABAMA, 395 US 238,  
15 23 L.Ed2d 274 (1969).

16 Where the Petitioner pleaded guilty as part of a plea  
17 bargain agreement that was broken, the plea was unconsti-  
18 tutional. When pleas rest on an implied promise or an  
19 agreement by a prosecutor that he will make sentencing  
20 recommendations, such promises must be fulfilled, consistent  
21 with Due Process. SANTOBELLO v. New York, 404 US 257, 262, 92 S.Ct  
22 495, 499 (1971). If a prosecutor says he will make a sentencing  
23 recommendation in exchange for a guilty plea, but then ac-  
24 tually recommends a harsher sentence in court, the plea  
25 bargain has been broken and the Petitioner is entitled to  
26 resentencing or withdrawal of his guilty plea. BROWN v. POOLE,  
27 337 F.3d 1155, 1160-61 (9<sup>th</sup> Cir, 2003); and, JOHNSON v. BETO, 466 F.2d  
28 478, 479-80 (5<sup>th</sup> Cir, 1972).

1 A plea is unconstitutional if the Petitioner pleaded guilty  
 2 without understanding the consequences of pleading guilty. A  
 3 court ruled a Defendant was entitled to a hearing on whether  
 4 he was aware of the maximum possible sentence at the time  
 5 of his guilty plea and, if not, whether he would have pled guilty  
 6 had he known. JONES v. UNITED STATES, 440 F.2d 466, 468 (2d Cir,  
 7 1971). The Supreme Court has held that affirmative misadvice  
 8 by an attorney and a failure to advise about the advantages  
 9 & disadvantages of a guilty plea are treated the same when  
 10 assessing whether counsel's performance was deficient.  
 11 Erroneous advice regarding risks of deportation or any other  
 12 such risks associated with pleading guilty states a claim of  
 13 ineffective assistance. PADILLA v. KENTUCKY, 559 US \_\_\_\_ (2010).  
 14 When an attorney advises his client to plea bargain  
 15 to an offense which the attorney has not investigated, such  
 16 conduct is always unreasonable. See, WOODARD v. COLLINS,  
 17 898 F.2d 1027, 1029 (5<sup>th</sup> Cir, 1990). A defendant challenging  
 18 his attorney's conduct during plea bargaining must show  
 19 that counsel did not attempt to learn the facts of the case  
 20 and failed to make a good-faith estimate of a likely sen-  
 21 tence. He must also show that his lawyer's deficiency  
 22 was a decisive factor in his decision to plead guilty. SHORT v.  
 23 UNITED STATES, 471 F.3d 686, 692 (6<sup>th</sup> Cir, 2006). It is ineffec-  
 24 tive assistance where counsel failed to advise a defendant  
 25 of an innocent-possession defense to a felon in possession  
 26 of a firearm charge. UNITED STATES v. MOONEY, 497 F.3d 397  
 27 (4<sup>th</sup> Cir, 2007).

28 Further, it is ineffective assistance where the attorney

1 Failed to advise a defendant of the available options  
2 & possible consequences of pleading guilty or going to  
3 trial. BECKHAM v. WAINWRIGHT, 639 F.2d 262, 267 (5<sup>th</sup> Cir,  
4 1981). In the context of a claim that counsel failed to  
5 conduct an adequate investigation prior to the entry of  
6 a guilty plea, prejudice is demonstrated by showing that  
7 the defendant would have insisted on going to trial  
8 instead of pleading guilty. UNITED STATES v. KAUFFMAN, 109  
9 F.3d 186, 191 (3d Cir, 1997).

10 CRONIC, *supra* is implicated where counsel's assis-  
11 tance was absent at a critical stage of the proceedings,  
12 i.e., counsel failed to conduct any investigation prior  
13 to advising Petitioner that it was in his best interest to  
14 enter a guilty plea. Further, Coxler, *supra*, is implicated  
15 where a conflict of interest arises where the Petitioner  
16 alleged that the attorney misadvised him and forced him to  
17 plead guilty. A defendant's allegation that the attorney  
18 coerced him into pleading guilty states a conflict of in-  
19 terest claim where the attorney could not argue for  
20 or against the defendant's motion to withdraw his guilty  
21 plea and the defendant was adversely affected by the  
22 conflict given the attorney's statement he would  
23 "leave the sentencing where it properly belongs, in the  
24 hands of the Court. See, LOPEZ v. Seely, 58 F.3d 38 (2d  
25 Cir, 1995).

26 Particularized allegations that counsel threatened not  
27 to investigate the case or file pretrial motions if the defendant  
28 did not accept a plea warranted an evidentiary hearing.



1 UNITED STATES v. DAVIS, 239 F.3d 283, 287 (2d Cir, 2001). There  
 2 is a conflict at sentencing where the attorney told the  
 3 Court that the defendant had alleged that the attorney forced  
 4 the defendant to plead; the attorney failed to pursue a  
 5 downward departure because of the conflict. US v. SHORTER,  
 6 54 F.3d 1248 (7th Cir, 1995).

7 In this case, it was shown that counsel did no investi-  
 8 gation on Petitioner's case, and without any investigation,  
 9 deprive Petitioner of effective counsel at a critical stage,  
 10 i.e., plea negotiations and advising Petitioner to enter  
 11 a guilty plea. Counsel misled Petitioner about the evidence  
 12 being stacked against him, when he did no investigation  
 13 to determine whether defenses existed to the charges  
 14 against. Further, counsel failed to explain all the ramifica-  
 15 tions of the terms of the plea agreement with Petitioner,  
 16 the counsel claimed he did, resulting in Petitioner un-  
 17 knowingly violating the plea agreement, and given that,  
 18 counsel then refused to file, or put forth a verbal, motion  
 19 to withdraw the guilty plea.

20 Accordingly, counsel should be deemed ineffective un-  
 21 der all three tests. Petitioner has advanced a showing  
 22 of harm and prejudice under at least one of the  
 23 three tests, and thus, Petitioner should be afforded  
 24 an evidentiary hearing on the merits of this issue.

25

#### 26 GROUND 4, CONT'D

27 For the State to comply with the Guilty Plea Agreement,  
 28 The attorney, knowing that he did not describe this provision

1 to Petitioner, and knowing that the Court did not explain  
2 the provision, counsel was ineffective in not advising  
3 the Court that Petitioner was not advised of the  
4 ramifications of the "rearrest" provision. This is  
5 especially true where counsel was aware of Petitioner's  
6 prior criminal record and knew the Petitioner truly  
7 needed to be aware of such a provision that could  
8 negate the plea negotiations.

9 In FONTAINE, supra., the US Supreme Court ruled that  
10 a Petitioner is entitled to a hearing to determine whether  
11 or not his guilty plea was voluntary even though he de-  
12 clared in open court that his plea was given knowingly  
13 and voluntarily. It was also held that a guilty plea is  
14 not voluntary where a trial judge tells a defendant he could  
15 plead guilty but later withdraw his plea if he did not  
16 want to accept the sentence, but then refused to allow  
17 withdrawal of the plea after sentencing. See, FAIR v. ZANT,  
18 715 F.2d 1519, 1520-22 (11th Cir. 1983). In this vain, where the  
19 Court proceeded to sentencing without allowing defend-  
20 ant the opportunity to withdraw his plea or plea  
21 anew when it became aware that the State considered  
22 the Plea Agreement violated, but counsel and the court  
23 curtailed Petitioner's right to Due Process of law - parti-  
24 cularly where the rearrest provision was never explained  
25 to Petitioner.

26 In BROWN v. POOLE, supra., the 9th Circuit held that if a  
27 prosecutor says he will make a sentencing recommen-  
28 dation in exchange for a guilty plea, Petitioner labors

1 under the belief that the prosecutor will urge the Court  
2 to follow the recommendation. When the Court describes  
3 the State's recommendation as part of the guilty plea collo-  
4 quy, Petitioner, in his medicated state, believed the Court  
5 endorsed said sentence. Indeed, counsel advised Petitioner  
6 that "it was a good sign that the judge delineated the recom-  
7 mended sentence." The US Supreme Court, at one time, held  
8 that a rehearing should be ordered, in such a case, to de-  
9 termine whether the trial judge misled the Petitioner about  
10 a maximum possible sentence. MARVEL V. UNITED STATES, 380 US  
11 262, 85 S.Ct 953 (1965).

12 A plea is involuntary where the Court did not straight-  
13 forwardly tell Petitioner that if he was rearrested he could  
14 not withdraw his plea, and that the state could, on its  
15 own, seek an enhanced sentence. INNES V. DALSHHEIM, 864  
16 F.2d 974 (2d Cir, 1988). The Nevada Supreme Court held that  
17 the Court must inform the Defendant of the consequences  
18 of his guilty plea, including status provisions, such as  
19 the rearrest provision in Petitioner's case. MEYER V. STATE,  
20 603 P.2d 1066 (Nev, 1979)

21 Accordingly, it should be deemed that the Court  
22 did not properly advise Petitioner of the ramifications  
23 of his plea, consistent with dictates of Due Process,  
24 and that counsel was ineffective in not requesting  
25 the Court to do so, and that in such instance, the  
26 Court was not an impartial tribunal. Petitioner has  
27 advanced a showing of prejudice, and thus, Petitioner  
28 should be afforded an evidentiary hearing on the merits of the issue.

GROUND 5, CONT'D

1 Petitioner did not think to question his lawyer's advice,  
2 and indeed the involuntary intoxication from the combi-  
3 nation of prescribed medications led Petitioner's entry  
4 of said plea to be unknowing and involuntary.

5 The US S. Ct held that Petitioner is entitled to a hearing  
6 to determine whether or not his guilty plea was voluntary  
7 even though he had declared in open court that his plea was  
8 given voluntarily and knowingly. Fontaine, supra. A Defendant  
9 must be able to consult rationally with lawyer and understand  
10 the proceedings. Dusky v. US, 362 US 402 (1960). A Petitioner's  
11 competency level to choose to plead guilty is the same stan-  
12 dard as it is to stand trial. Godinez v. Moran, 509 US 389,  
13 398-400 (1993). Involuntary intoxication from psychiatric  
14 medications or forced use of antipsychotic medications during  
15 plea proceedings or trial renders those proceedings unconstitu-  
16 tional. Riggins v. Nevada, 504 US 127, 133-38 (1992). In such cir-  
17 cumstances, there is a right to a Court-appointed psychia-  
18 trist. Ake v. Oklahoma, 470 US 68, 83 (1985); also, NRS 175.271.

19 Police reports showed that Petitioner had mental in-  
20 stability. Indeed, he was under psychiatric evaluation at  
21 the time of interrogation, and a substance abuse evalu-  
22 ation was conducted for this Court listing a diagnosis.  
23 Petitioner was diagnosed with depression, anxiety, antisocial  
24 personality disorder, Amphetamine Use disorder, Alcohol use dis-  
25 order, cocaine use disorder, and cannabis use disorder. The com-  
26 bination of disorders and combinations of medications  
27 which create Serotonin syndrome and disorganized thoughts,

1 calling into question Petitioner's competency to accept a plea.

2 A Court may not accept a guilty plea from an individual  
3 that is mentally incompetent. Failure to investigate competency  
4 is prejudicial if there is a reasonable probability that the Peti-  
5 tioneer was incompetent to plead guilty. Boucillon v. Collins, 907  
6 F.2d 589, 592 (5<sup>th</sup> Cir, 1990). A failure to timely investigate  
7 a client's mental state falls well below an objective standard  
8 of reasonableness where a defendant exhibits severe emotional/  
9 mental problems. McLuckie v. Abbott, 337 F.3d 1193, 1199 (10<sup>th</sup> Cir,  
10 2003). A Court has remanded a case for a hearing on a  
11 claim that an attorney was ineffective for failing to in-  
12 vestigate a defendant's competency despite his signs of  
13 instability. Becton v. Barnett, 920 F.2d 1190 (4<sup>th</sup> Cir, 1990).

14 It was ineffective assistance where counsel failed to  
15 seek a competency determination for a defendant who  
16 was heavily medicated and where 3 experts had diagnosed  
17 him as suffering from psychiatric disorders. Burt v. Uchman,  
18 422 F.3d 557 (7<sup>th</sup> Cir, 2005). A failure to investigate alibi  
19 witnesses coupled with a failure to investigate defendant's  
20 competency was ineffective assistance and rendered the de-  
21 fendant's plea unknowing and involuntary, in Thomas v.  
22 Lockhart, 738 F.2d 304 (8<sup>th</sup> Cir, 1984).

23 Counsel's failure to pursue the possibility of establishing  
24 the Petitioner's mental instability constituted ineffective assis-  
25 tance. Evans v. Lewis, 855 F.2d 631, 636-39 (9<sup>th</sup> Cir, 1988). It  
26 is ineffective assistance where counsel failed to conduct any  
27 investigation at all into his client's reported psychiatric  
28 history. Seidel v. Merkle, 146 F.3d 750, 755 (9<sup>th</sup> Cir, 1998), Petr-

1 petitioner's situation is similar to that in DEUTSCHER v. WITTEY,  
2 884 F.2d 1152, 1159-60 (9th Cir, 1989), in which counsel made no  
3 tactical decision not to investigate the defendant's possible men-  
4 tal impairment — he simply failed to do so. Further, it has  
5 been ruled that counsel is ineffective when he fails to follow-  
6 up on multiple psychological disorders, and failing to investi-  
7 gate a defendant's use of drugs, (DANIELS v. WOODFORD, 420  
8 F.3d 1181, 1202-1210 (9th Cir, 2005)), particularly when a defendant  
9 was using drugs around the time of a guilty plea. See, us v.  
10 GUTIERREZ, 839 F.2d 648 (10th Cir, 1988) (remanding for an evidentiary  
11 hearing to resolve whether guilty plea was involuntary due to defendant's  
12 drug use). A plea, simply, is unknowing and involuntary  
13 where a defendant lacks mental competence to plead.

14 In this instance, Petitioner suffered from several psy-  
15 chiatric disorders at the time of his plea. As a result, he took  
16 a combination of prescribed medications; however, said combi-  
17 nation of medications resulted in Serotonin Syndrome, thus  
18 greatly exacerbating hallucinatory thought disorder, and created  
19 a manic, carefree, risk-taking attitude in which Petitioner  
20 truly was not aware of his surroundings or circumstances.  
21 He truly, at that time, did not understand the advice  
22 and explanations of counsel, and was not able to know-  
23 ingly and voluntarily.

24 Accordingly, it should be deemed that counsel was  
25 ineffective in failing to investigate Petitioner's mental  
26 state at the time of plea, and that Petitioner's mental  
27 state was such that he could not enter a knowing &  
28 voluntary guilty plea. As such, Petitioner should be granted

1 an evidentiary hearing on the merits of this issue.

2  
3 GROUND 6, CONT'D

4  
5 For an evidentiary hearing and appointment of new counsel  
6 where the prisoner alleged that he was pressured into  
7 pleading guilty, which if true, prevented counsel from  
8 effectively advocating the Petitioner's request to with-  
9 draw his plea. UNITED STATES v. SANCHEZ-BARRETO, 93 F.3d 17  
10 (1<sup>st</sup> Cir. 1996). A Petitioner's allegation that his attorney  
11 coerced him into pleading guilty stated a conflict of interest  
12 claim where his attorney could not argue for or against the  
13 Petitioner's motion to withdraw his guilty plea; therefore,  
14 the petitioner was adversely affected by such a conflict, given  
15 the attorney's statement he would "leave the sentencing  
16 where it properly belongs - in the hands of the court." LOPEZ  
17 v. SECURY, 58 F.3d 38 (2d Cir. 1995).

18 where there are particularized allegations that counsel  
19 threatened not to investigate the case or file pretrial motions  
20 if the defendant did not accept a plea, an evidentiary  
21 hearing is warranted. US v. DAVIS, 239 F.3d 283, 287 (2<sup>nd</sup> Cir.  
22 2001). An evidentiary hearing should be held to deter-  
23 mine whether counsel "pressured" a petitioner into accept-  
24 ing a plea based on a conflict. HALL v. US, 371 F.3d 969  
25 (7<sup>th</sup> Cir. 2004).

26 Finally, there is a conflict at sentencing where an  
27 attorney told the Court that the Petitioner had alleged that  
28 the attorney forced the Petitioner to plead, and where the

1 the attorney failed to pursue a downward departure because  
2 of the conflict.

3 Accordingly, it should be deemed that counsel was ineffec-  
4 tive in failing to file a motion to withdraw plea on be-  
5 half of Petitioner, and that a conflict existed where  
6 counsel failed to do so after requested to do so by Peti-  
7 tioner and counsel merely made a half-hearted attempt  
8 to argue for the original sentence. As such, Petitioner  
9 should be granted an evidentiary hearing on the merits  
10 of this issue.

11

12 GROUND 7, CONT'D

13 to the girlfriend of Petitioner's nephew that she had to assist  
14 the prosecution in order to get financial assistance. This  
15 occurred on April 3, 2019, and included another text message  
16 where the victim stated that she had contact the police to  
17 try to "set [Petitioner] up." Petitioner had been provided screen  
18 shots of these texts and had requested counsel to subpoena  
19 the screen shots, phone records, and/or telephones of these  
20 screen shots to prove that victim only made statements  
21 against Petitioner for purposes of financial compensation.

22 Then, on April 16, 2019, the victim provided another,  
23 truthful, letter, this time in full support of Petitioner.  
24 Counsel did file said letter with the Court. However, at the time  
25 of sentencing, counsel failed to argue elaboratively that the  
26 victim supported him, as well as the circumstances behind "why?"  
27 she had written the first letter attacking him. He did not request  
28 or subpoena her to appear in Court and testify truthfully to



1 her support. He did not argue when the District Attorney tried to  
2 engender sympathy by speaking as to how the victim was a  
3 victim in so many (unadjudicated) cases.

4 Courts have found that the failure to present a character  
5 witness in the penalty phase is not the result of a strategic  
6 decision made after a reasonable investigation. KING v. STRICKLAND,  
7 748 F.2d 1462, 1464 (11<sup>th</sup> Cir, 1984). A purportedly strategic decision  
8 is not objectively reasonable when the attorney has failed to in-  
9 vestigate his options and make a reasonable choice between them.  
10 RAMONER v. BERGHUIZ, 490 F.3d 482, 488 (6<sup>th</sup> Cir, 2007). This would  
11 be especially true where the victim is the character witness,  
12 as the victim's assessment of the offender would hold great  
13 weight in these circumstances.

14 It was ineffective assistance where the attorney failed to  
15 prepare for the penalty phase proceedings. BLAKE v. KEMP, 758  
16 F.2d 523, 535 (11<sup>th</sup> Cir, 1985). Defense counsel's preparation  
17 for the penalty phase amounted to a "total failure to actively  
18 advocate his client's cause." RICKMAN v. BELL, 131 F.3d 1150, 1157  
19 (6<sup>th</sup> Cir, 1997).

20 Counsel's failure to file a suppression motion was ineffective  
21 assistance where the motion, if it had been filed, would have  
22 allowed the attorney to bargain for a lower sentence. MOORS  
23 v. CZERNIAK, 534 F.3d 1128 (9<sup>th</sup> Cir, 2008). Counsel must ordi-  
24 narily "investigate possible methods for impeaching prosecution  
25 witnesses." MOORS v. ALLSBROOK, 785 F.2d 1214, 1221 (4<sup>th</sup> Cir, 1986).  
26 Counsel's failure to interview witnesses, such as Petitioner's  
27 nephew's girlfriend, that could testify that the government's  
28 principal witness planned to lie about Petitioner's involvement

1. in a drug trafficking scheme states a claim of ineffective assis-  
2. tance. RIVERA ALICIA v. US, 404 F.3d 1 (12<sup>th</sup> Cir, 2005). Petitioner  
3. provided screen shots to counsel proving that victim had been  
4. contacting police in an attempt to "set [Petitioner] up;" and counsel  
5. chose to do nothing with this information, though it would  
6. have changed Petitioner's plea or could have ameliorated  
7. his sentence.

8. Accordingly, it should be deemed that counsel was ineffec-  
9. tive where he essentially acted as a second prosecutor  
10. in failing to call a character witness and/or impeach a  
11. witness (which he should have subpoenaed) with inconsis-  
12. tent statements, either of which would have ameliora-  
13. ted Petitioner's sentence, and, as such, Petitioner should  
14. be granted an evidentiary hearing on the merits of this  
15. issue.

16.  
17. GROUND 8, CONT'D

18. the victim's support of Petitioner, counsel merely filed her  
19. new support letter with the Court.

20. A misrepresentation by counsel to the Court that he had reviewed  
21. the presentence report, and its criminal history contents, with the  
22. client prior to sentencing casts doubt on counsel's competence  
23. and constitutes ineffective assistance. US v. Rowe, 743 F.2d 1169,  
24. 1173, n. 2 (7<sup>th</sup> Cir, 1984). A Court has remanded a case for hearing  
25. to determine whether the Nevada Supreme Court's erroneously affirmed  
26. a defendant's sentence based on counsel's comment at sentencing  
27. that the defendant had stipulated to two 15-yr terms, when, in  
28. fact, he had stipulated to two 6-to-15-year sentencing caps. DAVIS v.

1 GRIGAS, 443 F.3d 1155 (9<sup>th</sup> Cir, 2006). Where counsel assured Petitioner  
 2 he would be able to get the original "pled-for" sentence, counsel  
 3 misrepresented the potential sentence.

4 where the attorney failed to prepare for the penalty phase  
 5 proceedings, because he believed he would get client the previously  
 6 dealt-for sentence, it was ineffective assistance - See BLAKE,  
 7 supra; and, RICKMAN, supra. Where counsel failed to inter-  
 8 view or subpoena witnesses that could testify that the victim  
 9 has lied about Petitioner's involvement in the crimes, and counsel's  
 10 failure to call character witnesses, was ineffective assistance.  
 11 See, RIVER ALICEA, supra; and KING, supra.

12 It is ineffective assistance at sentencing where counsel  
 13 fails to object to incriminating/inculpatory statements. US v  
 14 BAIRD, 218 F.3d 221 (3<sup>rd</sup> Cir, 2000). Where counsel stipulated to  
 15 the State's recitation of events without investigating or challenging  
 16 the government is ineffective assistance - US v. Smack, 347 F.3d 533  
 17 (3<sup>rd</sup> Cir, 2003). The attorney's failure to object to, [or] the use of,  
 18 a second, unchanged offense, or offenses, to boost Petitioner's  
 19 sentence was ineffective assistance. ALANIZ v. US, 351 F.3d  
 20 365 (8<sup>th</sup> Cir, 2003)

21 Accordingly, it should be deemed that counsel was ineffective  
 22 where he essentially acted as a "second prosecutor" at sentencing,  
 23 and as such, inadvertently and incompetently succeeded at  
 24 achieving a greater penalty for Petitioner, based namely on  
 25 unadjudicated offenses, and as such, Petitioner should  
 26 be granted an evidentiary hearing on the merits of this issue.

27 111

28 111

1 WHEREFORE, petitioner prays that the court grant petitioner  
2 Relief to which he may be entitled in this proceeding.

3 EXECUTED at Carson City, Nevada on the 17<sup>th</sup>  
4 Day of October, 20 19.

5  
6  
7 Charles Skaggs

8  
9 Charles A. Skaggs # 111 7743  
10 Petitioner

VERIFICATION

Under penalty of perjury, the undersigned declares that he is the petitioner named in the foregoing petition and knows the contents thereof; that the pleading is true of his own knowledge, except as to those matters stated on information and belief, and as to such matters he believes them to be true.

Charles Skaggs

Petitioner

Charles A. Skaggs

CERTIFICATE OF SERVICE BY MAIL

I do certify that I mailed a true and correct copy of the foregoing PETITION FOR WRIT OF HABEAS CORPUS to the below addresses on this 17<sup>th</sup> day of October 2019, by placing the same into the hands or prison law library staff for posting in the U.S. Mail, pursuant to N.R.C.P. 5:

Matthew Lee, D. DA

Washoe County DA's Office

PO Box 11130

Reno, NV 89520

\_\_\_\_\_, Nevada 89 \_\_\_\_\_

Charles Skaggs

Signature of Petitioner In Pro Se

Charles A. Skaggs

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document. Motion To Proceed  
IFP, Petition For Habeas Corpus, And Motion For Committal

(Title of Document)

filed in case number: CR 18-2148 & CR 18-2149

☒ 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 NRS125B.055)

Date: 10/17/19

Charles Skaggs  
(Signature)

Charles A. Skaggs  
(Print Name)

In Pro Se  
(Attorney for)

Charles Skaggs, NDOC # 1117743WNNCC, PO Box 7000Carson City, NV 89702

ORIGINAL

2019 OCT 22 PM 1:32

JACQUELINE [Signature]  
CLERK OF THE COURT  
BY [Signature] OFFICIALIN THE 2<sup>nd</sup> JUDICIAL DISTRICT COURT OF THE STATE OF NEVADAIN AND FOR THE COUNTY OF WASHOECHARLES A. SKAGGSPetitioner/Plaintiff,

vs.

ISIDRO BACA Warden - NNCCRespondent/DefendantCase No(s): CR 18-2148CR 18-2149MOTION FOR APPOINTMENT  
OF COUNSEL PURSUANT TO  
NRS 34.750Petitioner, Charles A. Skaggs, pursuant to NRS 34.750(1) (2) request the Honorable Court to appoint counsel to represent him in this habeas corpus petition for the following reasons:

1. Petitioner is not able to afford counsel, see motion to proceed In Forma Pauperis and Affidavit in support filed with the court.
2. The issues involved in this matter are very complex.
3. The issues involved in this case will require investigation which the petitioner cannot do while confined in prison.
4. Petitioner has very limited knowledge of the law and processes thereof.
5. The ends of justice would best be served in this case if an attorney was appointed to represent the petitioner.

Dated this 17<sup>th</sup> day of October, 2019.1st Charles Skaggs  
Charles A Skaggs, P

AFFIRMATION  
Pursuant to NRS 239B.030The undersigned does hereby affirm that the preceding document. Motion To ProceedIFP, Petition For Habeas Corpus, And Motion For Commisal

(Title of Document)

filed in case number: CR 18-2148 & CR 18-2149

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 NRS125B.055)Date: 10/17/19Charles Skaggs  
(Signature)Charles A. Skaggs  
(Print Name)In Pro Se  
(Attorney for)



1 CODE: 3060  
2  
3

4 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
5 IN AND FOR THE COUNTY OF WASHOE  
6

7 CHARLES A. SKAGGS,

8 Petitioner,

9 v.

10 ISIDRO BACH, WARDEN,

11 Respondent.  
12

Case No.: CR18-2148

CR18-2149

Dept. No.: 9

13 **ORDER (1) GRANTING APPLICATION TO PROCEED IN FORMA PAUPERIS AND**  
14 **(2) GRANTING MOTION FOR APPOINTMENT OF COUNSEL**

15 On October 22, 2019, Petitioner CHARLES A. SKAGGS filed a *Motion for Leave to*  
16 *Proceed Informa Pauperis*, a *Motion for Appointment of Counsel*, and a *Petition for Writ of Habeas*  
17 *Corpus Post-Conviction*.

18 First, the Court addresses Petitioner's *Motion for Leave to Proceed in Forma Pauperis*.  
19 Petitioner is currently serving a sentence in a correctional institution. Pursuant to ADKT No. 411<sup>1</sup>  
20 and NRS 171.188, the Court finds that the Petitioner lacks sufficient income and ability to earn  
21 income with which to pay the costs associated with post-conviction matters. Accordingly,  
22 Petitioner is GRANTED leave to proceed in *forma pauperis*.

23 Second, the Court addresses Petitioner's *Motion for Appointment of Counsel*. Pursuant to  
24 NRS 34.750(1), a court has discretion to appoint post-conviction counsel if the "court is satisfied  
25 that the allegation of indigency is true" and upon consideration of the following factors: whether  
26

27 <sup>1</sup> Pursuant to Nevada Supreme Court's Order ADKT No. 411, a person will be deemed indigent who is unable, without  
28 substantial hardship to himself or his dependents, to obtain competent qualified legal counsel on his own. Under this  
standard, a presumption of substantial hardship attaches to those persons currently serving a sentence in a correctional  
institution or housed in a mental health facility.

1 “(a) [t]he issues presented are difficult; (b) [t]he petitioner is unable to comprehend the  
2 proceedings; or (c) [c]ounsel is necessary to proceed with discovery.” Upon consideration of the  
3 motions submitted, the Court finds that the issues presented in Petitioner’s case satisfies the  
4 requirements of NRS 34.750(1)(a). Accordingly, the *Motion for Appointment of Counsel* is  
5 GRANTED.

6 Accordingly, and good cause appearing, the Court’s order is as follows:

7 IT IS HEREBY ORDERED, pursuant to NRS 171.188, Petitioner’s *Motion for Leave to*  
8 *Proceed in Forma Pauperis* is GRANTED.

9 IT IS FURTHER ORDERED, pursuant to NRS 34.750(1), Petitioner’s *Motion for*  
10 *Appointment of Counsel* is GRANTED and the above entitled matter is referred to Krista Meier,  
11 Esq., Administrator of the Court Appointed Counsel, for the appointment of counsel to represent  
12 Appellant in this matter.

13 IT IS FURTHER ORDERED that Petitioner’s counsel shall have forty-five (45) days from  
14 the date the counsel is appointed to supplement said petition.

15 IT IS FURTHER ORDERED that Respondent shall have sixty (60) days after the date of  
16 receiving the Petitioner’s supplement to answer or otherwise respond to said supplement.  
17 Respondent shall then submit the matter to the Court for consideration.

18 DATED: this 2 day of December, 2019.

19  
20   
21 \_\_\_\_\_  
22 DISTRICT JUDGE  
23  
24  
25  
26  
27  
28

CERTIFICATE OF SERVICE

Pursuant to NRCp 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 2nd day of December, 2019, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

Charles Skaggs, #1117743  
NNCC  
P.O. Box 7000  
Carson City, NV 89702

Further, I certify that on the 2nd day of December, 2019, I electronically filed the foregoing with the Clerk of the Court electronic filing system, which will send notice of electronic filing to the following:

JENNIFER NOBLE, ESQ. for STATE OF NEVADA  
DIV. OF PAROLE & PROBATION  
BIRAY DOGAN, ESQ. for CHARLES ANTHONY SKAGGS  
JOHN PETTY, ESQ. for CHARLES ANTHONY SKAGGS  
JOANNA ROBERTS, ESQ. for CHARLES ANTHONY SKAGGS  
AMANDA SAGE, ESQ. for STATE OF NEVADA  
KRISTA MEIER, ESQ.

  
\_\_\_\_\_  
Judicial Assistant

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

**JENNIFER NOBLE, ESQ.** - Notification received on 2019-12-02 13:32:19.568.

**JOANNA ROBERTS, ESQ.** - Notification received on 2019-12-02 13:32:19.599.

**KRISTA MEIER, ESQ.** - Notification received on 2019-12-02 13:32:19.49.

**BIRAY DOGAN, ESQ.** - Notification received on 2019-12-02 13:32:19.474.

**JOHN PETTY, ESQ.** - Notification received on 2019-12-02 13:32:19.552.

**DIV. OF PAROLE & PROBATION** - Notification received on 2019-12-02 13:32:19.521.

**JEFF HOPPE, ESQ.** - Notification received on 2019-12-02 13:32:19.443.

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

PROOF OF SERVICE OF ELECTRONIC FILING

-

**A filing has been submitted to the court RE:** CR18-2149

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

12-02-2019:13:31:07

**Clerk Accepted:**

12-02-2019:13:31:49

**Court:**

Second Judicial District Court - State of Nevada

Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Ord Appointing Administrator

**Filed By:**

Judicial Asst. BWard

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:**

JEFF HOPPE, ESQ. for STATE OF NEVADA

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

JOHN REESE PETTY, ESQ. for CHARLES  
ANTHONY SKAGGS

BIRAY DOGAN, ESQ. for CHARLES ANTHONY  
SKAGGS

JOANNA L. ROBERTS, ESQ. for CHARLES  
ANTHONY SKAGGS

DIV. OF PAROLE & PROBATION

KRISTA D. MEIER, ESQ.

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

CASE NO. CR18-2148  
CASE NO. CR18-2149STATE OF NEVADA vs. CHARLES ANTHONY SKAGGS  
STATE OF NEVADA vs. CHARLES ANTHONY SKAGGSDATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

04/17/2019  
HONORABLE  
SCOTT N.  
FREEMAN  
DEPT. NO. 9  
M. Conway  
(Clerk)  
J. Kernan  
(Reporter)**SENTENCING**

Deputy District Attorney Matt Lee was present in Court on behalf of the State.

Deputy Public Defender Biray Dogan was present in Court, on both cases, on behalf of Defendant Charles Anthony Skaggs, who was present, in custody.

Parole and Probate Specialist Sara Currence was present in Court on behalf of the Department of Public Safety, Parole and Probation.

Specialist Currence addressed the Court and indicated the Division had no additions or corrections to the Pre-Sentence Investigative Report (PSI) in either case.

Counsel Dogan addressed the Court and had no additions or corrections to the PSIs. Counsel Dogan argued in support of imposing concurrent sentences and argued in support of 12-32 months in Case No. CR18-2148 and 3-10 years in Case No. CR18-2149. Counsel Dogan acknowledge that the Defendant has charges pending in a federal case and noted for the record that the Defendant has friends and family support in the courtroom. Counsel Lee addressed the Court and argued in support of 24-60 months in Case No. CR18-2148 and argued in support of 4-10 years and a fine of \$1000.00 in Case No. CR18-2149, to run consecutive. Counsel Lee further advised the Court that the victim is not present (CR18-2148).

The Defendant addressed the Court on his own behalf.

**COURT FINDS, AS TO CASE NO. CR18-2148** Charles Anthony Skaggs is guilty of the crime of Attempted Assault with the Use of a Deadly Weapon, a violation of NRS 199.330 being an attempt to violate NRS 200.471, a category C felony, as charged in the Information.

**COURT ORDERED** he be punished by imprisonment in the Nevada Department of Corrections for the minimum term of twelve (12) months to a maximum term of thirty-two (32) months.

**COURT FURTHER ORDERED** pay the statutory Twenty-Five Dollar (\$25.00) administrative assessment fee, the Three Dollar (\$3.00) administrative assessment fee for obtaining a biological specimen and conducting a genetic marker analysis, and reimburse the County of Washoe the sum of Five Hundred Dollars (\$500.00) for legal representation by the Washoe County Public Defender's Office. The Defendant is given seventy-seven (77) days credit for time served.

**COURT FINDS, AS TO CASE NO. CR18-2149** Charles Anthony Skaggs is guilty of the crime of Possession of a Trafficking Quantity of a Controlled Substance, a violation of NRS 453.3385(1)(b), as charged in the Information.

**COURT FURTHER ORDERED** he be punished by imprisonment in the Nevada Department of Corrections for the minimum term of forty-eight (48) months to a maximum term of one hundred twenty (120), to run consecutive to the sentence imposed in Case No. CR18-2148.

**COURT FURTHER ORDERED** Defendant is further ordered to pay a fine in the amount of Ten Thousand Dollars (\$10,000.00), the statutory Twenty-Five Dollar (\$25.00) administrative assessment fee, the Sixty Dollar (\$60.00) chemical/drug analysis assessment fee, the Three Dollar (\$3.00) administrative assessment fee for obtaining a biological specimen and conducting a genetic marker analysis, and reimburse the County of Washoe the sum of Five Hundred Dollars (\$500.00) for legal representation by the Washoe County Public Defender's Office. The Defendant is given zero (0) days credit for time served.

Any fine, fee administrative assessment, or restitution imposed today (as reflected in this judgment of conviction) constitutes a lien, as defined in Nevada Revised Statutes 176.275. Should you not pay these fines, fees, or assessments, collection efforts may be undertaken against you.

The Defendant is remanded to the custody of the Sheriff.



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

**JENNIFER NOBLE, ESQ.** - Notification received on 2020-01-08 11:14:03.287.

**JOANNA ROBERTS, ESQ.** - Notification received on 2020-01-08 11:14:03.318.

**KRISTA MEIER, ESQ.** - Notification received on 2020-01-08 11:14:03.209.

**BIRAY DOGAN, ESQ.** - Notification received on 2020-01-08 11:14:03.178.

**JOHN PETTY, ESQ.** - Notification received on 2020-01-08 11:14:03.256.

**DIV. OF PAROLE & PROBATION** - Notification received on 2020-01-08 11:14:03.24.

**JEFF HOPPE, ESQ.** - Notification received on 2020-01-08 11:14:03.147.

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

-

**A filing has been submitted to the court RE:** CR18-2149

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

01-08-2020:11:11:10

**Clerk Accepted:**

01-08-2020:11:13:11

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

\*\*\*Minutes

**Filed By:**

Court Clerk MConway

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

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

**The following people were served electronically:**

JEFF HOPPE, ESQ. for STATE OF NEVADA

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

JOHN REESE PETTY, ESQ. for CHARLES  
ANTHONY SKAGGS

BIRAY DOGAN, ESQ. for CHARLES ANTHONY  
SKAGGS

JOANNA L. ROBERTS, ESQ. for CHARLES  
ANTHONY SKAGGS

DIV. OF PAROLE & PROBATION

KRISTA D. MEIER, ESQ.

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

1 CODE: 3370  
2  
34 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
5 IN AND FOR THE COUNTY OF WASHOE  
6

7 CHARLES A. SKAGGS,

Case No.: CR18-2149

Dept. No.: 9

8 Petitioner,

9 v.

10 ISIDRO BACA, WARDEN, NORTHERN  
11 NEVADA CORRECTIONAL CENTER,12 Respondent.  
1314 **ORDER DIRECTING THE STATE TO RESPOND**15 The Court is in receipt of Petitioner CHARLES A. SKAGGS's *Petition for Writ of Habeas*  
16 *Corpus (Post-Conviction)* filed October 22, 2019. No response has been filed.17 Upon review of the *Petition*, the Court believes that a responsive pleading with  
18 accompanying points and authorities from the Respondent would assist the Court in resolving  
19 Petitioner's claims. Thus, this Court orders the Washoe County District Attorney's Office to file a  
20 responsive pleading, with accompanying points and authorities, within forty-five (45) days of this  
21 Order.22 THEREFORE, and good cause appearing, IT IS HEREBY ORDERED that the Washoe  
23 County District Attorney's Office file a responsive pleading with accompanying points and  
24 authorities to the *Petition* filed October 22, 2019. The Washoe County District Attorney's Office  
25 has forty-five (45) days from the entry of this Order to file such response. Upon filing the points  
26 and authorities, Petitioner shall submit this matter to the Court for review pursuant to WDCR 12(4).27 DATED: this 22 day of January, 2020.  
28  
DISTRICT JUDGE

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 22<sup>nd</sup> day of January, 2020, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

Charles Skaggs, #1117743  
NNCC  
P.O. Box 7000  
Carson City, NV 89702

Further, I certify that on the 22<sup>nd</sup> day of January, 2020, I electronically filed the foregoing with the Clerk of the Court electronic filing system, which will send notice of electronic filing to the following:

JEFF HOPPE, ESQ. for STATE OF NEVADA  
JENNIFER NOBLE, ESQ. for STATE OF NEVADA  
JOHN PETTY, ESQ. for CHARLES ANTHONY SKAGGS  
BIRAY DOGAN, ESQ. for CHARLES ANTHONY SKAGGS  
JOANNA ROBERTS, ESQ. for CHARLES ANTHONY SKAGGS  
DIV. OF PAROLE & PROBATION  
KRISTA MEIER, ESQ.

  
\_\_\_\_\_  
Judicial Assistant

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

**JENNIFER NOBLE, ESQ.** - Notification received on 2020-01-22 15:22:49.911.  
**JOANNA ROBERTS, ESQ.** - Notification received on 2020-01-22 15:22:49.942.  
**KRISTA MEIER, ESQ.** - Notification received on 2020-01-22 15:22:49.053.  
**BIRAY DOGAN, ESQ.** - Notification received on 2020-01-22 15:22:48.663.  
**JOHN PETTY, ESQ.** - Notification received on 2020-01-22 15:22:49.879.  
**DIV. OF PAROLE & PROBATION** - Notification received on 2020-01-22 15:22:49.443.  
**JEFF HOPPE, ESQ.** - Notification received on 2020-01-22 15:22:48.257.

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

PROOF OF SERVICE OF ELECTRONIC FILING

-

**A filing has been submitted to the court RE:** CR18-2149

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

01-22-2020:15:20:49

**Clerk Accepted:**

01-22-2020:15:21:44

**Court:**

Second Judicial District Court - State of Nevada

Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Order...

**Filed By:**

Judicial Asst. BWard

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:**

JEFF HOPPE, ESQ. for STATE OF NEVADA

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

JOHN REESE PETTY, ESQ. for CHARLES  
ANTHONY SKAGGS

BIRAY DOGAN, ESQ. for CHARLES ANTHONY  
SKAGGS

JOANNA L. ROBERTS, ESQ. for CHARLES  
ANTHONY SKAGGS

DIV. OF PAROLE & PROBATION

KRISTA D. MEIER, ESQ.

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



CODE No. 2526  
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 COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF WASHOE

\* \* \*

CHARLES A. SKAGGS,

Petitioner,

v.

Case No. CR18-2149

ISIDRO BACA, WARDEN, NORTHERN  
NEVADA CORRECTIONAL CENTER,

Dept. No. 9

Respondent.

\_\_\_\_\_ /

NOTICE OF CHANGE OF RESPONSIBLE ATTORNEY

COMES NOW, Respondent, 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 Respondent in all future matters related hereto.

Respondent 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: January 27, 2020.

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 January 27, 2020, 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:

Charles Skaggs, #1117743  
Northern Nevada Correctional Center  
P.O. Box 7000  
Carson City, NV 89702

/s/ Margaret Ford  
MARGARET FORD

CODE No. 3870  
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 COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF WASHOE

\* \* \*

CHARLES A. SKAGGS,

Petitioner,

v.

Case No. CR18-2149

ISIDRO BACA, WARDEN, NORTHERN  
NEVADA CORRECTIONAL CENTER,

Dept. No. 9

Respondent.

\_\_\_\_\_ /

REQUEST TO EXTEND TIME TO RESPOND TO  
PETITION FOR WRIT OF HABEAS CORPUS

COMES NOW, the State of Nevada, and files this request to extend the time to file the State's response to the Petition for Writ of Habeas Corpus until after appointed counsel appears and files a supplemental petition or provides notice that there will be no supplement.

On October 22, 2019, Petitioner filed his Petition for Writ of Habeas Corpus (Post-Conviction). Petitioner also filed a Motion for Appointment of Counsel on the same day. On December 2, 2019, the Court issued an order providing for the appointment of counsel, a deadline for appointed counsel to file a supplemental petition (45 days after appointment), and a deadline for the State to respond to the supplemental

petition (60 days after the supplement is filed). On January 22, 2020, the Court issued an order for the State to file a responsive pleading and accompanying points and authorities to the original Petition within 45 days. At this time, appointed counsel has not filed a notice of appearance in this case and thus the deadline for filing a supplemental petition has not passed.

The State respectfully requests the Court extend the time for the State to file a responsive pleading to the original petition and supplemental petition, specifically, that the State be permitted to file one responsive pleading within 60 days after appointed counsel files a supplemental pleading or notifies the State and the Court that they do not intend to file a supplemental petition. In counsel's experience, the supplemental petition often narrows the issues the petitioner intends to pursue and pleads new claims as well. It is often the supplemental petition that appointed counsel pursues at an evidentiary hearing—not the original proper person petition. Accordingly, it is more economical, for both the State, the Court, and appointed counsel, to respond after the supplemental petition has been filed and all claims are pled.

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: January 27, 2020.

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 January 27, 2020, 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:

Charles Skaggs, #1117743  
Northern Nevada Correctional Center  
P.O. Box 7000  
Carson City, NV 89702

/s/ Margaret Ford  
MARGARET FORD

CODE No. 3860  
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 COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF WASHOE

\* \* \*

CHARLES A. SKAGGS,

Petitioner,

v.

Case No. CR18-2149

ISIDRO BACA, WARDEN, NORTHERN  
NEVADA CORRECTIONAL CENTER,

Dept. No. 9

Respondent.

\_\_\_\_\_ /

REQUEST FOR SUBMISSION

It is requested that the Request to Extend Time to Respond to Petition for Writ of Habeas Corpus, filed on January 27, 2020, be submitted to the Court for decision.

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: January 27, 2020.

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 January 27, 2020, 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:

Charles Skaggs, #1117743  
Northern Nevada Correctional Center  
P.O. Box 7000  
Carson City, NV 89702

/s/ Margaret Ford  
MARGARET FORD



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

**JENNIFER NOBLE, ESQ.** - Notification received on 2020-01-27 08:17:30.133.

**JOANNA ROBERTS, ESQ.** - Notification received on 2020-01-27 08:17:30.164.

**KRISTA MEIER, ESQ.** - Notification received on 2020-01-27 08:17:30.055.

**BIRAY DOGAN, ESQ.** - Notification received on 2020-01-27 08:17:30.039.

**JOHN PETTY, ESQ.** - Notification received on 2020-01-27 08:17:30.117.

**DIV. OF PAROLE & PROBATION** - Notification received on 2020-01-27 08:17:30.086.

**JEFF HOPPE, ESQ.** - Notification received on 2020-01-27 08:17:30.008.

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

PROOF OF SERVICE OF ELECTRONIC FILING

-

**A filing has been submitted to the court RE:** CR18-2149

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

01-27-2020:08:16:21

**Clerk Accepted:**

01-27-2020:08:16:58

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Request for Submission

**Filed By:**

Kevin Naughton

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

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-

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

**The following people were served electronically:**

JEFF HOPPE, ESQ. for STATE OF NEVADA

JENNIFER P. NOBLE, ESQ. for STATE OF  
NEVADA

JOHN REESE PETTY, ESQ. for CHARLES  
ANTHONY SKAGGS

BIRAY DOGAN, ESQ. for CHARLES ANTHONY  
SKAGGS

JOANNA L. ROBERTS, ESQ. for CHARLES  
ANTHONY SKAGGS

DIV. OF PAROLE & PROBATION

KRISTA D. MEIER, ESQ.

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

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

**JOANNA ROBERTS, ESQ.** - Notification received on 2020-01-27 08:34:10.586.

**KRISTA MEIER, ESQ.** - Notification received on 2020-01-27 08:34:10.554.

**BIRAY DOGAN, ESQ.** - Notification received on 2020-01-27 08:34:10.445.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-01-27 08:34:10.476.

**JOHN PETTY, ESQ.** - Notification received on 2020-01-27 08:34:10.523.

**DIV. OF PAROLE & PROBATION** - Notification received on 2020-01-27 08:34:10.508.

**JEFF HOPPE, ESQ.** - Notification received on 2020-01-27 08:34:10.414.

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

-

**A filing has been submitted to the court RE:** CR18-2149

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

01-27-2020:08:14:34

**Clerk Accepted:**

01-27-2020:08:33:39

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Substitution of Counsel

**Filed By:**

Kevin Naughton

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

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**The following people were served electronically:**

KRISTA D. MEIER, ESQ.

DIV. OF PAROLE & PROBATION

BIRAY DOGAN, ESQ. for CHARLES ANTHONY  
SKAGGS

JOHN REESE PETTY, ESQ. for CHARLES  
ANTHONY SKAGGS

JOANNA L. ROBERTS, ESQ. for CHARLES  
ANTHONY SKAGGS

JEFF HOPPE, 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.):**

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

**JOANNA ROBERTS, ESQ.** - Notification received on 2020-01-27 08:35:32.969.

**KRISTA MEIER, ESQ.** - Notification received on 2020-01-27 08:35:32.626.

**BIRAY DOGAN, ESQ.** - Notification received on 2020-01-27 08:35:32.158.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-01-27 08:35:32.189.

**JOHN PETTY, ESQ.** - Notification received on 2020-01-27 08:35:32.251.

**DIV. OF PAROLE & PROBATION** - Notification received on 2020-01-27 08:35:32.22.

**JEFF HOPPE, ESQ.** - Notification received on 2020-01-27 08:35:32.048.

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

-

**A filing has been submitted to the court RE:** CR18-2149

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

01-27-2020:08:15:41

**Clerk Accepted:**

01-27-2020:08:34:45

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Request

**Filed By:**

Kevin Naughton

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

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-

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**The following people were served electronically:**

KRISTA D. MEIER, ESQ.

DIV. OF PAROLE & PROBATION

BIRAY DOGAN, ESQ. for CHARLES ANTHONY  
SKAGGS

JOHN REESE PETTY, ESQ. for CHARLES  
ANTHONY SKAGGS

JOANNA L. ROBERTS, ESQ. for CHARLES  
ANTHONY SKAGGS

JEFF HOPPE, 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.):**

1 CODE: 3370  
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5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
6 IN AND FOR THE COUNTY OF WASHOE  
7

8 CHARLES A. SKAGGS,  
9

10 Petitioner,

Case No. CR18-2149

11 vs.

Dept. No. 9

12  
13 ISIDRO BACA, WARDEN, NORTHER  
14 NEVADA CORRECTIONAL CENTER,

15 Respondent.  
16 \_\_\_\_\_ /

17 ORDER GRANTING REQUEST TO EXTEND TIME TO RESPOND TO PETITION FOR WRIT  
18 OF HABEAS CORPUS

19 The Court is in receipt of Respondent THE STATE OF NEVADA's (hereinafter "the  
20 State") *Request to Extend Time to Respond to Petition for Writ of Habeas Corpus* filed on January  
21 27, 2020. No opposition has been filed.

22 As a preliminary matter, the State requests the Court to extend the time to file its response to  
23 the Petition for Writ of Habeas Corpus until after appointed counsel appears and files a  
24 supplemental petition or until after appointed counsel provides notice that there will be no  
25 supplement filed with the Court. *Req. p. 1:17-19.*

26 Upon review of the record and the *Motion*, and good cause appearing, the Court GRANTS  
27 the State's *Request to Extend Time to Respond to Petition for Writ of Habeas Corpus*.  
28

///

///

///

1 In this case, Petitioner CHARLES A. SKAGGS (hereinafter "Petitioner") filed his Petition  
2 for Writ of Habeas Corpus (Post-Conviction) on October 22, 2019. Petitioner subsequently filed a  
3 Motion for Appointment of Counsel the same day. On December 2, 2019 this Court entered an  
4 Order which set forth the appointment of counsel, a deadline for Petitioners counsel to file a  
5 supplemental petition and a deadline for the State to respond to said supplement. Thereafter, on  
6 January 22, 2020, this Court entered a second Order directing the State to respond to the original  
7 petition within forty-five days. At this time, appointed counsel for Petitioner has not filed a notice  
8 of appearance in this case.

9 The State comes now requesting to file one pleading within 60 days after appointed counsel  
10 files a supplemental pleading or notifies the State and the Court that he/she does not intend to file a  
11 supplemental pleading. *Id.* 2:8-10. The Court finds that the purpose of a supplemental pleading is to  
12 not only narrow the issues Petitioner may pursue, but also can be used to plead new claims. As  
13 such, the Court believes it is in the best interest of the parties to allow the State to respond once,  
14 after the supplemental petition has been filed, or in the alternative, once the State and Court are  
15 given notice that appointed counsel does not intend to file a supplemental petition.

16 The Court, having reviewed the record and the motion, and good cause appearing, orders as  
17 follows:

18 IT IS HEREBY ORDERED The State of Nevada's *Request to Extend Time to Respond to*  
19 *Petition for Writ of Habeas Corpus* is GRANTED.

20 IT IS FURTHER ORDERED the State of Nevada has sixty (60) days after appointed  
21 counsel files a supplemental pleading or notifies the State and the Court that he/she does not intend  
22 to file a supplemental pleading to file a responsive pleading.

23 IT IS SO ORDERED.

24 DATED: This 20 day of February, 2020.

25   
26 \_\_\_\_\_  
27 DISTRICT JUDGE  
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this      day of February, 2020, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

[NONE]

Further, I certify that on the 20<sup>th</sup> day of February, 2020, I electronically filed the foregoing with the Clerk of the Court electronic filing system, which will send notice of electronic filing to the following:

KRISTA MEIER, ESQ.

DIV. OF PAROLE & PROBATION

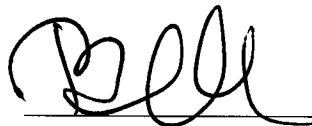
BIRAY DOGAN, ESQ. for CHARLES ANTHONY SKAGGS

JOHN PETTY, ESQ. for CHARLES ANTHONY SKAGGS

JOANNA ROBERTS, ESQ. for CHARLES ANTHONY SKAGGS

JEFF HOPPE, ESQ. for STATE OF NEVADA

KEVIN NAUGHTON, ESQ. for STATE OF NEVADA



Judicial Assistant

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

**JOANNA ROBERTS, ESQ.** - Notification received on 2020-02-20 12:54:37.194.

**KRISTA MEIER, ESQ.** - Notification received on 2020-02-20 12:54:37.131.

**BIRAY DOGAN, ESQ.** - Notification received on 2020-02-20 12:54:36.507.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-02-20 12:54:36.554.

**JOHN PETTY, ESQ.** - Notification received on 2020-02-20 12:54:37.069.

**DIV. OF PAROLE & PROBATION** - Notification received on 2020-02-20 12:54:36.991.

**JEFF HOPPE, ESQ.** - Notification received on 2020-02-20 12:54:36.102.

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

-

**A filing has been submitted to the court RE:** CR18-2149

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

02-20-2020:12:53:27

**Clerk Accepted:**

02-20-2020:12:54:06

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Ord Granting Extension Time

**Filed By:**

Judicial Asst. BWard

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

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-

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**The following people were served electronically:**

KRISTA D. MEIER, ESQ.

DIV. OF PAROLE & PROBATION

BIRAY DOGAN, ESQ. for CHARLES ANTHONY  
SKAGGS

JOHN REESE PETTY, ESQ. for CHARLES  
ANTHONY SKAGGS

JOANNA L. ROBERTS, ESQ. for CHARLES  
ANTHONY SKAGGS

JEFF HOPPE, ESQ. for STATE OF NEVADA

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

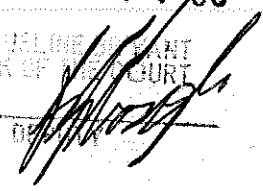
**The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):**

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Code 1930

FILED

2020 MAR 24 PM 1:06

JACQUELINE A. BENT  
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(s),

Case No. CR18-2149

vs.

Dept. No. 9

CHARLES ANTHONY SKAGGS,

Defendant(s).

---

LETTER FROM DEFENDANT



3/18/20

To whom it may concern:

I was granted my motion for appointment of counsel regarding my writ of Habeas Corpus for Post-conviction relief on December 2nd, 2019. This was almost 4 months ago. The paperwork says that Krista Meier is suppose to Appoint me counsel. I have tried to reach out to her and the Alt. Public Defenders office says that she no longer works there. I believe that my case has fallen through the cracks. Can you please look into this matter for me.

1 CODE 2715  
2  
3  
4

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

6  
7 IN AND FOR THE COUNTY OF WASHOE

8 CHARLES A. SKAGGS,  
9

10 Petitioner,

11 vs.

Case No. CR18-2148  
CR18-2149

12 ISIDRO BACH, WARDEN,

Dept. No. 9

13 Respondent.  
14 -----/

15 **RECOMMENDATION AND ORDER APPOINTING COUNSEL**  
16 **(POST CONVICTION)**

17 The Petitioner, CHARLES SKAGGS, having been granted Forma Pauperis Status, and  
18 Chief District Court Judge Scott N. Freeman, having determined there is a basis to appoint  
19 counsel for Petitioner and having referred the matter to the Appointed Counsel Administrator  
20 accordingly, this Administrator makes the following recommendations:

21 IT IS HEREBY RECOMMENDED that Lyn E. Beggs, Esq., be appointed to represent  
22 Petitioner on his Petition for Writ of Habeas Corpus (Post-Conviction), and that counsel be  
23 paid pursuant to NRS 7.115 through NRS 7.165 by the State Public Defender in an amount  
24 recommended by this Administrator and then approved by the Court.  
25  
26

1 IT IS FURTHER RECOMMENDED that Petitioner's counsel have ten (10) days from  
2 the date of the Court's Order to designate what portions of the Court file counsel requests be  
3 provided to her by the Clerk of the Court.

4 IT IS FURTHER RECOMMENDED that newly appointed counsel shall be placed as  
5 attorney of record in Case Number CR18-2148 and CR18-2149.

6 IT IS FURTHER RECOMMENDED that counsel have forty-five (45) days from the  
7 date of the receipt of record to either supplement the Petition for Writ of Habeas Corpus or to  
8 file a Notice indicating that the original Petition should stand as filed.

9 IT IS FURTHER RECOMMENDED that the State of Nevada should be ordered to  
10 respond to Petitioner within sixty (60) days from the date of filing and service of either the  
11 Petition to Supplement or Petitioner's Notice of Non-Supplementation.

12 Dated this 8th day of April, 2020.

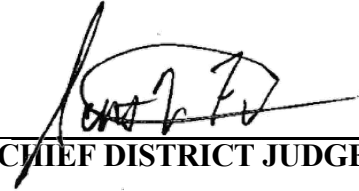
13 /S/Krista Meier \_\_\_\_\_  
14 KRISTA MEIER, ESQ.  
15 APPOINTED COUNSEL ADMINISTRATOR

16 **ORDER**

17 Pursuant to the Nevada Supreme Court Order in ADKT 411 and the Second Judicial  
18 District Court's Model Plan to address ADKT 411, good cause appearing and in the interests of  
19 justice,

20 IT IS HEREBY ORDERED that the recommendations of the Administrator are  
21 confirmed, approved and adopted. As such, Lyn E. Beggs shall be appointed to represent  
22 Petitioner on his Petition for Writ of Habeas Corpus (Post-Conviction).

23 DATED this 23<sup>rd</sup> day of April, 2019.

24   
25 \_\_\_\_\_  
26 CHIEF DISTRICT JUDGE

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

**KRISTA MEIER, ESQ.** - Notification received on 2020-04-23 15:02:17.286.  
**JOANNA ROBERTS, ESQ.** - Notification received on 2020-04-23 15:02:17.208.  
**BIRAY DOGAN, ESQ.** - Notification received on 2020-04-23 15:02:17.176.  
**LYN BEGGS, ESQ.** - Notification received on 2020-04-23 15:02:17.317.  
**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-04-23 15:02:17.239.  
**DIV. OF PAROLE & PROBATION** - Notification received on 2020-04-23 15:02:17.348.  
**JOHN PETTY, ESQ.** - Notification received on 2020-04-23 15:02:17.254.  
**JEFF HOPPE, ESQ.** - Notification received on 2020-04-23 15:02:17.145.

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

-

**A filing has been submitted to the court RE:** CR18-2149

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

04-23-2020:15:01:06

**Clerk Accepted:**

04-23-2020:15:01:42

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Ord Appointing Counsel

**Filed By:**

Judicial Asst. BWard

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

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-

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**The following people were served electronically:**

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NEVADA

KRISTA D. MEIER, ESQ.

DIV. OF PAROLE & PROBATION

BIRAY DOGAN, ESQ. for CHARLES ANTHONY  
SKAGGS

JOHN REESE PETTY, ESQ. for CHARLES  
ANTHONY SKAGGS

JOANNA L. ROBERTS, ESQ. for CHARLES  
ANTHONY SKAGGS

JEFF HOPPE, ESQ. for STATE OF NEVADA

LYN E. BEGGS, ESQ. for CHARLES ANTHONY  
SKAGGS

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

CHARLES SKAGGS

(Name)

1117743

(I.D. No.)

Northern Nevada Correctional Center  
Post Office Box 7000  
Carson City, NV 89702

Defendant, In Proper Person

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

Defendant.

vs.

THE STATE OF NEVADA,

Plaintiff

Case No.: CR18-2148Dept. No.. 9**MOTION TO CORRECT ILLEGAL  
SENTENCE AND/OR  
MODIFY SENTENCE**

COMES NOW, Defendant, CHARLES SKAGGS, in his proper person and requests that this Honorable Court correct his illegal sentence and/or modify sentence.

This Motion is based upon all papers and pleadings on file herein as well as the following Memorandum of Points and Authorities.

Respectfully submitted this 4<sup>th</sup> day of May, 2020.

Charles Skaggs

Defendant, In Proper Person

MEMORANDUM OF POINTS AND AUTHORITIESBRIEF STATEMENT OF FACTS AND CASE HISTORY

By way of The charging INFORMATION PETITIONER WAS prosecuted pursuant to N.R.S. 199.330 "Buying or Promising reward by Justice or Constable" which states:

N.R.S. 199.330 Buying or Promising reward by justice or constable.

"Every justice of the peace or constable who shall, directly or indirectly, buy or be interested in buying anything in action for the purpose of commencing a suit thereon before a justice of the peace, or who shall give or promise any valuable consideration to any person as an inducement to bring, or as a consideration for having brought, a suit before a justice of the peace, shall be guilty of a misdemeanor."

As a result of the prosecution by way of INFORMATION for the violation of N.R.S. 199.330 the sentencing court imposed a sentence of 12-32 months stating: "You'll be sentenced to 32 months in Nevada Department of Corrections with Parole eligibility after 12 months."

ON the 17<sup>th</sup> day of April 2019 the Sentencing Court, in compliance with the Concepts of Due-Process (U.S.C.A) and Nev. Const. Art 1 section 8. Following the Statutory Authority relied upon for Prosecution ISSUED A JUDGMENT OF CONVICTION, Reliance upon which is PREDICATED by the Stated Authority, Finding SKAGGS  
1 Guilty of N.R.S. 199.330 A MISDEMEANOR. Proposed Remedy: SKAGGS seeks

AN Amended J.O.C. Setting the Sentence for the described Misdemeanor at No more than one Year.

1. MISDEMEANOR CONVICTIONS ARE Limited -2-  
STATUTORILY to NO MORE THAN ONE  
YEAR



### POINTS AND AUTHORITIES

This court retains jurisdiction to modify a Judgment of Conviction at any time. *Passanisi v. State*, 108 Nev. 318, 831 P.2d 1371 (1992). Defendant was denied due process of law when this

court: UPON PROSECUTION FOR A MISDEMEANOR DESCRIBED AND STATED AUTHORITY PURSUANT TO N.R.S. 199.330 - THE RESULTING SENTENCE OF 12-32mos. IS IN EXCESS OF THE STATUTORY MAXIMUM

This court may modify the sentence based on the foregoing reasons. *Warden v. Peters*, 83 Nev. 298, 429 P.2d 549 (1967) as referenced in *Edwards v. State*, 112 Nev. 704, 918 P.2d 321 (1996).

THE STATED AUTHORITY CONSTITUTING THE OFFENSE CHARGED MUST STATE THE CITATION OF THE STATUTE SEE N.R.S. 173.075 AND IS RELIED UPON PURSUANT TO N.R.S. 176.105 IN ORDER TO SET FORTH THE FINDING. THE SENTENCING COURT IS LIMITED IN SENTENCING MATTERS ONLY BY THE AVAILABLE SENTENCE DESCRIBED BY THE STATUTE RELIED UPON FOR PROSECUTION. THE MAXIMUM SENTENCE PURSUANT TO A FINDING OF GUILT FOR THE DESCRIBED MISDEMEANOR PURSUANT TO N.R.S. 199.330 IS ONE YEAR

Lastly, this court may entertain a Motion to Correct Illegal Sentence at any time when the sentence is facially illegal or based on a lack of jurisdiction. *Edwards, Supra*. Accordingly, this Court should modify Defendant's sentence and/or correct his illegal sentence, and enter a new judgment of conviction *nunc pro tunc*.

### CONCLUSION

Wherefore, based upon the foregoing, the instant Motion should be granted.

CERTIFICATE OF SERVICE

I, CHARLES SKAGGS certify that on this date I did serve a true and correct copy of the foregoing Motion upon Respondent(s), via U.S. Mail, by placing same in the United States Postal Service (Prison Mail System), postage being fully prepaid, and addressed to:

WASHOE County District Attorney

P.O. Box 11130

Reno Nevada 89520

Dated this 4<sup>th</sup> day of May, 20 20.

By: Charles Skaggs

Defendant, In Proper Person

AFFIRMATION PURSUANT TO NRS 239B.030

\*\* I certify that the foregoing document DOES NOT contain the social security number of any Persons.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

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

**KRISTA MEIER, ESQ.** - Notification received on 2020-05-08 14:39:04.94.

**JOANNA ROBERTS, ESQ.** - Notification received on 2020-05-08 14:39:04.846.

**BIRAY DOGAN, ESQ.** - Notification received on 2020-05-08 14:39:04.815.

**LYN BEGGS, ESQ.** - Notification received on 2020-05-08 14:39:04.972.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-05-08 14:39:04.874.

**DIV. OF PAROLE & PROBATION** - Notification received on 2020-05-08 14:39:05.008.

**JOHN PETTY, ESQ.** - Notification received on 2020-05-08 14:39:04.907.

**JEFF HOPPE, ESQ.** - Notification received on 2020-05-08 14:39:04.785.

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

-

**A filing has been submitted to the court RE:** CR18-2149

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

05-08-2020:14:37:54

**Clerk Accepted:**

05-08-2020:14:38:33

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Mtn to Modify/Correct Sentence

**Filed By:**

Deputy Clerk BBlough

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

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BIRAY DOGAN, ESQ. for CHARLES ANTHONY  
SKAGGS

JOHN REESE PETTY, ESQ. for CHARLES  
ANTHONY SKAGGS

JOANNA L. ROBERTS, ESQ. for CHARLES  
ANTHONY SKAGGS

JEFF HOPPE, ESQ. for STATE OF NEVADA

LYN E. BEGGS, ESQ. for CHARLES ANTHONY  
SKAGGS

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

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. CR18-2148  
CR18-2149

vs.

CHARLES SKAGGS,

Dept. No. 9

Defendant.

\_\_\_\_\_ /

**OPPOSITION TO MOTION TO MOTION TO CORRECT ILLEGAL SENTENCE  
AND/OR MODIFY 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 Correct Illegal Sentence and/or Modify Sentence filed by Charles Skaggs  
(hereinafter, "Defendant") on May 8, 2020.

**Memorandum of Points and Authorities**

**Statement of the Case**

Defendant Charles Skaggs pled guilty and was convicted of Attempted Assault  
with the Use of a Deadly Weapon. He was sentenced to 12 to 32 months in prison. See  
Judgment of Conviction filed April 18, 2019.

On October 22, 2019, the Defendant filed a post-conviction Petition for Writ of Habeas Corpus and sought the appointment of counsel. Counsel, Lyn Beggs, Esq., was appointed on April 23, 2020.

On May 8, 2020, the Defendant filed his Motion to Correct Illegal Sentence and/or Modify Sentence. This Opposition follows.

Argument

The Defendant is represented by counsel, Lyn Beggs. Until such time as Ms. Beggs withdraws as counsel of record, the Defendant may not file documents in proper person. *See generally* S.C.R. 46; L.C.R. 11; WDCR 3(6); WDCR 23(1). Thus, any filing on behalf of the Defendant done in proper person is a fugitive document and should not be considered.<sup>1</sup>

Conclusion

As the Defendant is represented by counsel, his fugitive filing should 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: May 18, 2020.

CHRISTOPHER J. HICKS  
District Attorney

By /s/ Kevin Naughton  
KEVIN NAUGHTON  
Appellate Deputy

<sup>1</sup> The State would note, however, that the Defendant's premise appears to generally be correct. NRS 199.330 is an incorrect citation to the Attempt statute. The citation, which was first made in the Information filed by the State, should refer to NRS 193.330(1)(a)(4). The Court retains jurisdiction to correct such a clerical mistake at any time pursuant to NRS 176.565. The Defendant's claim that the Court should sentence him to no more than a year on a misdemeanor conviction should be ignored, as this Court does not have original jurisdiction over misdemeanor offenses. NRS 4.370(3).

**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Second Judicial District Court on May 18, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Lyn Beggs, Esq.

/s/ Tatyana Kazantseva  
TATYANA KAZANTSEVA

**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 May 18, 2020, 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:

Charles Skaggs #1117743  
Northern Nevada Correctional Center  
P.O. Box 7000  
Carson City, NV 89702

/s/ Tatyana Kazantseva  
TATYANA KAZANTSEVA



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

**KRISTA MEIER, ESQ.** - Notification received on 2020-05-18 10:08:02.147.

**JOANNA ROBERTS, ESQ.** - Notification received on 2020-05-18 10:08:02.08.

**BIRAY DOGAN, ESQ.** - Notification received on 2020-05-18 10:08:02.058.

**LYN BEGGS, ESQ.** - Notification received on 2020-05-18 10:08:02.171.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-05-18 10:08:02.102.

**DIV. OF PAROLE & PROBATION** - Notification received on 2020-05-18 10:08:02.195.

**JOHN PETTY, ESQ.** - Notification received on 2020-05-18 10:08:02.125.

**JEFF HOPPE, ESQ.** - Notification received on 2020-05-18 10:08:02.035.

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**A filing has been submitted to the court RE:** CR18-2149

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

05-18-2020:09:45:12

**Clerk Accepted:**

05-18-2020:10:07:32

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Opposition to Mtn

**Filed By:**

Kevin Naughton

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

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BIRAY DOGAN, ESQ. for CHARLES ANTHONY  
SKAGGS

JOHN REESE PETTY, ESQ. for CHARLES  
ANTHONY SKAGGS

JOANNA L. ROBERTS, ESQ. for CHARLES  
ANTHONY SKAGGS

JEFF HOPPE, ESQ. for STATE OF NEVADA

LYN E. BEGGS, ESQ. for CHARLES ANTHONY  
SKAGGS

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

CODE No. 3860  
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. CR18-2148  
CR18-2149

vs.

Dept. No. 9

CHARLES SKAGGS,

Defendant.

\_\_\_\_\_ /

REQUEST FOR SUBMISSION

It is requested that the Motion to Correct Illegal Sentence and/or Modify Sentence, filed on May 8, 2020, be submitted to the Court for decision.

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: May 29, 2020.

CHRISTOPHER J. HICKS  
District Attorney

By /s/ Kevin Naughton  
KEVIN NAUGHTON  
Appellate Deputy

**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Second Judicial District Court on May 29, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Lyn Beggs, Esq.

/s/ Tatyana Kazantseva  
TATYANA KAZANTSEVA

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

**KRISTA MEIER, ESQ.** - Notification received on 2020-05-29 14:42:37.983.

**JOANNA ROBERTS, ESQ.** - Notification received on 2020-05-29 14:42:37.883.

**BIRAY DOGAN, ESQ.** - Notification received on 2020-05-29 14:42:37.842.

**LYN BEGGS, ESQ.** - Notification received on 2020-05-29 14:42:38.016.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-05-29 14:42:37.914.

**DIV. OF PAROLE & PROBATION** - Notification received on 2020-05-29 14:42:38.052.

**JOHN PETTY, ESQ.** - Notification received on 2020-05-29 14:42:37.952.

**JEFF HOPPE, ESQ.** - Notification received on 2020-05-29 14:42:37.609.

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**A filing has been submitted to the court RE:** CR18-2149

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

05-29-2020:14:40:53

**Clerk Accepted:**

05-29-2020:14:42:05

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Request for Submission

**Filed By:**

Kevin Naughton

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

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KRISTA D. MEIER, ESQ.

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SKAGGS

JOHN REESE PETTY, ESQ. for CHARLES  
ANTHONY SKAGGS

JOANNA L. ROBERTS, ESQ. for CHARLES  
ANTHONY SKAGGS

JEFF HOPPE, ESQ. for STATE OF NEVADA

LYN E. BEGGS, ESQ. for CHARLES ANTHONY  
SKAGGS

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

**KRISTA MEIER, ESQ.** - Notification received on 2020-07-09 16:52:13.36.

**JOANNA ROBERTS, ESQ.** - Notification received on 2020-07-09 16:52:13.286.

**BIRAY DOGAN, ESQ.** - Notification received on 2020-07-09 16:52:13.262.

**LYN BEGGS, ESQ.** - Notification received on 2020-07-09 16:52:13.386.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-07-09 16:52:13.311.

**DIV. OF PAROLE & PROBATION** - Notification received on 2020-07-09 16:52:13.413.

**JOHN PETTY, ESQ.** - Notification received on 2020-07-09 16:52:13.336.

**JEFF HOPPE, ESQ.** - Notification received on 2020-07-09 16:52:13.237.

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**A filing has been submitted to the court RE:** CR18-2149

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

07-09-2020:16:47:31

**Clerk Accepted:**

07-09-2020:16:49:49

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Ex-Parte Mtn

- \*\*Continuation

**Filed By:**

Lyn E Beggs

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SKAGGS

JOANNA L. ROBERTS, ESQ. for CHARLES  
ANTHONY SKAGGS

JOHN REESE PETTY, ESQ. for CHARLES  
ANTHONY SKAGGS

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

BIRAY DOGAN, ESQ. for CHARLES ANTHONY  
SKAGGS

DIV. OF PAROLE & PROBATION

JEFF HOPPE, 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.):

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

**KRISTA MEIER, ESQ.** - Notification received on 2020-07-14 15:48:48.956.

**JOANNA ROBERTS, ESQ.** - Notification received on 2020-07-14 15:48:48.693.

**BIRAY DOGAN, ESQ.** - Notification received on 2020-07-14 15:48:48.669.

**LYN BEGGS, ESQ.** - Notification received on 2020-07-14 15:48:48.98.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-07-14 15:48:48.717.

**DIV. OF PAROLE & PROBATION** - Notification received on 2020-07-14 15:48:49.003.

**JOHN PETTY, ESQ.** - Notification received on 2020-07-14 15:48:48.74.

**JEFF HOPPE, ESQ.** - Notification received on 2020-07-14 15:48:48.645.

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**A filing has been submitted to the court RE:** CR18-2149

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

07-14-2020:15:41:12

**Clerk Accepted:**

07-14-2020:15:48:17

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Notice

**Filed By:**

Krista Meier, Esq.

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**The following people were served electronically:**

KRISTA D. MEIER, ESQ.

LYN E. BEGGS, ESQ. for CHARLES ANTHONY  
SKAGGS

JOANNA L. ROBERTS, ESQ. for CHARLES  
ANTHONY SKAGGS

JOHN REESE PETTY, ESQ. for CHARLES  
ANTHONY SKAGGS

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

BIRAY DOGAN, ESQ. for CHARLES ANTHONY  
SKAGGS

DIV. OF PAROLE & PROBATION

JEFF HOPPE, 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.):

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

CHARLES ANTHONY SKAGGS,

Petitioner,

vs.

Case No. CR18-2148  
CR18-2149

Dept. No. 1

STATE OF NEVADA,

Respondent.

-----/

**ORDER APPROVING ATTORNEY'S FEES**  
**(Post-Conviction)**

Pursuant to the Nevada Supreme Court Order in ADKT 411 and the Second Judicial District Court's Model Plan to address ADKT 411, good cause appearing and in the interests of justice, IT IS HEREBY ORDERED that the recommendations of the Administrator are hereby confirmed, approved and adopted as to the amount of \$1,010.00. This amount may not be the same as the Administrator's recommendation. Counsel is notified that she may request a prove-up hearing for any non-approved amounts before the Chief Judge of the District.

Counsel, Lyn E. Beggs, Esq., shall be reimbursed by the State of Nevada Public Defender's Office attorney fees in the amount of \$1,010.00.

DATED this 15<sup>th</sup> day of July, 2020.



CHIEF DISTRICT JUDGE

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

**KRISTA MEIER, ESQ.** - Notification received on 2020-07-15 12:40:13.467.

**JOANNA ROBERTS, ESQ.** - Notification received on 2020-07-15 12:40:13.393.

**BIRAY DOGAN, ESQ.** - Notification received on 2020-07-15 12:40:13.368.

**LYN BEGGS, ESQ.** - Notification received on 2020-07-15 12:40:13.491.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-07-15 12:40:13.417.

**DIV. OF PAROLE & PROBATION** - Notification received on 2020-07-15 12:40:13.516.

**JOHN PETTY, ESQ.** - Notification received on 2020-07-15 12:40:13.442.

**JEFF HOPPE, ESQ.** - Notification received on 2020-07-15 12:40:13.343.



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

**PROOF OF SERVICE OF ELECTRONIC FILING**

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**A filing has been submitted to the court RE:** CR18-2149

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

07-15-2020:12:39:02

**Clerk Accepted:**

07-15-2020:12:39:41

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Ord Approving

**Filed By:**

Judicial Asst. BWard

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

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LYN E. BEGGS, ESQ. for CHARLES ANTHONY  
SKAGGS

JOANNA L. ROBERTS, ESQ. for CHARLES  
ANTHONY SKAGGS

JOHN REESE PETTY, ESQ. for CHARLES  
ANTHONY SKAGGS

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

BIRAY DOGAN, ESQ. for CHARLES ANTHONY  
SKAGGS

DIV. OF PAROLE & PROBATION

JEFF HOPPE, 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.):

1 CODE: 3370

2  
3  
4 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
5 IN AND FOR THE COUNTY OF WASHOE  
6

7 THE STATE OF NEVADA,

8 Plaintiff,

9 v.

10 CHARLES SKAGGS,

11 Defendant.  
12  
13  
14

Case No.: CR18-2148

CR18-2149

Dept. No.: 9

15  
16 **ORDER DENYING MOTION TO CORRECT ILLEGAL SENTENCE AND/OR MODIFY**  
17 **SENTENCE**

18 The Court is in receipt of Defendant CHARLES SKAGGS' ("Defendant") *Motion to Correct*  
19 *Illegal Sentence and/or Modify Sentence* filed May 8, 2020. Plaintiff THE STATE OF NEVADA  
20 ("The State") filed its *Opposition to Motion to Correct Illegal Sentence and/or Modify Sentence* on  
21 May 18, 2020. Defendant filed his *Reply to States Opposition* May 27, 2020.

22 WDCR 23(1) states: "When a party has appeared by counsel, that individual cannot  
23 thereafter appear on his/her own behalf in the case without the consent of the court. Counsel who has  
24 appeared for any party shall represent that party in the case and shall be recognized by the court and  
25 by all parties as having control of the client's case, until counsel withdraws, another attorney is  
26 substituted, or until counsel is discharged by the client in writing, filed with the filing office, in  
27 accordance with SCR 46 and this rule. The court in its discretion may hear a party in open court  
28 although the party is represented by counsel."

///

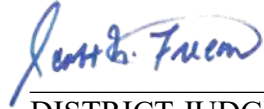
1 A review of the record reveals that Defendant filed a *Post-Conviction Petition for Writ of*  
2 *Habeas Corpus* and sought the appointment of counsel on October 22, 2019. A *Recommendation*  
3 *and Order Appointing Counsel* was filed April 23, 2020. Defendant thereafter filed the instant  
4 *Motion*, pro per, on May 8, 2020. Pursuant to WDCR 23(1), any document filed by Defendant, pro  
5 per, while he is represented by counsel is a fugitive document and will not be considered by the  
6 Court.

7 THEREFORE, and good cause appearing,

8 IT IS HEREBY ORDERED Defendant CHARLES SKAGGS' ("Defendant") *Motion to*  
9 *Correct Illegal Sentence and/or Modify Sentence* is denied.

10 IT IS SO ORDERED.

11 DATED this 23<sup>rd</sup> day of July 2020.

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14 DISTRICT JUDGE  
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 23<sup>rd</sup> day of July, 2020, I deposited for mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

Charles Skaggs, #1117743  
NNCC  
P.O. Box 7000  
Carson City, NV 89702

Further, I certify that on the 23<sup>rd</sup> day of July, 2020, I electronically filed the foregoing with the Clerk of the Court electronic filing system, which will send notice of electronic filing to the following:

LYN BEGGS, ESQ. for CHARLES ANTHONY SKAGGS  
DIV. OF PAROLE & PROBATION  
JOHN PETTY, ESQ. for CHARLES ANTHONY SKAGGS  
BIRAY DOGAN, ESQ. for CHARLES ANTHONY SKAGGS  
KEVIN NAUGHTON, ESQ. for STATE OF NEVADA  
JOANNA ROBERTS, ESQ. for CHARLES ANTHONY SKAGGS  
AMANDA SAGE, ESQ. for STATE OF NEVADA  
KRISTA MEIER, ESQ.



Judicial Assistant

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

**KRISTA MEIER, ESQ.** - Notification received on 2020-07-23 10:55:09.059.

**JOANNA ROBERTS, ESQ.** - Notification received on 2020-07-23 10:55:08.992.

**BIRAY DOGAN, ESQ.** - Notification received on 2020-07-23 10:55:08.969.

**LYN BEGGS, ESQ.** - Notification received on 2020-07-23 10:55:09.082.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-07-23 10:55:09.014.

**DIV. OF PAROLE & PROBATION** - Notification received on 2020-07-23 10:55:09.105.

**JOHN PETTY, ESQ.** - Notification received on 2020-07-23 10:55:09.036.

**JEFF HOPPE, ESQ.** - Notification received on 2020-07-23 10:55:08.947.

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

-

**A filing has been submitted to the court RE:** CR18-2149

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

07-23-2020:10:53:40

**Clerk Accepted:**

07-23-2020:10:54:33

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Ord Denying Motion

**Filed By:**

Judicial Asst. BWard

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:**

KRISTA D. MEIER, ESQ.

LYN E. BEGGS, ESQ. for CHARLES ANTHONY  
SKAGGS

JOHN REESE PETTY, ESQ. for CHARLES  
ANTHONY SKAGGS

JOANNA L. ROBERTS, ESQ. for CHARLES  
ANTHONY SKAGGS

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

BIRAY DOGAN, ESQ. for CHARLES ANTHONY  
SKAGGS

DIV. OF PAROLE & PROBATION

JEFF HOPPE, 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.):



CODE 2540

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

STATE OF NEVADA,

Plaintiff,

Case No: CR18-2148

vs.

CR18-2149

Dept. No: 9

CHARLES ANTHONY SKAGGS,

Defendant.

\_\_\_\_\_ /

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that on July 23, 2020, the Court entered a decision or order in this matter, a true and correct copy of which is attached hereto.

Dated July 24, 2020.

\_\_\_\_\_  
JACQUELINE BRYANT

Clerk of the Court

\_\_\_\_\_  
/s/N. Mason

N. Mason-Deputy Clerk

**CERTIFICATE OF SERVICE**

Case No. CR18-2148, CR18-2149

Pursuant to NRCP 5 (b), I certify that I am an employee of the Second Judicial District Court; that on July 24, 2020, I electronically filed the Notice of Entry of Order with the Court System which will send a notice of electronic filing to the following:

LYN E. BEGGS, ESQ. for CHARLES ANTHONY SKAGGS  
DIV. OF PAROLE & PROBATION  
JOHN REESE PETTY, ESQ. for CHARLES ANTHONY SKAGGS  
BIRAY DOGAN, ESQ. for CHARLES ANTHONY SKAGGS  
KEVIN P. NAUGHTON, ESQ. for STATE OF NEVADA  
JOANNA L. ROBERTS, ESQ. for CHARLES ANTHONY SKAGGS  
AMANDA C. SAGE, ESQ. for STATE OF NEVADA  
KRISTA D. MEIER, ESQ.

I further certify that on July 24, 2020, I deposited in the Washoe County mailing system for postage and mailing with the U.S. Postal Service in Reno, Nevada, a true copy of the attached document, addressed to:

Attorney General's Office  
100 N. Carson Street  
Carson City, NV 89701-4717

Charles Skaggs (#1117743)  
NNCC  
P. O. Box 7000  
Carson City, NV 89702

The undersigned does hereby affirm that pursuant to NRS 239B.030 and NRS 603A.040, the preceding document does not contain the personal information of any person.

Dated July 24, 2020.

/s/N. Mason  
N. Mason- Deputy Clerk

1 CODE: 3370

2

3

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

5 IN AND FOR THE COUNTY OF WASHOE

6

7 THE STATE OF NEVADA,

8 Plaintiff,

9 v.

10 CHARLES SKAGGS,

11 Defendant.

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Case No.: CR18-2148

CR18-2149

Dept. No.: 9

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

17 **SENTENCE**

18 The Court is in receipt of Defendant CHARLES SKAGGS' ("Defendant") *Motion to Correct*

19 *Illegal Sentence and/or Modify Sentence* filed May 8, 2020. Plaintiff THE STATE OF NEVADA

20 ("The State") filed its *Opposition to Motion to Correct Illegal Sentence and/or Modify Sentence* on

21 May 18, 2020. Defendant filed his *Reply to States Opposition* May 27, 2020.

22 WDCR 23(1) states: "When a party has appeared by counsel, that individual cannot

23 thereafter appear on his/her own behalf in the case without the consent of the court. Counsel who has

24 appeared for any party shall represent that party in the case and shall be recognized by the court and

25 by all parties as having control of the client's case, until counsel withdraws, another attorney is

26 substituted, or until counsel is discharged by the client in writing, filed with the filing office, in

27 accordance with SCR 46 and this rule. The court in its discretion may hear a party in open court

28 although the party is represented by counsel."

///

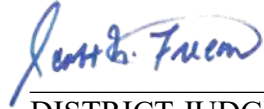
1 A review of the record reveals that Defendant filed a *Post-Conviction Petition for Writ of*  
2 *Habeas Corpus* and sought the appointment of counsel on October 22, 2019. A *Recommendation*  
3 *and Order Appointing Counsel* was filed April 23, 2020. Defendant thereafter filed the instant  
4 *Motion*, pro per, on May 8, 2020. Pursuant to WDCR 23(1), any document filed by Defendant, pro  
5 per, while he is represented by counsel is a fugitive document and will not be considered by the  
6 Court.

7 THEREFORE, and good cause appearing,

8 IT IS HEREBY ORDERED Defendant CHARLES SKAGGS' ("Defendant") *Motion to*  
9 *Correct Illegal Sentence and/or Modify Sentence* is denied.

10 IT IS SO ORDERED.

11 DATED this 23<sup>rd</sup> day of July 2020.

12   
13 \_\_\_\_\_

14 DISTRICT JUDGE  
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21  
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 23<sup>rd</sup> day of July, 2020, I deposited for mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

Charles Skaggs, #1117743  
NNCC  
P.O. Box 7000  
Carson City, NV 89702

Further, I certify that on the 23<sup>rd</sup> day of July, 2020, I electronically filed the foregoing with the Clerk of the Court electronic filing system, which will send notice of electronic filing to the following:

LYN BEGGS, ESQ. for CHARLES ANTHONY SKAGGS  
DIV. OF PAROLE & PROBATION  
JOHN PETTY, ESQ. for CHARLES ANTHONY SKAGGS  
BIRAY DOGAN, ESQ. for CHARLES ANTHONY SKAGGS  
KEVIN NAUGHTON, ESQ. for STATE OF NEVADA  
JOANNA ROBERTS, ESQ. for CHARLES ANTHONY SKAGGS  
AMANDA SAGE, ESQ. for STATE OF NEVADA  
KRISTA MEIER, ESQ.



Judicial Assistant

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

**KRISTA MEIER, ESQ.** - Notification received on 2020-07-24 11:39:46.019.

**JOANNA ROBERTS, ESQ.** - Notification received on 2020-07-24 11:39:45.908.

**BIRAY DOGAN, ESQ.** - Notification received on 2020-07-24 11:39:45.884.

**LYN BEGGS, ESQ.** - Notification received on 2020-07-24 11:39:46.081.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-07-24 11:39:45.932.

**DIV. OF PAROLE & PROBATION** - Notification received on 2020-07-24 11:39:46.14.

**JOHN PETTY, ESQ.** - Notification received on 2020-07-24 11:39:45.964.

**JEFF HOPPE, ESQ.** - Notification received on 2020-07-24 11:39:45.86.

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

-

**A filing has been submitted to the court RE:** CR18-2149

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

07-24-2020:11:38:38

**Clerk Accepted:**

07-24-2020:11:39:14

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Notice of Entry of Ord

**Filed By:**

Deputy Clerk NMason

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:**

KRISTA D. MEIER, ESQ.

LYN E. BEGGS, ESQ. for CHARLES ANTHONY  
SKAGGS

JOHN REESE PETTY, ESQ. for CHARLES  
ANTHONY SKAGGS

JOANNA L. ROBERTS, ESQ. for CHARLES  
ANTHONY SKAGGS

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

BIRAY DOGAN, ESQ. for CHARLES ANTHONY  
SKAGGS

DIV. OF PAROLE & PROBATION

JEFF HOPPE, 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.):



CHARLES SKAGGS #111743  
Post Office Box 7000  
Carson City, Nevada 89702-7000

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR COUNTY OF WASHOE

CHARLES SKAGGS  
Plaintiff

vs

THE STATE OF NEVADA  
Respondent

Case No: CR18-2148

**REQUEST FOR SUBMISSION**

Comes now, Plaintiff, CHARLES SKAGGS (hereinafter "Plaintiff"),  
appearing in proper person, and files this Request for Submission, in the above entitled action.

This Request is made pursuant to District Court Rules , whereas, Plaintiff respectfully  
request that his

MOTION TO CORRECT ILLEGAL SENTENCE AND/OR MODIFY SENTENCE, be  
submitted to the appropriate Honorable Court for a review and a decision.

Dated this TWENTIETH day of JULY, 2020

Charles Skaggs

Proper Persona Plaintiff

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

**KRISTA MEIER, ESQ.** - Notification received on 2020-07-24 14:27:50.741.

**JOANNA ROBERTS, ESQ.** - Notification received on 2020-07-24 14:27:50.643.

**BIRAY DOGAN, ESQ.** - Notification received on 2020-07-24 14:27:50.616.

**LYN BEGGS, ESQ.** - Notification received on 2020-07-24 14:27:50.765.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-07-24 14:27:50.687.

**DIV. OF PAROLE & PROBATION** - Notification received on 2020-07-24 14:27:50.789.

**JOHN PETTY, ESQ.** - Notification received on 2020-07-24 14:27:50.714.

**JEFF HOPPE, ESQ.** - Notification received on 2020-07-24 14:27:50.587.

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

-

**A filing has been submitted to the court RE:** CR18-2149

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

07-24-2020:14:26:41

**Clerk Accepted:**

07-24-2020:14:27:19

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Request for Submission

**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:**

KRISTA D. MEIER, ESQ.

LYN E. BEGGS, ESQ. for CHARLES ANTHONY  
SKAGGS

JOHN REESE PETTY, ESQ. for CHARLES  
ANTHONY SKAGGS

JOANNA L. ROBERTS, ESQ. for CHARLES  
ANTHONY SKAGGS

KEVIN P. NAUGHTON, ESQ. for STATE OF  
NEVADA

BIRAY DOGAN, ESQ. for CHARLES ANTHONY  
SKAGGS

DIV. OF PAROLE & PROBATION

JEFF HOPPE, 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.):

CODE: 2490  
Lyn E. Beggs  
Bar no. 6248  
316 California Ave. #863  
Reno, NV 89509  
(775)432-1918  
Attorney for Petitioner

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

CHARLES ANTHONY SKAGGS,

Petitioner,

Case No: CR18-2148  
CR18-2149

vs.

Dept. 9

STATE OF NEVADA,

Respondent.

\_\_\_\_\_ /

**MOTION TO WITHDRAW AS COUNSEL**

COMES NOW the undersigned counsel and moves to withdraw as counsel in this matter pursuant to Nevada Supreme Court Rule 46(2) based on the following and the Declaration under Penalty of Perjury attached hereto as Exhibit 1.

Counsel was appointed on April 23, 2020 pursuant to a Recommendation and Order in both the above referenced cases to represent Petitioner on his Petition for Writ of Habeas Corpus (post-conviction). Pursuant to the Order, the undersigned counsel, as counsel of record in these matters, began a review of records in both cases to determine if a supplemental petition is necessary to be filed.

During the pendency of counsel's review, Petitioner filed a Motion to Correct Illegal Sentence and/or Modify Sentence in pro per. The State filed an Opposition on May 18, 2020 and Petitioner filed a Reply on May 27, 2020. On July 23, 2020, this Court denied the pro per motion as it was a fugitive document as Petitioner is currently represented by the undersigned counsel.

As set forth in Exhibit 1, counsel has attempted to discuss this matter with Petitioner both telephonically and in writing to explain that as he is represented by counsel, pro per filings will be considered by the Court as fugitive documents. Petitioner has now filed a Motion for Consent of Court to Appear in pro per on August 14, 2020 seeking the consent of this Court for Petitioner to appear in pro per on his original Motion to Correct Illegal Sentence, arguing in essence that he was not represented at the time that he filed the motion as a Notice of Appearance was not filed by counsel, disregarding this Court's Order appointing counsel.

Petitioner claims that he is not seeking the withdrawal of counsel, rather he wishes leave to represent himself on his original pro per motion. Nevada Rule of Professional Conduct (NRPC) 2.1 provides that "in representing a client, a lawyer shall exercise independent professional judgment and render candid advice." Further NRPC 3.1 states that "a lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous." Petitioner's insistence on apparently bifurcating representation in this matter so that he brings the issues he wishes to, regardless of the advice of counsel renders it impossible for the undersigned counsel to continue representing Petitioner without a violation of the Nevada Rules of Professional Conduct as Petitioner clearly wishes to dictate what issues are presented to the Court.

Based on the above and the attached Exhibit 1, the undersigned requests that this Court enter an Order allowing the withdrawal of counsel pursuant to Nevada Supreme Court Rule 46(2).

**Affirmation Pursuant to NRS 239B.030**

The undersigned affirms that this Motion to Withdraw as Counsel does not contain the social security number of any person.

DATED this 24<sup>th</sup> day of August, 2020.



---

Lyn E. Beggs, Esq.  
Nevada Bar No. 6248  
Attorney for Petitioner

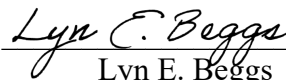
**CERTIFICATE OF SERVICE**

I certify that on the 24<sup>th</sup> day of August, 2020, I electronically filed the foregoing with the Clerk of the Court system which will send a notice of electronic filing to the following:

Kevin Naughton, Esq.  
Washoe County District Attorney's Office  
P.O. Box 11130  
Reno, NV 89520

and by USPS First Class Mail to the following:

Charles Anthony Skaggs, #1117743  
NNCC  
PO Box 7000  
Carson City NV 89702



---

Lyn E. Beggs  
Nevada Bar No. 6248



Exhibit List

Exhibit 1: Declaration Under Penalty of Perjury

# EXHIBIT 1

DECLARATION OF UNDERLYING PENALTY OF PERJURY

I, LYN E. BEGGS, do hereby declare under penalty of perjury that the assertions of this declaration are true.

1. I am an attorney licensed in the State of Nevada and was appointed pursuant to a Court Order to represent Petitioner Charles Anthony Skaggs regarding a Petition for Writ of Habeas Corpus filed in cases CR18-2148 and CR18-2149.
2. During the time of representing Petitioner Skaggs, he filed a Motion to Correct Illegal Sentence in pro per as well as a pro per Reply to the State's Motion to Dismiss. I attempted both in writing and by phone to explain to Petitioner Skaggs that as he is represented by counsel he is unable to file pro per motions. Petitioner Skaggs has continued to argue that as a Notice of Appearance was not filed in this matter, he may file pro per motions despite the Order appointing counsel.
3. Via written correspondence sent July 23, 2020 to Petitioner Skaggs, I again attempted to explain that I was counsel of record and had the ethical and professional responsibility to ultimately determine what issues were presented to the Court in potentially supplementing his petition.
4. Subsequently, Petitioner Skaggs filed another pro per motion on August 14, 2020, now seeking leave to appear in pro per on his original motion while retaining counsel for purposes of the Petition for Writ of Habeas Corpus; apparently wishing to bifurcate representation in this matter. Based on Petitioner Skaggs continued desire to pursue the issues raised in his Motion to Correct Illegal Sentence in pro per despite previous attempts to address this issue with him, I do not believe that I can continue representing Petitioner Skaggs as he clearly has evidenced a desire to dictate what issues are raised

in this matter and wishes to be both self-represented and represented by counsel which is untenable.

5. For the foregoing reasons, the undersigned Counsel no longer believes that representation of Petitioner Skaggs is possible at this time and has filed a Motion to Withdraw in this matter.

Signed this August 24, 2020.

  
\_\_\_\_\_  
Lyn E. Beggs

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

**KRISTA MEIER, ESQ.** - Notification received on 2020-08-24 13:52:10.654.  
**JOANNA ROBERTS, ESQ.** - Notification received on 2020-08-24 13:52:10.578.  
**BIRAY DOGAN, ESQ.** - Notification received on 2020-08-24 13:52:10.549.  
**LYN BEGGS, ESQ.** - Notification received on 2020-08-24 13:52:10.681.  
**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-08-24 13:52:10.603.  
**DIV. OF PAROLE & PROBATION** - Notification received on 2020-08-24 13:52:10.705.  
**JOHN PETTY, ESQ.** - Notification received on 2020-08-24 13:52:10.629.  
**JEFF HOPPE, ESQ.** - Notification received on 2020-08-24 13:52:10.509.

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

-

**A filing has been submitted to the court RE:** CR18-2149

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

08-24-2020:12:43:04

**Clerk Accepted:**

08-24-2020:13:51:44

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Motion

- \*\*Continuation

**Filed By:**

Lyn E Beggs

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:**

KRISTA D. MEIER, ESQ.

LYN E. BEGGS, ESQ. for CHARLES ANTHONY  
SKAGGS

JOHN REESE PETTY, ESQ. for CHARLES  
ANTHONY SKAGGS

JEFF HOPPE, ESQ. for STATE OF NEVADA

JOANNA L. ROBERTS, ESQ. for CHARLES  
ANTHONY SKAGGS

DIV. OF PAROLE & PROBATION

BIRAY DOGAN, ESQ. for CHARLES ANTHONY  
SKAGGS

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.):

CODE: 1670  
Lyn E. Beggs  
Bar no. 6248  
316 California Ave. #863  
Reno, NV 89509  
(775)432-1918  
Attorney for Petitioner

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

CHARLES ANTHONY SKAGGS,

Petitioner,

Case No: CR18-2148  
CR18-2149

vs.

Dept. 9

STATE OF NEVADA,

Respondent.

\_\_\_\_\_ /

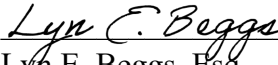
**REQUEST FOR SUBMISSION OF MOTION TO WITHDRAW AS COUNSEL**

COMES NOW, the undersigned counsel, and requests that the Motion to Withdraw as filed August 24, 2020 be submitted for decision.

**Affirmation Pursuant to NRS 239B.030**

The undersigned affirms that this Request for Submission does not contain the social security number of any person.

DATED this 10<sup>th</sup> day of September, 2020.

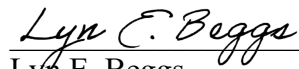
  
\_\_\_\_\_  
Lyn E. Beggs, Esq.  
Nevada Bar No. 6248  
Attorney for Petitioner



**CERTIFICATE OF SERVICE**

I certify that on the 10<sup>th</sup> day of September, 2020, I electronically filed the foregoing with the Clerk of the Court system which will send a notice of electronic filing to the following:

Kevin Naughton, Esq.  
Washoe County District Attorney's Office  
P.O. Box 11130  
Reno, NV 89520

  
\_\_\_\_\_  
Lyn E. Beggs  
Nevada Bar No. 6248

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

**KRISTA MEIER, ESQ.** - Notification received on 2020-09-10 16:52:40.639.

**JOANNA ROBERTS, ESQ.** - Notification received on 2020-09-10 16:52:40.568.

**BIRAY DOGAN, ESQ.** - Notification received on 2020-09-10 16:52:40.545.

**LYN BEGGS, ESQ.** - Notification received on 2020-09-10 16:52:40.662.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-09-10 16:52:40.591.

**DIV. OF PAROLE & PROBATION** - Notification received on 2020-09-10 16:52:40.685.

**JOHN PETTY, ESQ.** - Notification received on 2020-09-10 16:52:40.615.

**JEFF HOPPE, ESQ.** - Notification received on 2020-09-10 16:52:40.522.

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

-

**A filing has been submitted to the court RE:** CR18-2149

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

09-10-2020:16:50:00

**Clerk Accepted:**

09-10-2020:16:52:09

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Request for Submission

**Filed By:**

Lyn E Beggs

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

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-

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

**The following people were served electronically:**

KRISTA D. MEIER, ESQ.

LYN E. BEGGS, ESQ. for CHARLES ANTHONY  
SKAGGS

JOHN REESE PETTY, ESQ. for CHARLES  
ANTHONY SKAGGS

JEFF HOPPE, ESQ. for STATE OF NEVADA

JOANNA L. ROBERTS, ESQ. for CHARLES  
ANTHONY SKAGGS

DIV. OF PAROLE & PROBATION

BIRAY DOGAN, ESQ. for CHARLES ANTHONY  
SKAGGS

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.):

1 CODE: 3347  
2  
3  
4

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

8  
9 CHARLES ANTHONY SKAGGS,

10 Petitioner,

11 vs.

12 STATE OF NEVADA,  
13

14 Respondent.  
15

Case No.: CR18-2148

CR18-2149

Dept. No.: 9

16 **ORDER GRANTING MOTION TO WITHDRAW AS COUNSEL**

17 The Court is in receipt of LYN E. BEGGS, Esq.'s (hereafter "Ms. Beggs") *Motion to*  
18 *Withdraw as Counsel* filed August 24, 2020. On September 1, 2020, Petitioner CHARLES  
19 ANTHONY SKAGGS (hereafter "Skaggs") filed a *Non-Opposition Motion to Motion to Withdraw*  
20 *as Counsel*. Upon review of the record, the Court finds good cause appears to GRANT Ms. Beggs'  
21 *Motion*.

22 Ms. Beggs was appointed on April 23, 2020 to represent Skaggs on his Petition for Writ of  
23 Habeas Corpus (Post-Conviction). While Ms. Beggs was actively reviewing Skaggs' record to  
24 determine if a supplemental petition was necessary, Skaggs filed a fugitive *Motion to Correct Illegal*  
25 *Sentence and/or Modify Sentence* in pro per. This Court denied the pro per motion on July 23, 2020  
26 finding it was a fugitive document as Skaggs was represented by Ms. Beggs at the time of the filing  
27 of that motion. A Petitioner represented by council may not file pleadings in pro per. Ms. Beggs  
28 asserts she has attempted to explain to Skaggs that "as he is represented by counsel, pro per filings  
will be considered by the Court as fugitive documents." *Mot. p. 2:5-8*.

1           Upon review of the record, it appears Skaggs has chosen to ignore the advice of Ms. Beggs  
2 and has now filed a *Motion for Consent of Court to Appear in Pro Per*. Skaggs appears to claim that  
3 while he is not seeking the withdraw of Ms. Beggs, he wishes to represent himself on his original pro  
4 per motion. Ms. Beggs asserts Skaggs disregard for advice of counsel makes it impossible for her to  
5 continue in her representation without violating the Nevada Rules of Professional Conduct. *Id.* p.  
6 2:21-25.

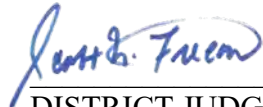
7           Pursuant to NRPC 2.1, “in representing a client, a lawyer shall exercise independent  
8 professional judgment and render candid advice.” Moreover, pursuant to Nevada Supreme Court  
9 Rule 46(2), “The attorney in an action or special proceeding may be changed . . . upon the order of  
10 the court or judge thereof on the application of the attorney or the client.”

11           The Court finds Ms. Beggs rendered advice to Skaggs which Skaggs ultimately ignored. The  
12 Court finds Skaggs disregard for counsel’s professional judgment and advice makes it impossible for  
13 Ms. Beggs to continue in her representation of Skaggs. Therefore, pursuant to Nevada Supreme  
14 Court Rule 46(2), the court grants Ms. Beggs *Motion*.

15           THEREFORE, and good cause appearing, IT IS HEREBY ORDERED LYN E. BEGGS,  
16 *Motion to Withdraw as Counsel* is granted.

17           IT IS SO ORDERED.

18           DATED this 26<sup>th</sup> day of October 2020.

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DISTRICT JUDGE

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 26<sup>th</sup> day of October, 2020, I deposited for mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

Charles Skaggs, #1117743  
NNCC  
P.O. Box 7000  
Carson City, NV 89702

Further, I certify that on the 26<sup>th</sup> day of October, 2020, I electronically filed the foregoing with the Clerk of the Court electronic filing system, which will send notice of electronic filing to the following:

AMANDA SAGE, ESQ. for STATE OF NEVADA  
KRISTA MEIER, ESQ.  
KEVIN NAUGHTON, ESQ. for STATE OF NEVADA  
DIV. OF PAROLE & PROBATION  
BIRAY DOGAN, ESQ. for CHARLES ANTHONY SKAGGS  
JOHN PETTY, ESQ. for CHARLES ANTHONY SKAGGS  
JOANNA ROBERTS, ESQ. for CHARLES ANTHONY SKAGGS  
LYN BEGGS, ESQ. for CHARLES ANTHONY SKAGGS



---

Judicial Assistant

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

**KRISTA MEIER, ESQ.** - Notification received on 2020-10-26 13:02:17.126.

**JOANNA ROBERTS, ESQ.** - Notification received on 2020-10-26 13:02:17.062.

**BIRAY DOGAN, ESQ.** - Notification received on 2020-10-26 13:02:17.04.

**LYN BEGGS, ESQ.** - Notification received on 2020-10-26 13:02:17.147.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-10-26 13:02:17.083.

**DIV. OF PAROLE & PROBATION** - Notification received on 2020-10-26 13:02:17.171.

**JOHN PETTY, ESQ.** - Notification received on 2020-10-26 13:02:17.104.

**JEFF HOPPE, ESQ.** - Notification received on 2020-10-26 13:02:17.018.



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

-

A filing has been submitted to the court RE: CR18-2149

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

10-26-2020:13:01:09

**Clerk Accepted:**

10-26-2020:13:01:44

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Ord Withdrawal of Counsel

**Filed By:**

Judicial Asst. BWard

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

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**The following people were served electronically:**

KRISTA D. MEIER, ESQ.

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ANTHONY SKAGGS

JOANNA L. ROBERTS, ESQ. for CHARLES  
ANTHONY SKAGGS

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.):

Charles A Skaggs

(Name)

111 7743

(I.D. Number)

Northern Nevada Correctional Center  
Post Office Box 7000  
Carson City, NV 89702

*Per NRS 239B, 030 this document  
does not contain any persons SS#.*  
Petitioner, In Proper Person

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

Charles A. Skaggs

Petitioner,

vs.

ISIDRO BACA, Warden

Respondent.

Case No.: CR-18-2149  
CR-18 2148

Dept. No.: 9

**SUPPLEMENTAL  
PETITION FOR WRIT OF HABEAS  
CORPUS (POST-CONVICTION)**

(Non Death Penalty)

**INSTRUCTIONS:**

1. This petition must be legibly handwritten or typewritten, signed by the petitioner and verified.
2. Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
3. If you want an attorney appointed, you must complete the Affidavit in Support of Motion for Leave to Proceed In Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
4. You must name as Respondent the person by whom you are confined or restrained. If you are in a specific institution of the department of corrections, name the warden or head of the 4A. This supplements the original petition filed Oct. 22 2019 which is here by incorporated as more fully prosecuted

*Discovery Requested Per  
NRS 34, 780  
NRAP 4a Late-Untimely Appeal  
REQUESTED*

1 institution. If you are not in a specific institution of the department but within its custody, name the  
2 director of the department of corrections.

3 (5) You must include all grounds or claims for relief which you may have regarding your  
4 conviction or sentence. Failure to raise all grounds in this petition may preclude you from filing  
5 future petitions challenging your conviction and sentence.

6 (6) You must allege specific facts supporting the claims in the petition you file seeking  
7 relief from any conviction or sentence. Failure to allege specific facts rather than just conclusions  
8 may cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of  
9 counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which you  
10 claim your counsel was ineffective.

11 (7) When the petition is fully completed, the original and copy must be filed with the  
12 clerk of the state district court for the county in which you were convicted. One copy must be mailed  
13 to the respondent, one copy to the attorney general's office, and one copy to the district attorney of  
14 the county in which you were convicted or to the original prosecutor if you are challenging your  
15 original conviction or sentence. Copies must conform in all particulars to the original submitted for  
16 filing.

### 17 PETITION

18 1. Name of institution and county in which you are presently imprisoned or where and  
19 how you are presently restrained of your liberty: Northern NV Correctional Center, County  
of Carson City

20 2. Name and location of court which entered the judgment of conviction under attack:

21 2nd Juct. Dist. Ct/Washoe Co.; Reno, NV

22 3. Date of judgment of conviction: 4/18/19

23 4. Case Number: CR18-2148  
CR18-2149

24 5. (a) Length of sentence: \_\_\_\_\_

25 CR18-2148 ⇒ 12-32 mos. (\$25 Admin Assess, \$3 DNA, \$500 Att. Fee)

26 Credit 77 days served; Consecutive to:

27 CR18-2149 ⇒ 48-120 mos. (\$10000 Fine, \$25 Admin Assess, \$3 DNA,

28 \$500 Att., \$60 Chem. Anal. Fee); Credit Zero days.

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion? Yes \_\_\_\_\_ No X

If "yes", list crime, case number and sentence being served at this time:

N/A

7. Nature of offense involved in conviction being challenged: \_\_\_\_\_

CR18-2148 ⇒ Attempted Assault w/Deadly Weapon

CR18-2149 ⇒ Possession of a Trafficking Qty of controlled substance

8. What was your plea? (check one)

(a) Not guilty \_\_\_\_\_ (c) Guilty but mentally ill \_\_\_\_\_

(b) Guilty X (d) Nolo contendere \_\_\_\_\_

9. If you entered a plea of guilty to one count of an indictment or information, and a plea of not guilty to another count of an indictment of information, or if a plea of guilty was negotiated, give details: CR2148 ⇒ Assault w/DW dropped to Attempt; Robbery,

TPO/EPO Violations, & Domestic Battery dismissed;

CR2149 ⇒ Level of trafficking dropped one level; Possession,

Possession For sales, & CCW dismissed.

10. If you were found guilty after a plea of not guilty, was the finding made by: (check one)

(a) Jury \_\_\_\_\_

N/A

(b) Judge without a jury \_\_\_\_\_

11. Did you testify at the trial? Yes \_\_\_\_\_ No N/A

12. Did you appeal from the judgment of conviction?

Yes X No \_\_\_\_\_

13. If you did appeal, answer the following:

(a) Name of court: NV Supreme Court

(b) Case number or citation: 78845 / 78847

(c) Result: Order Dismissing Appeals

(d) Date of result: 8/23/19

(Attach copy of order or decision, if available)

14. If you did not appeal, explain briefly why you did not:

Appeal, but appeal w/drawn by counsel as issues  
more cognizable on habeas corpus

15. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any court, state or federal? Yes \_\_\_\_\_ No X

16. If you answer to No. 15 was "yes," give the following information:

(a) (1) Name of court: N/A  
 (2) Name of proceeding: N/A  
 (3) Grounds raised: N/A

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes \_\_\_\_\_ No X N/A

(5) Result: N/A

(6) Date of result: N/A

(7) If known, citations of any written opinion or date of orders entered pursuant to such result:

(b) As to any second petition, application or motion, give the same information:

(1) Name of court: N/A

(2) Nature of proceeding: N/A

(3) Grounds raised: N/A

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes \_\_\_\_\_ No X

(5) Result: N/A

(6) Date of result: N/A

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: N/A

(c) As to any third or subsequent additional applications or motions, give the same information as above, list them on a separate sheet and attach. N/A

(d) Did you appeal to the highest state or federal court having jurisdiction, the result or action taken on any petition, application or motion? N/A

(1) First petition, application or motion?

Yes \_\_\_\_\_ No \_\_\_\_\_ N/A

(2) Second petition, application or motion?

Yes \_\_\_\_\_ No \_\_\_\_\_ N/A

(3) Third or subsequent petitions, applications or motions?

Yes \_\_\_\_\_ No \_\_\_\_\_ N/A

Citation or date of decision.

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 ½ by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length)

N/A

17. Has any ground being raised in this petition been previously presented to this or any other court by way of petition for habeas corpus, motion, application or any other post-conviction proceeding? If so, identify:

(a) Which of the grounds is the same: N/A

(b) The proceedings in which these grounds were raised: N/A

(c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 ½ by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

N/A

18. If any of the grounds listed in Nos. 23(a, (b), (c) and (d), or listed on any additional pages you have attached, were not previously presented in any other court, state or federal, list briefly what grounds were not so presented, and give your reasons for not presenting them. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 ½ by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

Not Appropriately raised on direct appeal b/c guilty plea taken, so there is no trial record

19. Are you filing this petition more than 1 year following the filing of the judgment of conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 ½ by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

No. This Petition is Timely Filed

20. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? Yes \_\_\_\_\_ No X

If yes, state what court and the case number:

21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on direct appeal: Pretrial through sentencing ⇒ Brian Degan

Appeal ⇒ John Reese Petty



18 (continued)

The petitioner had filed eight grounds on Oct. 22 2019, after being fraudulently misinformed by public defender John Petty Reese, and by this undue influence, the petitioner was wrongfully convinced to drop his direct appeal which was timely filed; after learning that many of the facts alleged in his original habeas corpus petition in fact constituted allegations of government misconduct by the police investigators, the district attorney and the judicial branch; these are issues which should have been presented under direct review, and therefore this issue is presented newly in ground nine (9) and thereafter; the plaintiff certifies that it was only after several months of study that he chanced upon the principles of law which require non-6th Amendment issues to be presented in direct review

In addition, the clear error of the charging documents by the district attorney and judicial error in failing to fix that error sua sponte has had, and will continue to have prejudicial effects in his future dealings with the criminal justice system -- his parole was considered wrongfully as is the petitioners PSI and prison classification process. The attorney Lyn Beggs has withdrawn as counsel for her political opposition to this issue.

22. Do you have any future sentences to serve after you complete the sentence imposed by the judgment under attack:

Yes \_\_\_\_\_ No X

23. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary you may attach pages stating additional grounds and facts supporting same.

(a) Ground NINE All prior paragraphs of Grounds 1-8 incorporated here as minutely developed  
 John Petty Reese violated the 6th Amendment of U.S. Const. by his conflict-of-interest-caused undue influence which was relied on by petitioner as reasonable and good cause to withdraw his timely filed direct appeal. Rule 4(c) et seq is invoked to seek the district court's order to file an untimely appeal.

Supporting Facts:

- 1.) The decision to plead guilty at arraignment was in exchange for the sentence of 3 to 10 yrs w/ no possibility of probation, and possibility of a fine up to 10K, and the state was released from the burden of the expense of jury trial;
- 2.) however, there were backroom deals cut to add conditions to the legally binding contract of the "plea deal," which were never conveyed in writing or verbally to the defendant by any of the parties to the case, being the state of Nevada and the private person on whose behalf the state was prosecuting; this condition kept secret by government was: if the defendant party committed any further violations of the law between the arraignment and sentencing that
  - a) the "deal" would be nullified and the defendant could withdraw plea formally and go to trial, because
  - b.) the judge could use crimes accused of as aggravators;

a)

Ground Nine (Continued)

- 3.) County of Washoe's paid attorney representing indigent defendants are bound to the ethical standards of the Nevada Rules of Professional Conduct and the spirit of ADR 411; these government policies are aimed to insure citizens of Nevada have counsel who are guided in the manner in which the 6<sup>th</sup> Amendment of the United States is to be carried out in the privileges it secures those accused of crimes;
- 4.) the defendant pled guilty on 1-9-19;
- 5.) he received his sentence on 4-17-19
- 6.) in the interim of 3 mos. the petitioner picked up federal charges;
- 7.) there is no statute or any written code known to the petitioner that requires, suggests, permits or allows the judge to utilize the facts of a subsequent case to pass judgment on an antecedent case as done here;
- 8.) at all times herein, from Jan. 9 to April 2019 BIRAY DOGAN committed fraudulent concealment of the statutory right to withdraw plea by defendants;
- 9.) NRPC Rule 4, Communication states at Rule 4(a)(3) "A lawyer shall keep the client reasonably informed about status of the matter;" Therefore when the petitioner received federal charges, and the plea deal went down the drain, had the defendant been advised of the use of aggravators

23 a) Ground nine (continued)

9) (cont.)

by the sentencing court he would have gone to trial

10) Because these allegations raise issues of judicial misconduct of not advising the defendant that it was going to use the federal charges as aggravators, and the very constitutionality of the practice, usage and customs of the Washoe County system of criminal justice which gives the judge "discretion" to follow the plea or not, (without statute cited in the colloquy transcript) and no statutory authority to use "aggravators" of events post facto to the tortious acts being punished, this matter ought to have been brought to the Nevada Supreme Court on Direct Review;

11.) The lawyer DOGAN failed to preserve the constitutional challenge of the county criminal practice of dishonoring plea deals, yet covers-up the tracks of his fraudulent concealment by arguing the Original Agreement should be honored;

12.) JOHN REESE PETTY, appellate counsel also used undue influence to fraudulently conceal the issue getting the convicted petitioner to withdraw his appeal

13.) both PETTY and DOGAN are fiscally conflicted because they are county employees paid through district attorney;

(b) Ground TEN

JOHN REESE PETTY, because he is under fiscal control of the  
 alshoe County District Attorney, violates the 6<sup>th</sup> Amendment  
 when he failed to correct the BI and the original charging  
 information and judgment of conviction on direct appeal,  
 but rather used undue influence on petitioner to withdraw Appeal  
 SCN 78345  
 Supporting Facts: All prior paragraphs incorporated as more fully developed.

14.) But for the prosecutorial ministerial misconduct  
 and judicial ministerial misconduct, the public registry  
 of criminal records has been falsified, contrary to criminal  
 statutes of NRS 197.130, False Reports;

15.) Both the prosecutor's information and the Judgment  
 of Conviction wrongfully say the petitioner was charged  
 with and was convicted for NRS 149.330, Buying or  
 promising a reward by justice or constable;

16.) this is a grossly incorrect clerical oversight  
 which calls the competence of the criminal administrators  
 into question -- the court, district attorney and  
 public defenders (being in the pay of the D.A.) all  
 missed the error;

17.) the parole board used this heinous falsehood as a determinative  
 factor to deny the petitioner's parole;

18.) the sentencing court of the U.S. District Court will  
 be pressured by the U.S. Attorney to aggravate his sentence  
 as it is considered a crime of violence;

19.) the petitioner asked his court appointed Attorney to fix this  
 she refused and quit; he also notified this court by motion  
 of this issue, which was dismissed because he had an attorney  
 who refused to represent the issue;

20. the factual disjunction between the criminal statute and the title of the correct verbiage of statute, makes it look as though he attempted harm on an official of the state when in fact is that it was a domestic dispute, see Exhibit 1 text of 199.330
21. Sentencing attorney BIRAY DOGAN was ineffective to miss this error at the pre-arraignment stage;
22. Lyn E. Beggs ineffective for dismissing the gravity of the error and abandoning the petitioner;
23. the District Attorney is violating NRPC Advocate Rule 8, special responsibilities of a Prosecutor by recognizing and conceding the clerical error yet opposing its correction and failing to do what it needs to do to preserve the integrity of the criminal administration of justice
- "The prosecutor in a criminal case shall:
- (a) Refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause." See Exhibit 2 Opposition, FN 1 pg 2
24. there is no probable cause for any act by defendant towards or as a constable or justice;
25. it is prosecutorial ministerial misconduct to make fast and loose with the accurate prosecution of the law, therefore PETTY was ineffective for abusing his power of influence to get Staggs to drop a matter of the permanent criminal record and abusive of discretion, needing to be on direct view;

(e) Ground *ELEVEN*

Skaggs denied fundamental due process right to notice and opportunity to correct the PSI when the Nevada Department of Public Safety failed to afford him an opportunity to correct errors, and Appellate Counsel violates 6<sup>th</sup> Amendment for not raising on Appeal that Sentencing Judge abuses discretion for not enforcing <sup>law</sup>.

Supporting Facts: All prior paragraphs incorporated here as more fully developed.

26) Pre-Sentence Investigation Reports are required to be produced by state's Dept. of Public Safety, to be created by police agents of the Division of Parole and Probation;

27) NRS 176.156 (1)(b) requires each party shall be given opportunity to fix the factual errors in the report;

28) Kethaner was NOT given notice and opportunity by the Division, nor did judge, D.A or Public Defender catch the factual error in the PSI.

29.) Errors in the BT is a matter for Direct Review,

30.) therefore John Reese Petty was violative of the U.S. Const. 6<sup>th</sup> Amendment for his fraudulent concealment of the clerical error which has prejudicial long term effects at all future proceedings on petitioner;

31.) Petty failed to contact the District Attorney within the six-months, nor did any other lawyer assigned, and paid by the district attorney, seek to represent the factual issue under the spirit of NRS 176.156(1)(b).

## (c) Ground TWELVE

John Reese Petty fell below constitutional standards when he failed to raise on direct appeal to challenge the custom, practice usage and constitutionality of any and all state statutes which authorize the undue influence of enticing prejudicial victim impact statement that weaponizes, skews and politicizes sentencing procedures. All prior paragraph incorporated here as more developed.

32.) at Exhibit 3 the accused public defender says that the standard of "shocking the conscience" can't be met in this case, Exhibit 3

33.) if the practice of the Department of Public Safety and its war-on-crime ally, the Washoe County District Attorney and the statutorily created Advisory Council for Prosecuting Attorneys (NRS 241A.040) which is to entice angry domestic partners to destroy human relations by paying for creative "impact" statements, does NOT shock the conscience of the court and the public, it is because the conscience of the public mind has been propped by the constant barrage of propaganda that normalizes the destruction of due process protection.

34.) the victim impact statement which the state paid to bolster and inflame the judges violates NRPC Rule 8 (F) Advocacy prohibits practices of generating "comments that have a substantial likelihood of heightening public condemnation"

35.) the female component of this domestic partnership actually modified her statement, and this made the statement palpably questionable, and the failure to object by the sentencing counsel DOGAN caused the standard of review to be less strict



1 WHEREFORE, petitioner prays that the court grant petitioner  
2 Relief to which he may be entitled in this proceeding, *including Late Appeal per NRAP 4(c).*

3 EXECUTED at Carson City, NV, Nevada on the 17

4 Day of November, 20 20.

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8 Charles Skaggs  
9 Charles Skaggs  
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VERIFICATION

Under penalty of perjury, the undersigned declares that he is the petitioner named in the foregoing petition and knows the contents thereof; that the pleading is true of his own knowledge, except as to those matters stated on information and belief, and as to such matters he believes them to be true. *No persons social security number is in this document per NRS 239B.030*

*Chas SL*  
\_\_\_\_\_  
Petitioner  
*Charles Skaggs*

CERTIFICATE OF SERVICE BY MAIL

I do certify that I mailed a true and correct copy of the foregoing PETITION FOR WRIT OF HABEAS CORPUS to the below addresses on this 17 day of November 2020, by placing the same into the hands or prison law library staff for posting in the U.S. Mail, pursuant to N.R.C.P. 5:

*Washoe Co. District Attorney*  
*PO Box 11130*  
*Reno NV 89720*

\_\_\_\_\_, Nevada 89 \_\_\_\_\_

*Chas SL*  
\_\_\_\_\_  
Signature of Petitioner, In Pro Se  
*Charles Skaggs*

INDEX OF EXHIBITSExhibit Number 1 Number of Pages 1Exhibit Description NRS 199.330Exhibit Number 2 Number of Pages 3Exhibit Description State's Opposition and Cognizance of Clerical Error.Exhibit Number 3 Number of Pages 2Exhibit Description Letter of John Reese Petty dtd 08/09/19Exhibit Number 4 Number of Pages \_\_\_\_\_

Exhibit Description \_\_\_\_\_

Exhibit Number \_\_\_\_\_ Number of Pages \_\_\_\_\_

Exhibit Description \_\_\_\_\_

Exhibit Number \_\_\_\_\_ Number of Pages \_\_\_\_\_

Exhibit Description \_\_\_\_\_

Exhibit Number \_\_\_\_\_ Number of Pages \_\_\_\_\_

Exhibit Description \_\_\_\_\_

Exhibit Number \_\_\_\_\_ Number of Pages \_\_\_\_\_

Exhibit Description \_\_\_\_\_

Exhibit Number \_\_\_\_\_ Number of Pages \_\_\_\_\_

Exhibit Description \_\_\_\_\_

# EXHIBIT 1

NRS Title 15 Ch. 199.330  
Buying or Promising Reward by Justice or  
Constable

# NEVADA STATUTES

## Title 15. Crimes and Punishments.

### Chapter 199. Crimes Against Public Justice.

#### Other Offenses

#### 199.330. Buying or promising reward by justice or constable.

Every justice of the peace or constable who shall, directly or indirectly, buy or be interested in buying anything in action for the purpose of commencing a suit thereon before a justice of the peace, or who shall give or promise any valuable consideration to any person as an inducement to bring, or as a consideration for having brought, a suit before a justice of the peace, shall be guilty of a misdemeanor.

# EXHIBIT 2

*State's Opposition to Petitioner's  
Request to Fix the Clerical Error  
in the Record*

1 CODE No. 2645  
CHRISTOPHER J. HICKS  
2 #7747  
One South Sierra Street  
3 Reno, Nevada 89501  
(775) 328-3200  
districtattorney@da.washoecounty.us  
4 Attorney for Plaintiff

5  
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

7 IN AND FOR THE COUNTY OF WASHOE

8 \* \* \*

9 THE STATE OF NEVADA,

10 Plaintiff,

Case No. CR18-2148

11 vs.

CR18-2149

12 CHARLES SKAGGS,

Dept. No. 9

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

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

16 COMES NOW, the State of Nevada, by and through CHRISTOPHER J. HICKS,  
17 District Attorney, and Kevin Naughton, Appellate Deputy, and hereby opposes the  
18 Motion to Correct Illegal Sentence and/or Modify Sentence filed by Charles Skaggs  
19 (hereinafter, "Defendant") on May 8, 2020.

20 **Memorandum of Points and Authorities**

21 **Statement of the Case**

22 Defendant Charles Skaggs pled guilty and was convicted of Attempted Assault  
23 with the Use of a Deadly Weapon. He was sentenced to 12 to 32 months in prison. See  
24 Judgment of Conviction filed April 18, 2019.

On October 22, 2019, the Defendant filed a post-conviction Petition for Writ of Habeas Corpus and sought the appointment of counsel. Counsel, Lyn Beggs, Esq., was appointed on April 23, 2020.

On May 8, 2020, the Defendant filed his Motion to Correct Illegal Sentence and/or Modify Sentence. This Opposition follows.

Argument

The Defendant is represented by counsel, Lyn Beggs. Until such time as Ms. Beggs withdraws as counsel of record, the Defendant may not file documents in proper person. *See generally* S.C.R. 46; L.C.R. 11; WDCR 3(6); WDCR 23(1). Thus, any filing on behalf of the Defendant done in proper person is a fugitive document and should not be considered.<sup>1</sup>

Conclusion

As the Defendant is represented by counsel, his fugitive filing should 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: May 18, 2020.

CHRISTOPHER J. HICKS  
District Attorney

By /s/ Kevin Naughton  
KEVIN NAUGHTON  
Appellate Deputy

<sup>1</sup> The State would note, however, that the Defendant's premise appears to generally be correct. NRS 199.330 is an incorrect citation to the Attempt statute. The citation, which was first made in the Information filed by the State, should refer to NRS 193.330(1)(a)(4). The Court retains jurisdiction to correct such a clerical mistake at any time pursuant to NRS 176.565. The Defendant's claim that the Court should sentence him to no more than a year on a misdemeanor conviction should be ignored, as this Court does not have original jurisdiction over misdemeanor offenses. NRS 4.370(3).



**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed electronically with the Second Judicial District Court on May 18, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Lyn Beggs, Esq.

/s/ Tatyana Kazantseva  
TATYANA KAZANTSEVA

**CERTIFICATE OF MAILING**

Pursuant to NRC 5(b), I hereby certify that I am an employee of the Washoe County District Attorney's Office and that, on May 18, 2020, 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:

Charles Skaggs #1117743  
Northern Nevada Correctional Center  
P.O. Box 7000  
Carson City, NV 89702

/s/ Tatyana Kazantseva  
TATYANA KAZANTSEVA

# EXHIBIT 3

Aug 19 2019 Letter Advising "No Issues"

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# WASHOE COUNTY

## PUBLIC DEFENDER

350 S. CENTER ST.  
RENO, NV 89501-2103  
(775) 337-4800  
(800) 762-8031  
FAX: (775) 337-4856  
[www.washoecounty.us/defender](http://www.washoecounty.us/defender)

August 9, 2019

Mr. Charles Anthony Skaggs (#1117743)  
Northern Nevada Correctional Center  
P.O. Box 7000  
Carson City, Nevada 89702

Re: Appeal docket number 78845 c/w 78847

Dear Mr. Skaggs:

I just received your letter dated July 30, 2019, which was obviously written before I mailed to you (on July 31, 2019), copies of the transcripts of your arraignment and sentencing hearings. I want to turn to your letter but first I want to reiterate some of things I have noted about the direct appeal.

As I have mentioned to you, a successful sentencing appeal requires that the record demonstrate that the district court abused its sentencing discretion. Here the court imposed sentences that are well within statutory limits. Additionally, it does not appear that the judge relied upon impalpable or highly suspect evidence when determining his sentence. Had he done so, that would constitute an abuse of discretion under *Silks v. State*, 92 Nev. 91, 545 P.2d 1149 (1976). An abuse of discretion can also occur if the district court's decision is arbitrary or capricious or if it exceeds the bounds of law or reason. *Crawford v. State*, 121 Nev. 744, 121 P.3d 582 (2005). None of those conditions are present in your case. Finally, although significant, the sentences imposed by the court are not so unreasonably disproportionate as to shock the conscience. *Culverson v. State*, 95 Nev. 433, 596 P.2d 220 (1979). Thus, on direct appeal the appellate court will affirm the district court's sentences. Accordingly, I am again requesting your permission to have the direct appeal dismissed.

A dismissal of these appeals would not prevent you from seeking collateral relief in a petition for post-conviction relief under Chapter 34 of the Nevada Revised Statutes. Accepting, for the purposes of this letter (because I was not involved in the cases prior to appeal) the statements you make in your letter concerning your representation as true, you might have a plausible claim for ineffective assistance of counsel, which must be raised in a post-conviction proceeding. This office does not handle post-conviction proceedings; it would constitute a conflict of interest if we did.

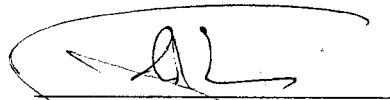
Page 2

Conversely, your letter does not point to issues that can be raised on direct appeal because most of what you write involves circumstances outside of the transcripts. For example, should a suppression issue have been raised, did you fully understand the consequences of the plea, did the district attorney influence the victim impact statement.

Finally you ask if there is a way to go back before the court for a re-sentencing. The answer is no. In Nevada a district court is without jurisdiction to modify a sentence once the judgment has been signed and filed by the court clerk. *Miller v. Hayes*, 95 Nev. 927, 604 P.2d 117 (1979). But if you are successful in post-conviction, and depending on what you relief you are asking for, you can get either a trial or a new sentencing hearing.

Please call me at (775) 337-4827 or write to me at the address on this letter. I do accept collect phone calls when I am in my office.

Sincerely,

A handwritten signature in dark ink, appearing to be "JR Betty", enclosed within a large, hand-drawn oval.

JOHN REESE BETTY  
Chief Deputy, Appellate Division

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

**JOANNA ROBERTS, ESQ.** - Notification received on 2020-11-24 09:28:03.94.  
**KRISTA MEIER, ESQ.** - Notification received on 2020-11-24 09:28:03.705.  
**BIRAY DOGAN, ESQ.** - Notification received on 2020-11-24 09:28:03.403.  
**KEVIN NAUGHTON, ESQ.** - Notification received on 2020-11-24 09:28:03.633.  
**JOHN PETTY, ESQ.** - Notification received on 2020-11-24 09:28:03.681.  
**DIV. OF PAROLE & PROBATION** - Notification received on 2020-11-24 09:28:03.657.  
**JEFF HOPPE, ESQ.** - Notification received on 2020-11-24 09:28:03.379.

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

-

**A filing has been submitted to the court RE:** CR18-2149

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

11-24-2020:09:25:01

**Clerk Accepted:**

11-24-2020:09:25:30

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Supplemental ...

**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:**

KRISTA D. MEIER, ESQ.

JEFF HOPPE, ESQ. for STATE OF NEVADA  
DIV. OF PAROLE & PROBATION

BIRAY DOGAN, ESQ. for CHARLES ANTHONY  
SKAGGS

JOHN REESE PETTY, ESQ. for CHARLES  
ANTHONY SKAGGS

JOANNA L. ROBERTS, ESQ. for CHARLES  
ANTHONY SKAGGS

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.):**

CODE No. 2300  
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 COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF WASHOE

\* \* \*

CHARLES SKAGGS,

Petitioner,

Case No. CR18-2148  
CR18-2149

vs.

Dept. No. 9

THE STATE OF NEVADA,

Respondent.

\_\_\_\_\_ /

**MOTION TO DISMISS IN PART**

COMES NOW, the State of Nevada, by and through CHRISTOPHER J. HICKS, District Attorney, and Kevin Naughton, Appellate Deputy, and moves this Honorable Court to dismiss the Petition for Writ of Habeas Corpus (Post-Conviction) and the Supplemental Petition filed by Petitioner Charles Skaggs. This Motion is based on the pleadings and papers on file with this Court, and the following points and authorities.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**Procedural History**

In case number CR18-2148, Petitioner Charles Skaggs ("Skaggs") pled guilty and was convicted of Attempted Assault with the Use of a Deadly Weapon. He was



sentenced to 12 to 32 months in prison. *See* Judgment of Conviction filed April 18, 2019.

In case number CR18-2149, Skaggs pled guilty and was convicted of Possession of a Trafficking Quantity of a Controlled Substance and sentenced to 48 to 120 months in prison, to run consecutive to the sentence in CR18-2148. *See* Judgment of Conviction filed April 18, 2019.

Skaggs filed notice of appeal in both of his cases but later voluntarily withdrew his appeals. *See* Order Dismissing Appeals filed August 23, 2019, in Nevada Supreme Court docket numbers 78845 and 78847.

On October 22, 2019, Skaggs filed a post-conviction Petition for Writ of Habeas Corpus (“Petition”) in both of his cases and sought the appointment of counsel. Counsel, Lyn Beggs, Esq., was appointed on April 23, 2020.

On May 8, 2020, Skaggs filed a Motion to Correct Illegal Sentence and/or Modify Sentence in both cases. The State opposed the motions and they were denied in an order filed July 23, 2020.

On August 24, 2020, Ms. Beggs filed a Motion to Withdraw as Counsel. The motions were granted and Ms. Beggs was withdrawn as counsel pursuant to an order filed October 26, 2020.

On November 25, 2020, Skaggs filed a Supplemental Petition for Writ of Habeas Corpus (Post-Conviction) (“Supplemental Petition”). This Motion to Dismiss follows.

### Argument

#### 1. Applicable authorities

A district court reviews claims of ineffective assistance of trial counsel under Strickland v. Washington, 466 U.S. 668, 686-87 (1984); *see also* Kirksey v. State, 112

Nev. 980, 987, 923 P.2d 1102, 1107 (1996). Under Strickland, to prevail on a claim of ineffective assistance of trial counsel, a defendant must establish two elements: (1) counsel provided deficient performance, and (2) “the deficient performance prejudiced the defense.” Kirksey, 112 Nev. 987, 923 P.2d at 107. To prove deficient performance, a defendant must show that counsel's performance fell below an objective standard of reasonableness. *Id.*

To prove prejudice, a defendant must demonstrate “a reasonable probability that, but for counsel's errors, the result of the trial would have been different.” *Id.* at 988, 923 P.2d at 1107. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” Strickland, 466 U.S. at 694. Counsel's performance is measured by an objective standard of reasonableness which takes into consideration prevailing professional norms and the totality of the circumstances. Strickland, 466 U.S. at 688; *accord*, Homick v. State, 112 Nev. 304, 913 P.2d 1280 (1996). An insufficient showing on either element of the Strickland standard requires denial of the claim. Kirksey, 112 Nev. at 988, 923 P.2d at 1107.

The court's review of counsel's performance must be highly deferential, with every effort being taken to eliminate the distorting effects of hindsight. Strickland, 466 U.S. at 689, 691. In making a fair assessment of counsel's performance, the trial court must reconstruct the circumstances of counsel's challenged conduct and evaluate that challenged act or omission from counsel's perspective at the time, while remaining perfectly mindful that counsel is “strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Id.* at 689-90. Accordingly, trial counsel's strategic or tactical decisions will be “virtually unchallengeable absent extraordinary circumstances.” Doleman v. State,

112 Nev. 843, 848, 921 P.2d 278, 280 (1996) *quoting* Howard v. State, 106 Nev. 713, 722, 800 P.2d 175, 180 (1990).

A petitioner must demonstrate the facts underlying a claim of ineffective assistance of counsel by a preponderance of the evidence, and a district court's factual findings regarding a claim of ineffective assistance of counsel are entitled to deference on appeal. Means v. State, 120 Nev. 1001, 1012, 103 P.3d 25, 33 (2004); Riley v. State, 110 Nev. 638, 647, 878 P.2d 272, 278 (1994). Habeas claims must consist of more than bare allegations, and an evidentiary hearing on a habeas petition is mandated only if a petitioner asserts specific factual allegations not belied or repelled by the record. Hargrove v. State, 100 Nev. 498, 686 P.2d 222 (1984); Nika v. State, 124 Nev. 1272, 198 P.3d 839 (2008).

## **2. Petition Ground One<sup>1</sup>**

Skaggs asserts that his trial counsel, Mr. Biray Dogan, was ineffective for failing to investigate the case or interview witnesses prior to advising Skaggs to plead guilty. Skaggs asserts that had Mr. Dogan investigated, he would have learned that his mother and his nephew witnessed portions of the events giving rise to the charges in CR18-2148 and their versions would have contradicted the version presented by the victim. Skaggs also claims that had Mr. Dogan investigated the facts surrounding CR18-2149, he would have learned that he had a viable defense because the weight of the drugs would not have crossed the trafficking threshold, he did not have actual or constructive possession

<sup>1</sup> The Petition set forth eight grounds for relief and the Supplemental Petition four additional grounds. Skaggs numbered the four additional grounds in the Supplemental Petition sequentially following the original eight grounds. The State will maintain that sequential numbering for ease of comprehension.

over any of the drugs located in the vehicle he was riding in, and his state of mind was altered thus negating any intent.

Skaggs' claims are partially belied by the record. At his arraignment, Skaggs told the Court that he had committed both crimes with the intent described in the Information. See Transcript of Proceedings - Arraignment January 9, 2019 ("Arraignment") pp. 7-8. Moreover, Skaggs appears to misunderstand the intent element associated with his trafficking charge. "[T]he state is not required to prove that the defendant was aware of the amount of illegal drugs he possessed, or that the defendant was aware that the amount of illegal drugs he possessed might subject him to a charge of trafficking." State v. Second Judicial Dist. Ct., 109 Nev. 1030, 1033, 842 P.2d 733, 735 (1992). Instead, the state is required to prove the amount of the substance beyond a reasonable doubt and that "the criminal defendant knowingly or intentionally possessed, sold, manufactured, deliver or brought into this state a controlled substance." Id at 1032-1033, 842 P.2d at 735.

Moreover, NRS 34.810(1)(a) requires that the court dismiss a petition if it determines that "[t]he petitioner's conviction was upon a plea of guilty... and the petition is not based upon an allegation that the plea was involuntarily or unknowingly entered or that the plea was entered without effective assistance of counsel." The Nevada Court of Appeals recently issued an opinion indicating that "to fall within the scope of NRS 34.810(1)(a), an ineffective-assistance claim must challenge events that affected the validity of the guilty plea." Gonzales v. State, 136 Nev. Adv. Op. 60 (Nev. App. October 1, 2020), 2020 WL 5889017 at \*5.

"The application of procedural bars is mandatory" unless a petitioner can demonstrate good cause and actual prejudice or actual innocence. Branham v. Baca, 134

Nev. 814, 815, 434 P.3d 313, 315 (Nev. App. 2018) *citing* State v. Eighth Judicial Dist. Court (Riker), 121 Nev., 225, 231, 112 P.3d 1070, 1074 (2005) and Pellegrini v. State, 117 Nev. 860, 887, 34 P.3d 519, 537 (2001); *see also* State v. Haberstroh, 119 Nev. 173, 180, 69 P.3d 676, 681 (2003).

Skaggs does not explicitly allege that his pleas were entered involuntarily or unknowingly as a result of Mr. Dogan's alleged failure to investigate. Read charitably, the Court might infer that this is what Skaggs intended to allege. If Skaggs alleges that his pleas were entered involuntarily or unknowingly, they should proceed to an evidentiary hearing. If Skaggs is simply complaining that he believes Mr. Dogan was ineffective but that ineffectiveness had no bearing on his pleas, the claim is procedurally barred and should be dismissed. Moreover, to the extent that Skaggs claims he did not commit his crime at all, they are belied by his explicit admissions during his arraignment and should be dismissed. Hargrove, *supra*, Nika, *supra*.

### 3. Petition Ground Two

Skaggs alleges that he received ineffective assistance from Mr. Dogan as a result of Mr. Dogan urging him to waive his preliminary hearing and enter into a plea negotiation without first seeking to suppress evidence. Again, as with Ground One, Skaggs does not allege that his plea was entered unknowingly or involuntarily as a result of Mr. Dogan's actions. If the Court charitably infers that Skaggs alleges that his pleas were involuntarily or unknowingly entered as a result of Mr. Dogan's alleged ineffectiveness, this claim should proceed to an evidentiary hearing. If Mr. Skaggs merely asserts that Mr. Dogan was ineffective, the claim is procedurally barred and must be dismissed. NRS 34.810(1)(a), Gonzales, *supra*.

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#### 4. Petition Ground Three

Skaggs alleges that Mr. Dogan was ineffective for failing to advise him of the consequences of his guilty plea, particularly the clause contained in paragraph 10 of the Guilty Plea Memorandum (“GPM”) allowing the State to “be free to argue for an appropriate sentence at the time of sentencing if I fail to appear at any scheduled proceeding in this matter OR if prior to the date of my sentencing I am arrested in any jurisdiction for a violation of law....” GPM filed January 9, 2019. However, this claim is belied by the record and should be dismissed. Skaggs signed the GPM which acknowledged that “I have read this plea memorandum completely and I understand everything contained within it.” GPM, p. 5. Additionally, at his arraignment, Skaggs responded affirmatively to the Court’s questions whether he had read the GPM, completely understood the GPM’s terms and conditions, discussed it with his attorney, and was in agreement with all of the provisions contained in the GPM. Arraignment, pp. 4-5.

At the conclusion of the arraignment, the Court briefly addressed Skaggs’ custody status, noted that he was out on bail, and explicitly told him “No violations, no use, not causing any problems between now and sentencing. All right?” Arraignment, p. 12. When Skaggs responded merely that he would “show up,” the Court told Skaggs that he was “going to put your best foot forward at sentencing also” and “put yourself in the best possible light you can for me.”

Therefore, in addition to the express terms of the GPM allowing the State to argue for an appropriate sentence if he was arrested prior to sentencing, Skaggs affirmed to the Court that he had read the GPM, understood and accepted all of its terms, and acknowledged that he would not have any violations before sentencing. The

record thus belies Skaggs' claim that he was unaware of the terms of his deal and this claim should be dismissed. Hargrove, *supra*, Nika, *supra*.

#### 5. Petition Ground Four

Ground Four essentially restates the allegations contained in Ground Three that Skaggs was not informed of the provisions of paragraph 10 of the GPM. Skaggs slightly alters the claim to suggest that the Court is somehow responsible for failing to highlight that particular portion of the GPM to him. As noted above, the claim that Skaggs was unaware of the provisions of paragraph 10 is clearly belied by the record, in multiple ways, and must be dismissed. Hargrove, *supra*, Nika, *supra*.

#### 6. Petition Ground Five

Skaggs alleges that Mr. Dogan allegedly provided ineffective assistance of counsel for failing to challenge his competency to enter a plea due to his mental state and the medications he was taking. While the State does not believe that Skaggs will be able to make a sufficient showing to satisfy the Strickland standard, the State acknowledges that Skaggs has alleged sufficient facts to warrant an evidentiary hearing on this claim.

#### 7. Petition Ground Six

Skaggs alleges that Mr. Dogan was allegedly ineffective for failing to explain his options after he violated the terms of his plea agreement by committing new criminal acts prior to sentencing. NRS 34.810(1)(a) requires that the court dismiss a petition if it determines that "[t]he petitioner's conviction was upon a plea of guilty... and the petition is not based upon an allegation that the plea was involuntarily or unknowingly entered or that the plea was entered without effective assistance of counsel." *See also Gonzales*, *supra*. Because this claim is entirely based upon alleged ineffectiveness occurring after Skaggs' committed new criminal acts subsequent to his arraignment in

these cases, the claim is procedurally barred and must be dismissed.

#### 8. Petition Ground Seven

Skaggs alleges that Mr. Dogan was allegedly ineffective at sentencing for failing to object to the State's "bolstering" of the victim's impact statement and for failing to challenge inconsistencies contained within the statement. Because this claim is based entirely upon actions that occurred at sentencing, and because Skaggs pled guilty in both of his cases, the claim is procedurally barred and must be dismissed. NRS 34.810(1)(a), Gonzales, *supra*.

#### 9. Petition Ground Eight

Skaggs alleges that he received ineffective assistance of counsel at sentencing because Mr. Dogan failed to point out inconsistencies related to the victim's statements, that she supported him during the pendency of the case, and for discussing his new arrests. Again, because these claims are based entirely upon actions at sentencing, they are procedurally barred and must be dismissed. NRS 34.810(1)(a), Gonzales, *supra*.

#### 10. Supplemental Petition Ground Nine

Skaggs alleges that he received ineffective assistance of counsel from appellate counsel, John Petty, because Mr. Petty convinced him to withdraw his appeal and proceed to post-conviction proceedings despite Skaggs' belief that he had appealable issues. He also alleges that Mr. Dogan was ineffective for failing to keep him apprised of the fact that the State was free to argue for an appropriate sentence following his arrest on new charges. Because Skaggs pled guilty, "to fall within the scope of NRS 34.810(1)(a), an ineffective-assistance claim must challenge events that affected the validity of the guilty plea." Gonzales, *supra*. As Skaggs' claim is based upon alleged ineffective assistance related to his withdrawn appeal and post-plea arrest for new



criminal conduct, this claim is procedurally barred and must be dismissed. *Id*, NRS 34.810(1)(a).

#### 11. Supplemental Petition Ground Ten

Skaggs alleges that he received ineffective assistance from Mr. Petty because he “is under fiscal control of the Washoe County District Attorney” and failed to seek correction of the incorrect statutory citation contained in the charging document, the PSI, and the judgment of conviction. Because this portion of the claim does not challenge the validity of his guilty pleas, it is procedurally barred and must be dismissed. NRS 34.810(1)(a), Gonzales, *supra*.

In another section of this claim, Skaggs alleges that Mr. Dogan was ineffective for failing to challenge the incorrect statutory citation prior to arraignment. Skaggs does not specifically allege that his plea was involuntarily or unknowingly entered as a result of this alleged ineffectiveness. If the Court charitably interprets this portion of the claim to assert that his plea was not validly entered, this portion of the claim should proceed to a hearing. Otherwise, this part of the claim is procedurally barred and must be dismissed.

Skaggs also alleges that Ms. Beggs was ineffective for dismissing the gravity of this alleged error and “abandoning” Skaggs. “[T]here is no constitutional or statutory right to the assistance of counsel in noncapital post-conviction proceedings,” and “[w]here there is no right to counsel there can be no deprivation of effective assistance of counsel.” Brown v. McDaniel, 130 Nev. 565, 569, 331 P.3d 867, 870 (2014) *quoting* McKague v. Warden, 112 Nev. 159, 164-65, 912 P.2d 255, 258 (1996). As this is not a capital case, Skaggs does not enjoy the right to post-conviction counsel and therefore Ms. Beggs could not be ineffective. This portion of the claim must be dismissed.

### 12. Supplemental Petition Ground Eleven

Skaggs claims that he received ineffective assistance from Mr. Petty for failing to raise an issue on direct appeal related to an error contained in his PSI. Again, this claim is not based upon the validity of his plea and is procedurally barred and must be dismissed. NRS 34.810(1)(a), Gonzales, *supra*.

### 13. Supplemental Petition Ground Twelve

Skaggs alleges that Mr. Petty provided ineffective assistance of counsel by failing to challenge the “undue influence” of the victim impact statement in this case. He alleges that the fact that the victim’s impact statement was “paid for” should “shock the conscience.” Skaggs is mixing legal standards here. The “shock the conscience” standard relates to a sentence that is so disproportionate to an offense “as to shock the conscience.” Culverson v. State, 95 Nev. 433, 435, 596, P.2d 220, 222 (1979) (internal citation omitted). Thus, the “shock the conscience” standard is inapplicable as to the quality of evidence received at sentencing. Moreover, a victim in Nevada, at the time Skaggs was sentenced, had the statutory right to “[r]easonably express any views concerning the crime, the person responsible, the impact of the crime on the victim and the need for restitution.” NRS 176.015(3)(b). Skaggs may not have liked what his victim had to say in this case, but she had the absolute right to say it. Skaggs again alleges that Mr. Dogan was ineffective for failing to point out to the Court that the victim had modified her impact statement. In addition to seeking to apply the wrong legal standard, this claim does not allege that his plea was invalid and is procedurally barred. NRS 34.810(1)(a), Gonzales, *supra*.

///

///

**Conclusion**

Skaggs' Petition and Supplemental Petition are replete with procedurally barred claims. By pleading guilty, Skaggs cut off his ability to allege ineffective assistance of counsel related to anything other than the validity of his pleas. Although Skaggs fails to directly connect several of his assignments of ineffective assistance of counsel to the validity of his pleas, this Court could reasonably find that he has made sufficient allegations to warrant an evidentiary hearing on parts of Grounds One, Two, and Ten, and the entirety of Ground Five. All of the other claims are either belied by the record or procedurally barred and must be dismissed.

**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: January 25, 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 January 25, 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:

Charles Skaggs, #1117743  
Northern Nevada Correctional Center  
P.O. Box 7000  
Carson City, NV 89702

/s/ Tatyana Kazantseva  
TATYANA KAZANTSEVA

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

**JOANNA ROBERTS, ESQ.** - Notification received on 2021-01-25 08:47:20.958.

**KRISTA MEIER, ESQ.** - Notification received on 2021-01-25 08:47:20.932.

**BIRAY DOGAN, ESQ.** - Notification received on 2021-01-25 08:47:20.827.

**KEVIN NAUGHTON, ESQ.** - Notification received on 2021-01-25 08:47:20.854.

**JOHN PETTY, ESQ.** - Notification received on 2021-01-25 08:47:20.905.

**DIV. OF PAROLE & PROBATION** - Notification received on 2021-01-25 08:47:20.879.

**JEFF HOPPE, ESQ.** - Notification received on 2021-01-25 08:47:20.799.

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

PROOF OF SERVICE OF ELECTRONIC FILING

-

**A filing has been submitted to the court RE:** CR18-2149

**Judge:**

HONORABLE SCOTT N. FREEMAN

**Official File Stamp:**

01-25-2021:08:19:16

**Clerk Accepted:**

01-25-2021:08:46:51

**Court:**

Second Judicial District Court - State of Nevada  
Criminal

**Case Title:**

STATE VS. CHARLES ANTHONY SKAGGS (TN)  
(D9)

**Document(s) Submitted:**

Mtn to Dismiss

**Filed By:**

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SKAGGS

JOHN REESE PETTY, ESQ. for CHARLES  
ANTHONY SKAGGS

JOANNA L. ROBERTS, ESQ. for CHARLES  
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