

FILED

NOV 21 2022

In the Supreme Court of the State of Nevada

~~Elizabeth A. Brown~~
CLERK OF COURT

Electronically Filed
Dec 14 2022 01:30 PM
Elizabeth A. Brown
Clerk of Supreme Court

Jesse Noble
Petitioner

C-18-336940-1

v.

~~Cas 11-83024~~

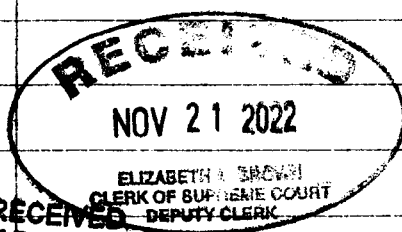
The State of Nevada
Respondent

Notice of Appeal

Notice of Appeal

Come Now Petitioner Jesse Noble Notifying the
Nevada Supreme Court of My ~~Nevada Supreme Court~~
Notice of Appeal.

Respectfully Submitted
Petitioner
Jesse Noble



RECEIVED
APPEALS

DEC 13 2022

CLERK OF THE COURT

C-18-336940-1
NOASC
Notice of Appeal (Criminal)
6016677



Jesse 1 job # 1039146

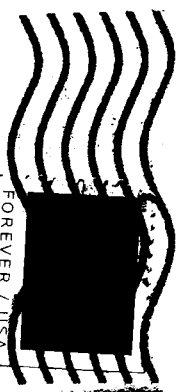
H.D.S.P

PO Box 650

Median Spring NV 89070

LAS VEGAS NV 890

16 NOV 2022 PM 5 L

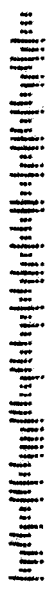


FOREVER / USA

Confidential
Legal Mail

201 South Carson st
Carson City NV 89701 Suite 201

85701-479159





1 ASTA
2
3
4
5

6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**
9

10 STATE OF NEVADA,

11 Plaintiff(s),

12 vs.

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

14 Defendant(s),
15

Case No: C-18-336940-1

Dept No: XVIII

16
17 **CASE APPEAL STATEMENT**
18

19 1. Appellant(s): Jesse Noble

20 2. Judge: Mary Kay Holthus

21 3. Appellant(s): Jesse Noble

22 Counsel:

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

25 4. Respondent: The State of Nevada

26 Counsel:

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

(702) 486-3825

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

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

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

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

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

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

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

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

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 79739, 83024

12. Child Custody or Visitation: N/A

Dated This 13 day of December 2022.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

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

cc: Jesse Noble

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

State of Nevada
vs
Jesse Noble

§ Location: **Department 18**
 § Judicial Officer: **Holthus, Mary Kay**
 § Filed on: **12/19/2018**
 § Case Number History:
 § Cross-Reference Case **C336940**
 § Number:
 § Defendant's Scope ID #: **2679811**
 § ITAG Booking Number: **0**
 § ITAG Case ID: **2068805**
 § Lower Court Case # Root: **18F18999**
 § Lower Court Case Number: **18F18999X**
 § Supreme Court No.: **79739**
83024

CASE INFORMATION

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

Statistical Closures

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




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

Case Number	C-18-336940-1
Court	Department 18
Date Assigned	09/07/2021
Judicial Officer	Holthus, Mary Kay














PARTY INFORMATION

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



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

12/19/2018	 Criminal Bindover - Confidential [1]	In #1
12/19/2018	 Criminal Bindover Packet Justice Court [2]	In #2
12/20/2018	 Information Party: Plaintiff State of Nevada [3] Information	In #3

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

12/22/2018	 Reporters Transcript <i>[4] REPORTER'S TRANSCRIPT OF PROCEEDINGS PRELIMINARY HEARING</i>	In #4
01/10/2019	 Order Filed By: Plaintiff State of Nevada <i>[5] Transport Order</i>	In #5
01/14/2019	 Notice Filed By: Plaintiff State of Nevada <i>[6] Notice of Intent to Seek Punishment as Habitual Criminal</i>	In #6
01/15/2019	 Notice Filed By: Plaintiff State of Nevada <i>[7] The State of Nevada's Notice of Witnesses</i>	In #7
01/25/2019	 Subpoena Electronically Issued Filed by: Defendant Noble, Jesse D <i>[8] Subpoena</i>	In #8
01/25/2019	 Subpoena Electronically Issued Filed by: Defendant Noble, Jesse D <i>[9] Subpoena</i>	In #9
01/29/2019	 Order Filed By: Plaintiff State of Nevada <i>[10] Transport Order</i>	In #1
01/29/2019	 Order Filed By: Plaintiff State of Nevada <i>[11] Transport Order</i>	In #1
01/29/2019	 Notice Filed By: Plaintiff State of Nevada <i>[12] The State of Nevada's First Amended Notice of Witnesses</i>	In #1
02/11/2019	 Jury List <i>[16]</i>	In #1
02/12/2019	 Verdict <i>[13]</i>	In #1
02/12/2019	 Instructions to the Jury <i>[14]</i>	In #1
02/15/2019	 Stipulation <i>[15] Trial Stipulations</i>	In #1
		In

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

03/19/2019	 PSI [17]	#1
03/21/2019	 PSI [18]	In #1
04/11/2019	 Judgment of Conviction [19] <i>Judgment of Conviction (Jury Trial)</i>	In #1
04/29/2019	Case Reassigned to Department 9 <i>Judicial Reassignment to Department 9 - Judge Cristina Silva</i>	
07/23/2019	 Motion Filed By: Defendant Noble, Jesse D [20] <i>Motion for Withdrawal of Attorney of Record in the Alternative, Request for Records/Court Case Documents</i>	In #2
07/23/2019	 Notice of Motion Filed By: Defendant Noble, Jesse D [21]	In #2
09/30/2019	 Notice of Appeal (Criminal) Party: Defendant Noble, Jesse D [22]	In #2
10/01/2019	 Case Appeal Statement Filed By: Defendant Noble, Jesse D [23] <i>Case Appeal Statement</i>	In #2
11/18/2019	 Motion Filed By: Defendant Noble, Jesse D [24] <i>Motion Re: New Trial</i>	In #2
11/18/2019	 Ex Parte Motion Filed By: Defendant Noble, Jesse D [25] <i>Ex Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing</i>	In #2
11/18/2019	 Notice of Motion Filed By: Defendant Noble, Jesse D [26] <i>Notice of Motion</i>	In #2
11/19/2019	 NV Supreme Court Clerks Certificate/Judgment - Dismissed [27] <i>Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed</i>	In #2
12/17/2019	 Order Filed By: Plaintiff State of Nevada [28] <i>Transport Order</i>	In #2
05/11/2020	 Motion Filed By: Defendant Noble, Jesse D	In #2

CASE SUMMARY

CASE NO. C-18-336940-1








	<i>[29] Petitioner's Request for Enlargement of Time</i>	
05/11/2020	 Clerk's Notice of Hearing <i>[30] Clerk's Notice of Hearing</i>	In #2
05/12/2020	 Order <i>[31] Order Re Petitioner's Request for Enlargement of Time</i>	In #2
05/12/2020	 Notice of Entry of Order Filed By: Defendant Noble, Jesse D <i>[32] Notice of Entry of Order</i>	In #2
06/24/2020	 Recorders Transcript of Hearing <i>[33] Recorder's Transcript of Hearing: Defendant's Ex Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing Defendant's Motion Re: New Trial Defendant's Notice of Motion December 9, 2019</i>	In #2
06/24/2020	 Recorders Transcript of Hearing <i>[34] Recorder's Transcript of Hearing: Status Check: Confirmation of Counsel December 30, 2019</i>	In #2
06/24/2020	 Recorders Transcript of Hearing <i>[35] RECORDER'S TRANSCRIPT OF HEARING: STATUS CHECK: FILE/SET BRIEFING SCHEDULE. HEARD ON JANUARY 27, 2020</i>	In #2
06/24/2020	 Recorders Transcript of Hearing <i>[36] Recorder's Transcript of Hearing: Status Check: Set Briefing Schedule February 12, 2020</i>	In #2
08/11/2020	 Petition for Writ of Habeas Corpus Filed by: Defendant Noble, Jesse D <i>[37] Supplemental Petition for Writ of Habeas Corpus</i>	In #2
09/15/2020	 Recorders Transcript of Hearing <i>[38] RECORDER'S TRANSCRIPT OF HEARING: JURY TRIAL - DAY 1. HEARD ON FEBRUARY 11, 2019</i>	In #2
09/15/2020	 Recorders Transcript of Hearing <i>[39] RECORDER'S TRANSCRIPT OF HEARING: JURY TRIAL - DAY 2. HEARD ON FEBRUARY 12, 2019</i>	In #2
10/12/2020	 Stipulation Filed by: Plaintiff State of Nevada <i>[40] STIPULATION TO MODIFY BRIEFING SCHEDULE AND CONTINUE HEARING</i>	In #4
10/14/2020	 Order <i>[41] Order Granting Modified Briefing Schedule and Resetting Hearing</i>	In #4
11/13/2020	 Stipulation Filed by: Plaintiff State of Nevada <i>[42] Stipulation to Modify Briefing Schedule and Continue Hearing</i>	In #4
12/14/2020	 Answer (Criminal)	In #4

CASE SUMMARY

CASE NO. C-18-336940-1

	Filed By: Plaintiff State of Nevada <i>[43] Answer to Motion for New Trial and Supplemental Petition for Writ of Habeas Corpus</i>	
01/12/2021	 Reply Filed by: Defendant Noble, Jesse D <i>[44] Petitioner's Reply to State's Answer to Motion for New Trial and Supplemental Petition for Writ of Habeas Corpus (Post-Conviction)</i>	In #4
03/22/2021	 Clerk's Notice of Nonconforming Document and Curative Action <i>[46] Notice of Nonconforming Document and Curative Action</i>	In #4
05/17/2021	 Decision and Order <i>[47] Decision and Order</i>	In #4
05/19/2021	 Notice of Entry of Order Filed By: Plaintiff State of Nevada <i>[48] Notice of Entry of Order</i>	In #4
05/24/2021	 Criminal Order to Statistically Close Case <i>[49] Criminal Order to Statistically Close Case</i>	In #4
05/26/2021	 Motion Filed By: Defendant Noble, Jesse D <i>[50] Motion for Withdrawal of Attorney of Record or in the Alternative Request for Records/Court Case Document</i>	In #4
06/01/2021	 Notice of Appeal (Criminal) <i>[51] Notice of Appeal</i>	In #4
06/03/2021	 Case Appeal Statement Filed By: Defendant Noble, Jesse D <i>[52] Case Appeal Statement</i>	In #4
08/04/2021	 Request Filed by: Defendant Noble, Jesse D <i>[53] Request</i>	In #4
08/11/2021	 Recorders Transcript of Hearing <i>[54] RECORDER'S TRANSCRIPT OF HEARING: PETITION FOR WRIT OF HABEAS CORPUS. HEARD ON MARCH 24, 2021</i>	In #4
09/07/2021	Case Reassigned to Department 18 <i>From Judge Cristina Silva to Judge Mary Kay Holthus</i>	
07/12/2022	 Notice of Hearing <i>[55] NOTICE OF HEARING</i>	In #4
08/03/2022	 NV Supreme Court Clerks Certificate/Judgment - Affd/Rev Part <i>[56] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed in Part, Reversed in Part and Remand</i>	In #4
10/27/2022		In

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

	<div><div></div><div>Stipulation</div><div>Filed by: Plaintiff State of Nevada</div><div>[57] Stipulation and Notice of Manual Filing</div></div>	#2
11/07/2022	<div><div></div><div>Order to Transport Defendant</div><div>[58] Transport Order</div></div>	In #2
12/05/2022	<div><div></div><div>Decision and Order</div><div>[59] Decision and Order from the Evidentiary Hearing</div></div>	In #2
12/07/2022	<div><div></div><div>Notice of Entry</div><div>Filed By: Plaintiff State of Nevada</div><div>[60] Notice of Entry</div></div>	In #2
12/13/2022	<div><div></div><div>Notice of Appeal (Criminal)</div><div>Notice of Appeal</div></div>	In #2
12/13/2022	<div><div></div><div>Case Appeal Statement</div><div>Case Appeal Statement</div></div>	In #2
	<div><div>DISPOSITIONS</div></div>	
02/12/2019	<div><div>Plea (Judicial Officer: Holthus, Mary Kay)</div><div>1. BATTERY BY PRISONER</div><div>Guilty</div><div>PCN: 0030542736 Sequence:</div></div>	
04/03/2019	<div><div>Disposition (Judicial Officer: Holthus, Mary Kay)</div><div>1. BATTERY BY PRISONER</div><div>Guilty</div><div>PCN: 0030542736 Sequence:</div></div>	
04/03/2019	<div><div>Adult Adjudication (Judicial Officer: Holthus, Mary Kay)</div><div>1. BATTERY BY PRISONER</div><div>12/21/2017 (F) 200.481.2f (DC61105)</div><div>PCN: 0030542736 Sequence:</div></div>	
	<div><div>Sentenced to Nevada Dept. of Corrections</div><div>Term: Minimum:28 Months, Maximum:72 Months</div><div>Consecutive: Case Number C312733</div><div>Credit for Time Served: 0 Day</div><div>Fee Totals:</div><div><div><div>Administrative Assessment Fee</div><div>\$25</div><div>Genetic Marker Analysis AA Fee</div><div>\$3</div><div>Indigent Defense Civil Assessment</div><div>Fee - ASK</div></div><div><div>25.00</div><div></div><div>3.00</div><div></div><div>250.00</div><div></div></div></div><div><div>Fee Totals \$</div><div>278.00</div></div></div>	
	<div><div>HEARINGS</div></div>	
12/21/2018	<div><div></div><div>Initial Arraignment (10:00 AM) (Judicial Officer: De La Garza, Melisa)</div></div>	

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

Trial Date Set;

Journal Entry Details:

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

01/09/2019



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

Matter Heard;

Journal Entry Details:

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

02/06/2019



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

Matter Heard;

Journal Entry Details:

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

02/08/2019



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

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

Matter Heard;

Journal Entry Details:

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

02/11/2019



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

02/11/2019-02/12/2019

Trial Continues;

Verdict;

Journal Entry Details:

Chelsea Kallas, Dep AG, and Michael Kovac, Senior Dep AG, present on behalf of the State; Kenneth Frizzell, Esq., present on behalf of Deft. Noble, who is also present. 9:25 a.m. Jury Trial resumed. OUTSIDE THE PRESENCE OF THE JURY: Jury Instructions and Verdict form settled. JURY PRESENT: Court instructed the Jury. Closing arguments by Ms. Kallas and Mr. Frizzell; rebuttal by Mr. Kovac. At the hour of 10:45 a.m., the Jury retired to deliberate. Court thanked and excused the alternates. While deliberating, the Jury presented a question to the Court. Court telephonically conferenced with counsel to formulate an answer to the Jury's question. The Question and Answer were marked for identification as Court's Exhibit 2 and ADMITTED. At the hour of 12:06 p.m., the Jury returned with the following verdict: GUILTY of COUNT 1 - BATTERY BY A PRISONER Jury polled. Court thanked and excused the Jury. 12:11 p.m. Court ADJOURNED; COURT ORDERED, matter set for sentencing. CUSTODY 04/03/19 8:00 AM SENTENCING;




Trial Continues;

Verdict;

Journal Entry Details:






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

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

02/11/2019	CANCELED Jury Trial (10:00 AM) (Judicial Officer: Kephart, William D.) <i>Vacated - per Judge</i>
04/03/2019	 Sentencing (8:00 AM) (Judicial Officer: Smith, Douglas E.) Defendant Sentenced; Journal Entry Details: <i>Chelsea Kallas, Dep AG, present on behalf of the State and Kenneth Frizzell, Esq., present on behalf of Deft. Noble, who is also present. Court called case, Deft. stated that he did not get an opportunity to read his Presentence Investigation (PSI) report and he was not aware that the State may be seeking habitual criminal treatment. Mr. Frizzell advised that he spoke with Ms. Kallas earlier and they are not going to be seeking habitual treatment but the Deft. is eligible. Court trailed matter. MATTER RECALLED: all present as before. Pursuant to the Jury's verdict, DEFT. NOBLE ADJUDGED GUILTY of BATTERY BY A PRISONER (F). The State is seeking a sentence of nineteen (19) to forty-eight (48) months; since the Court heard the trial, it is familiar with the facts. Statement by Deft., he would like to file a Motion for a Mistrial. Argument by Mr. Frizzell; the altercation was not started by this Deft. There was some conflicting testimony between the Officers testimony and the inmates that testified. The Deft. is requesting the minimums and because the Deft. was already in prison the instant case must be CONSECUTIVE to his other case. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, the \$150.00 DNA Analysis fee including testing to determine genetic markers, which was collected on October 29, 2008, the \$3.00 DNA Collection fee, and an Indigent Defense Civil Assessment fee in the amount of \$250.00, Deft. SENTENCED to a MAXIMUM of SEVENTY-TWO (72) MONTHS and a MINIMUM of TWENTY-EIGHT (28) MONTHS in the Nevada Department of Corrections (NDC), CONSECUTIVE to C312733, with ZERO (0) DAYS credit for time served. Deft. wants to file an appeal; Court directed Mr. Frizzell to make sure that the appeal is filed and thereafter, he may withdraw as counsel of record. BOND, if any, EXONERATED;</i>
08/14/2019	 Motion (8:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Defendant's Pro Per Motion for Withdrawal of Attorney of Record, or, In the Alternative, Request for Records / Court Case Documents</i> Granted; Journal Entry Details: <i>Mr. Frizzell advised Defendant is in the Nevada Department of Corrections and was not transported. COURT ORDERED, Motion GRANTED and counsel shall forward a copy of the file to Defendant. NDC;</i>
12/09/2019	Motion (8:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Deft.'s Motion for New Trial</i> Matter Heard;
12/09/2019	Motion for Appointment of Attorney (8:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Deft.'s Ex-Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing</i> Granted;
12/09/2019	Motion (8:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Deft.'s Notice of Motion</i> Matter Heard;
12/09/2019	 All Pending Motions (8:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Deft.'s Ex-Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing . . . Deft.'s Motion for New Trial . . . Deft.'s Notice of Motion</i> Matter Heard; Journal Entry Details: <i>DEFT.'S EX-PARTE MOTION FOR APPOINTMENT OF COUNSEL AND REQUEST FOR EVIDENTIARY HEARING . . . DEFT.'S MOTION FOR NEW TRIAL . . . DEFT.'S NOTICE OF MOTION Chelsea Kallas, Dep AG, present on behalf of the State; Deft. Noble is incarcerated in the Nevada Department of Corrections (NDC) and not present. This is the time set for hearing the above-named motions, which he filed pro se. Ms. Kallas advised that she just received notice of the Deft.'s Motion for New Trial on Friday (December 6) and would like an opportunity to file a response; she requested thirty (30) days. COURT SO ORDERED. Court noted that the Deft. also filed an Ex-Parte Motion for Appointment of Counsel. The Court is inclined to appoint counsel and directed Court staff to contact the office of appointed counsel. Therefore, COURT ORDERED, the Motion is GRANTED; matter set for status check. NDC 12/30/19 8:30 AM STATUS CHECK: CONFIRMATION OF COUNSEL CLERK'S NOTE: A copy of this minute order was mailed to Jesse Noble #1039146, Ely State Prison, P.O. Box 1989, Ely, Nevada, 89301. ;</i>
12/30/2019	

CASE SUMMARY

CASE NO. C-18-336940-1

	 Status Check (8:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Status Check: Confirmation of Counsel</i> Matter Heard; Confirmation of Counsel Journal Entry Details: <i>Chelsea Kallas, Dep AG, present on behalf of the State and Joseph Gersten, Esq., present on behalf of Deft. Noble, who is also present. This is the time set for the Status Check on the Confirmation of Counsel. Upon Court's inquiry, Mr. Gersten advised that he could CONFIRM as counsel of record. Mr. Gersten was just notified of the appointment so he does not have the file or any information. Therefore, COURT ORDERED, matter set for status check. A briefing schedule on the Deft.'s Petition for Writ of Habeas Corpus will be set next date. NDC 01/27/20 8:30 AM STATUS CHECK: FILE/SET BRIEFING SCHEDULE ;</i>
01/27/2020	 Status Check (8:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Status Check: File/Set Briefing Schedule</i> Matter Heard; File/Set Briefing Schedule Journal Entry Details: <i>Alissa Engler, Sr. Dep AG, present on behalf of the State and Joseph Gersten, Esq., present on behalf of Deft. Noble, who is also present. This is the time set for the Status Check: File/Set Briefing Schedule. Mr. Gersten advised that he CONFIRMED as counsel of record the last time the parties were present. A briefing schedule needs to be set. The Deft. is being housed at High Desert State Prison and Mr. Gersten has had some scheduling difficulties in trying to arrange a visit with him; however, a visit has been scheduled for February 5, 2020. Therefore, Mr. Gersten would request that this matter be status checked a week thereafter to set the briefing schedule. There being no objection by the State, COURT ORDERED, matter set for status check. NDC 02/12/20 8:30 AM STATUS CHECK: SET BRIEFING SCHEDULE ;</i>
02/12/2020	 Status Check (8:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Status Check: Set Briefing Schedule</i> Matter Heard; Set Briefing Schedule Journal Entry Details: <i>Chelsea Kallas, Dep AG, present on behalf of the State and Joseph Gersten, Esq., present on behalf of Deft. Noble, who is also present. This is the time set for the Status Check on Setting a Briefing Schedule. Mr. Gersten advised that he would like at least ninety (90) days to file his supplemental writ; he still needs to meet with the Deft. Mr. Gersten advised that the Deft. filed a Motion for a New Trial and he is treating that Motion as a Writ for Habeas Corpus. Court set the following briefing schedule: 05/13/20 - Supplemental Writ 07/13/20 - State's Response 08/13/20 - Reply COURT ORDERED, matter set for hearing. NDC 08/26/20 8:30 AM HEARING: PETITION FOR WRIT OF HABEAS CORPUS ;</i>
06/01/2020	CANCELED Motion (1:45 PM) (Judicial Officer: Silva, Cristina D.) <i>Vacated - per Order</i> <i>Petitioner's Request for Enlargement of Time</i>
08/25/2020	 Minute Order (8:50 AM) (Judicial Officer: Silva, Cristina D.) Minute Order - No Hearing Held; Journal Entry Details: <i>After Petitioner s Request for Enlargement of Time was granted, Petitioner filed a Supplemental Writ on August 11, 2020. The Court set the following briefing schedule: 08/11/20 Supplemental Writ (filed) 10/12/20 State s Response 11/12/20 Reply COURT ORDERED, matter set for hearing. 11/30/20 - Hearing: Petition for Writ of Habeas Corpus ;</i>
08/26/2020	CANCELED Hearing (1:45 PM) (Judicial Officer: Silva, Cristina D.) <i>Vacated - per Judge</i> <i>Hearing: Petition for Writ of Habeas Corpus</i>
03/24/2021	 Petition for Writ of Habeas Corpus (11:00 AM) (Judicial Officer: Silva, Cristina D.) COVID Eye surgery Denied; Journal Entry Details: <i>Defendant not present and in custody in the Nevada Department of Corrections. Mr. Gersten argued in support of the Petition, stating the Petition was filed timely, and addressed all the issues in the supplement, as they noted three issues that should be fleshed out in an evidentiary hearing with regards to ineffective assistance of counsel. Ms. Gersten requested an evidentiary hearing be set on behalf of Defendant. COURT STATED the Motion for a New Trial is</i>

CASE SUMMARY

CASE NO. C-18-336940-1

untimely, and seems improper. Mr. Gersten stated they are treating it as a Writ of Habeas Corpus. COURT STATED there is nothing before the Court that would have changed the verdict, and the outcome of the case, or in the alternative how it was not trial strategy. Mr. Gersten argued there is over and over again the issue of impeachment, and there is ineffective assistance of counsel. COURT STATED the Motion for New Trial is DENIED, and the matter will be focused as a Petition. Mr. Solinger argued the Defendant didn't file a Petition for Writ of Habeas Corpus, he filed a Motion for a New Trial and Appointment of Counsel, and it cannot just be converted to a Petition for Writ. Mr. Solinger further argued his understanding was there is no video of the interaction, there is only video of the mass fighting, and he does not believe that would change things. Mr. Solinger argued there is no basis for an evidentiary hearing. Mr. Gersten stated he received the video from prior counsel, and it was not shown at trial. COURT FINDS this is a Petition for Writ of Habeas Corpus, and ORDERED the Post Conviction Writ DENIED; and DIRECTED the State to prepare a Findings of Fact and Conclusions of Law, and provide it to Mr. Gersten prior to submitting it to the Court on or before April 21, 2021. NDC;

06/16/2021



Motion (11:00 AM) (Judicial Officer: Silva, Cristina D.)

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

Journal Entry Details:

Court noted there is a pending appeal. COURT ORDERED, Motion for Withdrawal of Attorney of Record or in the Alternative Request for Records/Court Case Document GRANTED as to the request for a copy of transcript and related documents and DENIED as to the request for withdrawal as it does not see a formal request for Mr. Gersten to be withdrawn.;

07/07/2021



Confirmation of Counsel (12:30 PM) (Judicial Officer: Silva, Cristina D.)

SC Limited Remand for Appointment of Counsel

Matter Heard;

Journal Entry Details:

Defendant not present and in custody in the Nevada Department of Corrections. Upon Court's inquiry, Mr. Gersten stated he can still confirm as counsel of record. COURT SO NOTED. NDC;

07/27/2022



Status Check (9:30 AM) (Judicial Officer: Holthus, Mary Kay)

Status Check: Set Evidentiary Hearing

MINUTES

Hearing Set;

Journal Entry Details:

Deft. not present. Court inquired how long the hearing would last and if a video existed, which Mr. Gersten concurred to a video existing, and noted the hearing would be short. Mr. Gersten requested that the hearing be set in 90 days, and shouldn't be more than one hour. Further statements by Mr. Gersten. Colloquy between parties. Following colloquy, Ms. Herr indicated the video was irrelevant due to being taken after the offense occurred. COURT ORDERED, evidentiary hearing SET. NDC 11/3/22 10:00 AM EVIDENTIARY HEARING;

SCHEDULED HEARINGS



Evidentiary Hearing (11/03/2022 at 10:00 AM) (Judicial Officer: Holthus, Mary Kay)

11/03/2022, 11/10/2022

11/03/2022



Evidentiary Hearing (10:00 AM) (Judicial Officer: Holthus, Mary Kay)

11/03/2022, 11/10/2022

Matter Continued;

Matter Heard;

Journal Entry Details:

Opening statements by Mr. Gersten indicating the matter was brought back down for Court of Appeals to determine whether trial counsel, Mr. Frizzell was ineffective or not. Witness, Jesse Noble, SWORN and TESTIFIED. Exhibits presented (see worksheet). Defense RESTED. Witness, Jeremy Bean, SWORN and TESTIFIED. Statements by Mr. Gersten. Witness, Kenneth Frizzell, SWORN and TESTIFIED. State RESTED. Closing arguments by Mr. Gersten indicating he believed Mr. Frizzell was ineffective, and noted his client was entitled to relief. Court advised is had seen the video. Video played in OPEN COURT. Court concluded that the evidence presented it was clear to the Court that the only video that existed was the one reviewed by the Court and parties at the instant hearing. Court indicated the content was a phone video interviewing Deft., and when asked, Deft. stated "he hit me first," which was further evidence of Deft. being involved in altercation. Court noted it was clear that there were no facts present that entitled Deft. to relief, and informed counsel it was a good strategy for Mr. Frizzell to not show that video. State to prepare the Order and submit to opposing counsel for approval as to form and content. ;

Matter Continued;

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-18-336940-1

Matter Heard;

Journal Entry Details:

Kenneth Frizzell, Esq. also present. Deft. not present. Mr. Gersten noted Deft. was not transported. Mr. Solinger informed the Court he didn't send an updated Transport Order; however, they could get Deft. to court as soon as the Court could proceed. Colloquy between parties regarding Deft. appearing via Bluejeans. Following colloquy, Mr. Gersten noted he spoke with Deft. and he wanted to be present in-person. Further colloquy between parties regarding the video. Following colloquy, Court noted parties needed to make a record there was no other video. Mr. Gersten noted he wanted Mr. Frizzell to drive the case. Mr. Frizzell present. Following colloquy as to scheduling, COURT ORDERED, matter CONTINUED. Mr. Solinger confirmed the Transport Order would be submitted. NDC 11/10/22 12:00 PM CONTINUED: EVIDENTIARY HEARING;

DATE

FINANCIAL INFORMATION

Defendant Noble, Jesse D

Total Charges

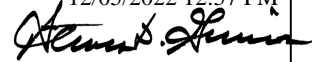
278.00

Total Payments and Credits

0.00

Balance Due as of 12/13/2022

278.00


CLERK OF THE COURT

1 **DAO**

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

5 STATE OF NEVADA,

6 Plaintiff,

7 vs.

8 JESSE D. NOBLE,

9 Defendant.

Case No. C-18-336940-1
Dept. No. 18

Date of Hearing: 11/10/2022
Time of Hearing: 12:00 p.m.

10
11 **DECISION AND ORDER FROM THE EVIDENTIARY HEARING OF NOVEMBER 10, 2022**

12 THIS CAUSE having come before the Court this 10th day of November 2022, the matter having
13 been remanded from the Nevada Supreme Court for the limited purpose of conducting an evidentiary
14 hearing to resolve disputed issues of material fact surrounding the claim that trial counsel was ineffective
15 for failing to present a video during trial. This Court held an evidentiary hearing and heard testimony
16 from Petitioner Jesse D. Noble, his trial counsel Kenneth Frizzell, and Jeremy Bean, the Acting Warden
17 of High Desert State Prison .

18 THE COURT FINDS that Petitioner Noble was charged with Battery by a Prisoner (Category B
19 Felony – NRS 200.481(2)(f)) for acts committed on December 21, 2017. A jury found Noble guilty of
20 the charge. The Court sentenced Noble to 28 to 72 months in the Nevada Department of Corrections to
21 run consecutive to another prison term in case C-16-312733-1. The judgment of conviction was entered
22 on April 11, 2019.

23 THE COURT FURTHER FINDS that Petitioner Noble filed a post-conviction habeas challenge
24 that the Court denied on May 17, 2021. Noble appealed. On July 8, 2022, the Nevada Court of Appeals
25 affirmed in part, reversed in part, and remanded the matter to the district court to conduct an evidentiary
26 hearing on the following issues: 1) whether a video of the incident between Noble and the correctional
27 officer exists; 2) the content of the video; 3) whether trial counsel made an informed decision to forego
28 introduction of the evidence at trial by investigating the existence and content of the video prior to trial.

1 THE COURT FURTHER FINDS that an altercation between several inmates took place in the 5-
2 6 quad of High Desert State Prison on the night of December 21, 2017. Noble was not a part of the
3 altercation but was in the quad area with other inmates when correctional officers sought to control the
4 scene.

5 THE COURT FURTHER FINDS that Noble was found guilty of striking a correctional officer
6 during the efforts to control the scene, which included all the inmates present in the quad area.

7 THE COURT FURTHER FINDS that no security cameras were installed in the 5-6 quad area of
8 High Desert State Prison on December 21, 2017, or any time before that date that could have captured
9 footage of the altercation between the inmates or of the battery Noble committed on the officer in this
10 case. However, per prison protocol, correctional officers sometimes use a handheld video camera to
11 capture footage following a spontaneous use of force.

12 THE COURT FURTHER FINDS that a correctional officer used a handheld video camera to
13 capture footage following the altercation in the quad area on December 21, 2017. The video,
14 approximately 26 minutes long, shows footage of inmates lying flat on their stomachs with their arms
15 above their head while correctional officers took control of the scene in the 5-6 quad. The video does not
16 capture the altercation between several inmates or of Noble battering the officer in the underlying
17 criminal case.

18 THE COURT FURTHER FINDS that trial counsel received a copy of the video as part of
19 discovery and made a strategic decision not to play the video during trial for two reasons: (1) the video
20 was irrelevant because it did not contain footage of Noble battering the officer or of the altercation
21 between several inmates for which Noble was never alleged to have been involved with; and (2) the last
22 30 seconds of the video show Noble spontaneously utter "The dude hit me first" when an officer asked
23 him his name and whether he had any injuries.

24 THE COURT FURTHER FINDS that the trial counsel's decision not to play the video during the
25 trial was also strategic given a jury could have reasonably interpreted Noble's spontaneous utterance as
26 an admission of guilt.

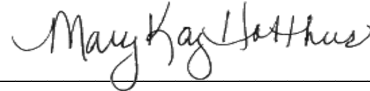
27 WHEREFORE THE COURT CONCLUDES that claims of ineffective assistance of counsel are
28 subject to a two-part review under *Strickland v. Washington*, 466 U.S. 668, 669 (1984). First, Noble must

1 show that his counsel's performance was deficient and made errors so serious that counsel was not
2 functioning as the "counsel" guaranteed the defendant by the Sixth Amendment. Second, Noble must
3 show that the deficient performance caused him prejudice.

4 THE COURT FURTHER CONCLUDES that trial counsel was not deficient in failing to present
5 a video that had no evidentiary value to Noble's defense. There being no deficiency, Noble cannot
6 demonstrate prejudice.

7 THEREFORE, GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that Jesse D. Noble's
8 petition for writ of habeas corpus is DENIED.

9
10 Dated this 5th day of December, 2022

11 
12 _____

13 Submitted by:

998 87D 1CBA 0DEF
Mary Kay Holthus
District Court Judge

14 /s/Mariana Kihuen

15 Mariana Kihuen, Deputy Attorney General
16 Attorney for The State of Nevada

17 Approved as to form and content:

18 /s/ Joseph Z. Gersen

19 Joseph Z. Gersten, Esq.
20 Attorney for Jesse D. Noble
21
22
23
24
25
26
27
28

From: [Joseph Gersten](#)
To: [Mariana Kihuen](#)
Subject: RE: For Review: Jesse Noble - Draft of Decision and Order from Nov. 10, 2022 Evidentiary Hearing
Date: Thursday, December 1, 2022 1:43:24 PM
Attachments: [image002.png](#)
[image003.png](#)

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hi Mariana:

I'm fine with all of it except:

THE COURT FURTHER FINDS that the trial counsel's decision not to play the video during the trial was not only strategic but wise, given a jury could have reasonably interpreted Noble's spontaneous utterance as an admission of guilt.

I'd rather we don't stumble into the court's opinion as to whether something was wise or not. If you want something like:

THE COURT FURTHER FINDS that the trial counsel's decision not to play the video during the trial was also strategic, given a jury could have reasonably interpreted Noble's spontaneous utterance as an admission of guilt.

I could live with that. Please let me know.

Joseph Gersten, Esq.



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

www.thegerstenlawfirm.com

E-MAIL CONFIDENTIALITY- This transmission may be (1) subject to the Attorney-Client Privilege, (2) an attorney work product, or (3) strictly confidential. If you are not the intended recipient of this message you may not disclose, print, copy, disseminate or otherwise use this information. If you have received this message in error, please reply and notify the sender only and delete the message.

From: Mariana Kihuen <mkihuen@ag.nv.gov>

Sent: Wednesday, November 30, 2022 8:06 PM

To: Joseph Gersten <joe@gerstenlegal.com>

Subject: For Review: Jesse Noble - Draft of Decision and Order from Nov. 10, 2022 Evidentiary Hearing

Dear Mr. Gersten,

Hope you had a wonderful Thanksgiving holiday. I am reaching out to share the decision and order we drafted for your review from the Noble evidentiary hearing we had on 11/10/22. With your approval, we will use your electronic signature before emailing the DAO to the court.

I look forward to hearing from you.

Mariana Kihuen

Deputy Attorney General

Post-Conviction Division

Office of the Nevada Attorney General

555 E. Washington Ave., Ste 3900

Las Vegas, NV 89101

Direct Line: (702) 486-3792

Fax: (702) 486-2377



This e-mail contains the thoughts and opinions of the sender and does not represent official Attorney General policy. This e-mail may contain legally privileged and/or confidential information. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message is strictly prohibited. If you have received this message in error, please immediately notify the sender and delete this e-mail message from your computer.

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 State of Nevada

CASE NO: C-18-336940-1

7 vs

DEPT. NO. Department 18

8 Jesse Noble
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 12/5/2022

15 Marsha Landreth

mlandreth@ag.nv.gov

16 Joseph Gersten

joe@thegerstenlawfirm.com

17 Rikki Garate

rgarate@ag.nv.gov

18 Cheryl Martinez

cjmartinez@ag.nv.gov

19 Marcie Burris

mburris@ag.nv.gov

20 Mariana Kihuen

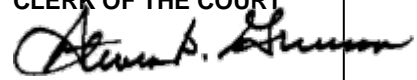
mkihuen@ag.nv.gov

21 Joselina Gochuico

jgochuico@ag.nv.gov

22 Gabriela Saenz

gaby@gerstenlegal.com



NEO
AARON D. FORD
Attorney General
Mariana Kihuen (Bar No. 12241)
Deputy Attorney General
State of Nevada
Office of the Attorney General
555 E. Washington Ave., Ste. 3900
Las Vegas, Nevada 89101-1068
(702) 498-3297 (phone)
(702) 498-2377 (fax)
MKihuen@ag.nv.gov
Attorneys for State of Nevada

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff

vs.

JESSE D. NOBLE, JR.,

Defendant.

Case No. C-18-336940-1

Dept. No. 18

NOTICE OF ENTRY

PLEASE TAKE NOTICE that the attached Decision and Order from the Evidentiary Hearing of November 10, 2022, was entered by the Court on December 5, 2022.

Dated this 7th day of December 2022.

AARON D. FORD
Attorney General

By: /s/ Mariana Kihuen
Mariana Kihuen (Bar. No. 12241)
Deputy Attorney General

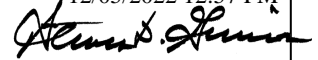
1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I electronically filed the foregoing *Notice of Entry* with the Clerk of the Court
3 by using the electronic filing system on the 7th day of December 2022.

4 Participants in the case who are registered with this Court's electronic filing system will receive
5 notice that the document has been filed and is available on the court's electronic filing system.

6 Joseph Z. Gersten, Esq.
7 The Gersten Law Firm PLLC
8 9680 W. Tropicana Avenue, Suite 146
9 Las Vegas, NV 89147
(702) 857-8777
joe@thegerstenlawfirm.com

10
11 /s/ C. Martinez
12 An employee of the Office of the Attorney General
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


CLERK OF THE COURT

1 **DAO**

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

5 STATE OF NEVADA,

6 Plaintiff,

7 vs.

8 JESSE D. NOBLE,

9 Defendant.

Case No. C-18-336940-1
Dept. No. 18

Date of Hearing: 11/10/2022
Time of Hearing: 12:00 p.m.

10
11 **DECISION AND ORDER FROM THE EVIDENTIARY HEARING OF NOVEMBER 10, 2022**

12 THIS CAUSE having come before the Court this 10th day of November 2022, the matter having
13 been remanded from the Nevada Supreme Court for the limited purpose of conducting an evidentiary
14 hearing to resolve disputed issues of material fact surrounding the claim that trial counsel was ineffective
15 for failing to present a video during trial. This Court held an evidentiary hearing and heard testimony
16 from Petitioner Jesse D. Noble, his trial counsel Kenneth Frizzell, and Jeremy Bean, the Acting Warden
17 of High Desert State Prison .

18 THE COURT FINDS that Petitioner Noble was charged with Battery by a Prisoner (Category B
19 Felony – NRS 200.481(2)(f)) for acts committed on December 21, 2017. A jury found Noble guilty of
20 the charge. The Court sentenced Noble to 28 to 72 months in the Nevada Department of Corrections to
21 run consecutive to another prison term in case C-16-312733-1. The judgment of conviction was entered
22 on April 11, 2019.

23 THE COURT FURTHER FINDS that Petitioner Noble filed a post-conviction habeas challenge
24 that the Court denied on May 17, 2021. Noble appealed. On July 8, 2022, the Nevada Court of Appeals
25 affirmed in part, reversed in part, and remanded the matter to the district court to conduct an evidentiary
26 hearing on the following issues: 1) whether a video of the incident between Noble and the correctional
27 officer exists; 2) the content of the video; 3) whether trial counsel made an informed decision to forego
28 introduction of the evidence at trial by investigating the existence and content of the video prior to trial.

1 THE COURT FURTHER FINDS that an altercation between several inmates took place in the 5-
2 6 quad of High Desert State Prison on the night of December 21, 2017. Noble was not a part of the
3 altercation but was in the quad area with other inmates when correctional officers sought to control the
4 scene.

5 THE COURT FURTHER FINDS that Noble was found guilty of striking a correctional officer
6 during the efforts to control the scene, which included all the inmates present in the quad area.

7 THE COURT FURTHER FINDS that no security cameras were installed in the 5-6 quad area of
8 High Desert State Prison on December 21, 2017, or any time before that date that could have captured
9 footage of the altercation between the inmates or of the battery Noble committed on the officer in this
10 case. However, per prison protocol, correctional officers sometimes use a handheld video camera to
11 capture footage following a spontaneous use of force.

12 THE COURT FURTHER FINDS that a correctional officer used a handheld video camera to
13 capture footage following the altercation in the quad area on December 21, 2017. The video,
14 approximately 26 minutes long, shows footage of inmates lying flat on their stomachs with their arms
15 above their head while correctional officers took control of the scene in the 5-6 quad. The video does not
16 capture the altercation between several inmates or of Noble battering the officer in the underlying
17 criminal case.

18 THE COURT FURTHER FINDS that trial counsel received a copy of the video as part of
19 discovery and made a strategic decision not to play the video during trial for two reasons: (1) the video
20 was irrelevant because it did not contain footage of Noble battering the officer or of the altercation
21 between several inmates for which Noble was never alleged to have been involved with; and (2) the last
22 30 seconds of the video show Noble spontaneously utter "The dude hit me first" when an officer asked
23 him his name and whether he had any injuries.

24 THE COURT FURTHER FINDS that the trial counsel's decision not to play the video during the
25 trial was also strategic given a jury could have reasonably interpreted Noble's spontaneous utterance as
26 an admission of guilt.

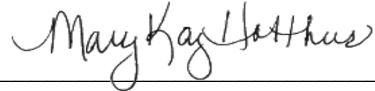
27 WHEREFORE THE COURT CONCLUDES that claims of ineffective assistance of counsel are
28 subject to a two-part review under *Strickland v. Washington*, 466 U.S. 668, 669 (1984). First, Noble must

1 show that his counsel's performance was deficient and made errors so serious that counsel was not
2 functioning as the "counsel" guaranteed the defendant by the Sixth Amendment. Second, Noble must
3 show that the deficient performance caused him prejudice.

4 THE COURT FURTHER CONCLUDES that trial counsel was not deficient in failing to present
5 a video that had no evidentiary value to Noble's defense. There being no deficiency, Noble cannot
6 demonstrate prejudice.

7 THEREFORE, GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that Jesse D. Noble's
8 petition for writ of habeas corpus is DENIED.

9
10 Dated this 5th day of December, 2022

11 
12 _____

13 Submitted by:

998 87D 1CBA 0DEF
Mary Kay Holthus
District Court Judge

14 /s/Mariana Kihuen

15 Mariana Kihuen, Deputy Attorney General
16 Attorney for The State of Nevada

17 Approved as to form and content:

18 /s/ Joseph Z. Gersen

19 Joseph Z. Gersten, Esq.
20 Attorney for Jesse D. Noble
21
22
23
24
25
26
27
28

From: [Joseph Gersten](#)
To: [Mariana Kihuen](#)
Subject: RE: For Review: Jesse Noble - Draft of Decision and Order from Nov. 10, 2022 Evidentiary Hearing
Date: Thursday, December 1, 2022 1:43:24 PM
Attachments: [image002.png](#)
[image003.png](#)

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hi Mariana:

I'm fine with all of it except:

THE COURT FURTHER FINDS that the trial counsel's decision not to play the video during the trial was not only strategic but wise, given a jury could have reasonably interpreted Noble's spontaneous utterance as an admission of guilt.

I'd rather we don't stumble into the court's opinion as to whether something was wise or not. If you want something like:

THE COURT FURTHER FINDS that the trial counsel's decision not to play the video during the trial was also strategic, given a jury could have reasonably interpreted Noble's spontaneous utterance as an admission of guilt.

I could live with that. Please let me know.

Joseph Gersten, Esq.



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

www.thegerstenlawfirm.com

E-MAIL CONFIDENTIALITY- This transmission may be (1) subject to the Attorney-Client Privilege, (2) an attorney work product, or (3) strictly confidential. If you are not the intended recipient of this message you may not disclose, print, copy, disseminate or otherwise use this information. If you have received this message in error, please reply and notify the sender only and delete the message.

From: Mariana Kihuen <mkihuen@ag.nv.gov>

Sent: Wednesday, November 30, 2022 8:06 PM

To: Joseph Gersten <joe@gerstenlegal.com>

Subject: For Review: Jesse Noble - Draft of Decision and Order from Nov. 10, 2022 Evidentiary Hearing

Dear Mr. Gersten,

Hope you had a wonderful Thanksgiving holiday. I am reaching out to share the decision and order we drafted for your review from the Noble evidentiary hearing we had on 11/10/22. With your approval, we will use your electronic signature before emailing the DAO to the court.

I look forward to hearing from you.

Mariana Kihuen

Deputy Attorney General

Post-Conviction Division

Office of the Nevada Attorney General

555 E. Washington Ave., Ste 3900

Las Vegas, NV 89101

Direct Line: (702) 486-3792

Fax: (702) 486-2377



This e-mail contains the thoughts and opinions of the sender and does not represent official Attorney General policy. This e-mail may contain legally privileged and/or confidential information. If you are not the intended recipient(s), any dissemination, distribution or copying of this e-mail message is strictly prohibited. If you have received this message in error, please immediately notify the sender and delete this e-mail message from your computer.

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 State of Nevada

CASE NO: C-18-336940-1

7 vs

DEPT. NO. Department 18

8 Jesse Noble
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 12/5/2022

15 Marsha Landreth

mlandreth@ag.nv.gov

16 Joseph Gersten

joe@thegerstenlawfirm.com

17 Rikki Garate

rgarate@ag.nv.gov

18 Cheryl Martinez

cjmartinez@ag.nv.gov

19 Marcie Burris

mburris@ag.nv.gov

20 Mariana Kihuen

mkihuen@ag.nv.gov

21 Joselina Gochuico

jgochuico@ag.nv.gov

22 Gabriela Saenz

gaby@gerstenlegal.com

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 21, 2018

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

December 21, 2018 10:00 AM Initial Arraignment

HEARD BY: De La Garza, Melisa

COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Kristen Brown

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

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

JOURNAL ENTRIES

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

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

NIC (COC-NDC)

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

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

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 09, 2019

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

January 09, 2019 8:30 AM Pre Trial Conference

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

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

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

JOURNAL ENTRIES

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

NIC (COC-NDC)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 06, 2019

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

February 06, 2019 8:30 AM Calendar Call

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

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

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

JOURNAL ENTRIES

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

CUSTODY

2/08/2019 8:30 AM OVERFLOW

C. KALLAS / K. FRIZZELL

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 08, 2019

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

February 08, 2019 8:30 AM Overflow

HEARD BY: Jones, David M **COURTROOM:** RJC Courtroom 15A

COURT CLERK: Nancy Maldonado

RECORDER: Melissa Delgado-Murphy

REPORTER:

PARTIES

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

JOURNAL ENTRIES

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

NIC (COC-NDC)

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 11, 2019

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

February 11, 2019 9:30 AM Jury Trial

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

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

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

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

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

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

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

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

CUSTODY

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 12, 2019

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

February 12, 2019 9:30 AM Jury Trial

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

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

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

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

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

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

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

GUILTY of COUNT 1 - BATTERY BY A PRISONER

Jury polled. Court thanked and excused the Jury.

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

CUSTODY

04/03/19 8:00 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 03, 2019

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

April 03, 2019

8:00 AM

Sentencing

HEARD BY: Smith, Douglas E.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

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

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

MATTER RECALLED: all present as before.

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

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

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

BOND, if any, EXONERATED

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 14, 2019

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

August 14, 2019 8:30 AM Motion

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

COURT CLERK: Tia Everett

RECORDER: Gina Villani

REPORTER:

PARTIES

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

JOURNAL ENTRIES

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

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 09, 2019

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

December 09, 2019 8:30 AM All Pending Motions

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

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

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

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

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

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

NDC

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

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****December 30, 2019**

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

December 30, 2019	8:30 AM	Status Check	Confirmation of Counsel
--------------------------	----------------	---------------------	------------------------------------

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

**PARTIES
PRESENT:**

JOURNAL ENTRIES

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

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

NDC

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

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****January 27, 2020**

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

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

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

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

NDC

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 12, 2020

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

February 12, 2020

8:30 AM

Status Check

Set Briefing Schedule

HEARD BY: Silva, Cristina D.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

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

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

05/13/20 - Supplemental Writ

07/13/20 - State's Response

08/13/20 - Reply

COURT ORDERED, matter set for hearing.

NDC

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 25, 2020

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

August 25, 2020 8:50 AM Minute Order

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

COURT CLERK: Kathryn Hansen-McDowell

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

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

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

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

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****March 24, 2021**

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

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

HEARD BY: Silva, Cristina D.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Kory Schlitz

RECORDER: Gina Villani

REPORTER:

PARTIES

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

JOURNAL ENTRIES

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

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

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

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 16, 2021

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

June 16, 2021

11:00 AM

Motion

HEARD BY: Silva, Cristina D.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Madalyn Kearney

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Court noted there is a pending appeal. COURT ORDERED, Motion for Withdrawal of Attorney of Record or in the Alternative Request for Records/Court Case Document GRANTED as to the request for a copy of transcript and related documents and DENIED as to the request for withdrawal as it does not see a formal request for Mr. Gersten to be withdrawn.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 07, 2021

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

July 07, 2021 12:30 AM Confirmation of Counsel

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

COURT CLERK: Kory Schlitz

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT: Gersten, Joseph Z Attorney

JOURNAL ENTRIES

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

Upon Court's inquiry, Mr. Gersten stated he can still confirm as counsel of record. COURT SO NOTED.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 27, 2022

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

July 27, 2022 9:30 AM Status Check

HEARD BY: Holthus, Mary Kay **COURTROOM:** RJC Courtroom 03F

COURT CLERK: Dara Yorke

RECORDER: Yvette G. Sison

REPORTER:

PARTIES

PRESENT: Gersten, Joseph Z Attorney
 Herr, Allison L. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- Deft. not present. Court inquired how long the hearing would last and if a video existed, which Mr. Gersten concurred to a video existing, and noted the hearing would be short. Mr. Gersten requested that the hearing be set in 90 days, and shouldn't be more than one hour. Further statements by Mr. Gersten. Colloquy between parties. Following colloquy, Ms. Herr indicated the video was irrelevant due to being taken after the offense occurred. COURT ORDERED, evidentiary hearing SET.

NDC

11/3/22 10:00 AM EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 03, 2022

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

November 03, 2022 10:00 AM Evidentiary Hearing

HEARD BY: Holthus, Mary Kay

COURTROOM: RJC Courtroom 03F

COURT CLERK: Dara Yorke

RECORDER: Deloris Scott

REPORTER:

PARTIES

PRESENT:	Gersten, Joseph Z	Attorney
	Kihuen-Bernal, Mariana	Attorney
	Solinger, Adam	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Kenneth Frizzell, Esq. also present.

Deft. not present. Mr. Gersten noted Deft. was not transported. Mr. Solinger informed the Court he didn't send an updated Transport Order; however, they could get Deft. to court as soon as the Court could proceed. Colloquy between parties regarding Deft. appearing via Bluejeans. Following colloquy, Mr. Gersten noted he spoke with Deft. and he wanted to be present in-person. Further colloquy between parties regarding the video. Following colloquy, Court noted parties needed to make a record there was no other video. Mr. Gersten noted he wanted Mr. Frizzell to drive the case. Mr. Frizzell present. Following colloquy as to scheduling, COURT ORDERED, matter CONTINUED. Mr. Solinger confirmed the Transport Order would be submitted.

NDC

11/10/22 12:00 PM CONTINUED: EVIDENTIARY HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 10, 2022

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

November 10, 2022 12:00 AM Evidentiary Hearing

HEARD BY: Holthus, Mary Kay

COURTROOM: RJC Courtroom 03F

COURT CLERK: Dara Yorke

RECORDER: Michelle Ramsey
 Rudolph Zepeda

REPORTER:

PARTIES

PRESENT:	Gersten, Joseph Z	Attorney
	Kihuen-Bernal, Mariana	Attorney
	Noble, Jesse D	Defendant
	Solinger, Adam	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Opening statements by Mr. Gersten indicating the matter was brought back down for Court of Appeals to determine whether trial counsel, Mr. Frizzell was ineffective or not.

Witness, Jesse Noble, SWORN and TESTIFIED. Exhibits presented (see worksheet). Defense RESTED.

Witness, Jeremy Bean, SWORN and TESTIFIED. Statements by Mr. Gersten. Witness, Kenneth Frizzell, SWORN and TESTIFIED. State RESTED.

Closing arguments by Mr. Gersten indicating he believed Mr. Frizzell was ineffective, and noted his client was entitled to relief.

Court advised is had seen the video. Video played in OPEN COURT. Court concluded that the evidence presented it was clear to the Court that the only video that existed was the one reviewed by

the Court and parties at the instant hearing. Court indicated the content was a phone video interviewing Deft., and when asked, Deft. stated "he hit me first," which was further evidence of Deft. being involved in altercation. Court noted it was clear that there were no facts present that entitled Deft. to relief, and informed counsel it was a good strategy for Mr. Frizzell to not show that video. State to prepare the Order and submit to opposing counsel for approval as to form and content.

Jury Trial Date: 02/11/19

Judge: Douglas Smith

Plaintiff: The State of Nevada

Recorder / Reporter: Gina Villani

Counsel for Defendant: Kenneth Frizzell

VS.

Defendant: Jesse D. Noble

STATE'S EXHIBITS

Rev. 03/2016

Case No: C336940

The State of Nevada

v.

Jesse D. Noble

COURT'S EXHIBITS

[illegible]

Case No.: **C336940**

Hearing Date: **11/3/22**

Dept. No.: **18**

Judge: **Mary Kay Holthus**

Plaintiff: **State of Nevada**

Court Clerk: **Dara Yorke**

Recorder: **Rudy Zepeda / Michelle Ramsey**

Counsel for Plaintiff: **Adam Solinger, Esq. and**

Mariana Kihuen, Esq.

vs.

Defendant: **Jesse Noble**

Counsel for Defendant: **Joseph Gersten, Esq.**

HEARING BEFORE THE COURT

COURT'S EXHIBITS

Exhibit Number	Exhibit Description	Date Offered	Objection	Date Admitted
CP 1	Flash Drive- Video	11/10/22	No	11/10/22

Certification of Copy

State of Nevada }
County of Clark } SS:

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

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT
DOCKET ENTRIES; DECISION AND ORDER FROM THE EVIDENTIARY HEARING OF
NOVEMBER 10, 2022; NOTICE OF ENTRY; DISTRICT COURT MINUTES; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

vs.

JESSE D. NOBLE aka JESSE NOBEL, JR.,

Defendant(s).

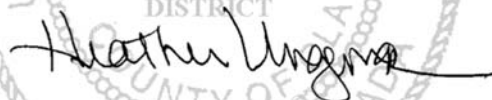
Case No: C-18-336940-1

Dept No: XVIII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 13 day of December 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

