



**EIGHTH JUDICIAL DISTRICT COURT
CLERK OF THE COURT**

REGIONAL JUSTICE CENTER
200 LEWIS AVENUE, 3rd FL.
LAS VEGAS, NEVADA 89155-1160
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Sep 24 2021 01:05 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Steven D. Grierson
Clerk of the Court

Anntoinette Naumec-Miller
Court Division Administrator

September 24, 2021

Elizabeth A. Brown
Clerk of the Court
201 South Carson Street, Suite 201
Carson City, Nevada 89701-4702

RE: BARRY HARRIS vs. WILLIAM GITTERE
S.C. CASE: 83516
D.C. CASE: A-20-813935-W

Dear Ms. Brown:

On September 16, 2021 our office submitted a Notice of Appeal packet for the above referenced case noting that the minutes from August 26, 2021 were not included. The minutes have now been completed and are enclosed. Please contact our office at (702) 671-0512 if you have any questions.

Sincerely,

STEVEN D. GRIERSON, CLERK OF THE COURT

A handwritten signature in black ink, appearing to read "Heather Ungermann", written over a horizontal line.

Heather Ungermann, Deputy Clerk

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

August 26, 2021

A-20-813935-W Barry Harris, Plaintiff(s)
vs.
William Gittere, Defendant(s)

August 26, 2021 12:30 AM All Pending Motions

HEARD BY: Craig, Christy **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Andrea Natali

RECORDER: Kaihla Berndt

REPORTER:

PARTIES

PRESENT: Lichtenstein, Allen Attorney
Marland, Melanie H. Attorney

JOURNAL ENTRIES

- EVIDENTIARY HEARING ... ARGUMENT: PETITION FOR WRIT OF HABEAS CORPUS

Colloquy regarding the Deft. not being present due to the order to transport not being served. Ms. Marland inquired if the matters could be bifurcated. Mr. Lichtenstein agreed to bifurcate the matters. Ms. Marland stated she had Mr. Sheets and Mr. Ramsey on call but they were not subpoenaed for this matter. Mr. Lichtenstein stated he did not plan on calling them. Sworn testimony (see worksheet). Argument by Mr. Lichtenstein that there was not proper service, it was by mail, which was not proper for a criminal case. Further argument by Mr. Lichtenstein regarding ineffectiveness of counsel, the case should have been dismissed in Justice Court, and that good cause should have been shown, that the witness couldn't have been served. Argument by Ms. Marland noting there was due diligent efforts and there was good cause for a material witness warrant, this did not rise to the level of ineffectiveness of counsel. COURT NOTED, the first question was whether there should there have been an appeal, of Judge Smith's denial of the writ, to the Nevada Supreme Court and was that ineffectiveness, and not raising that the issue post-trial on direct appeal and it had grave concerns about that. Colloquy regarding whether this should have been raised on the direct appeal, and if it wasn't in the direct appeal, whether that should be considered a waiver. Ms. Marland argued that it

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Minutes Date: August 26, 2021

appeared to be a strategic decision not to include that in the direct appeal; additionally, she could call Mr. Sheets to testify in this matter. Upon Court's inquiry, Mr. Lichtenstein agreed to reopen this matter. Sworn witness testimony continued. Arguments by counsel regarding whether there was ineffectiveness of counsel. COURT summarized how to prove ineffectiveness of counsel under the laws. COURT stated its FINDINGS, as to the first issue of the preliminary hearing, and it was not finding Mr. Ramsey was ineffective, or that Mr. Sheets was ineffective. As to the second issue about direct appeal and the non-inclusion of that decision on the writ on the appeal, COURT summarized the requirements of proof of ineffectiveness of appellate counsel under the laws. COURT NOTES as to the denial of the writ in District Court, complaining about Justice Court's decision to grant a continuance, and whether or not that decision was appropriate, was not likely to have had a reasonable probability of success on appeal. COURT FINDS, Ms. Bernstein's testimony was helpful in her decision making process, it was not that she ignored the issue but had determined it was not appropriate issue to raise on appeal, and she had other more important issues, and she thought there was not a reasonable probability of success on appeal; therefore, it WAS NOT FINDING Ms. Bernstein and Mr. Sheets were ineffective on the direct appeal; therefore, ORDERED, the writ DENIED and DIRECTED, Ms. Marland to prepare the order.