

Electronically Filed  
Mar 24 2023 08:43 AM  
Elizabeth A. Brown  
Clerk of Supreme Court

1 **NOASC**  
2 STEVEN S. OWENS, ESQ  
3 Nevada Bar No. 4352  
4 1000 N. Green Valley #440-529  
5 Henderson, Nevada 89074  
6 Telephone: (702) 595-1171  
7 owenscrimlaw@gmail.com  
8 *Attorney for Petitioner Luis Angel Castro*

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

8 LUIS ANGEL CASTRO,

9 Petitioner,

10 vs.

11 THE STATE OF NEVADA.

12 Respondent.

CASE NO.: A-21-835827-W  
DEPT NO.: XVII

**NOTICE OF APPEAL**

13 TO: THE STATE OF NEVADA, Respondent.

14 TO: DEPARTMENT XVII OF EIGHTH JUDICIAL DISTRICT COURT

15 Notice is hereby given that LUIS ANGEL CASTRO, Petitioner in the above-entitled  
16 action, appeals to the Nevada Supreme Court from the Findings of Fact and Conclusions of Law,  
17 filed on March 6, 2023.

18 DATED this 21<sup>st</sup> day of March, 2023.

19 /s/ Steven S. Owens, Esq.  
20 STEVEN S. OWENS, ESQ.  
21 Nevada Bar No. 4352  
22 1000 N. Green Valley #440-529  
23 Henderson, Nevada 89074  
24 (702) 595-1171  
25 Attorney for Petitioner  
26 LUIS ANGEL CASTRO

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

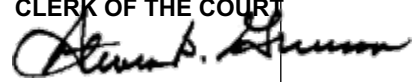
Attorney's Office by sending a copy via electronic mail to:

Steve Wolfson

Motions@clarkcountyda.com

BY:

Attorney for Petitioner  
LUIS ANGEL CASTRO



ASTA  
STEVEN S. OWENS, ESQ  
Nevada Bar No. 4352  
1000 N. Green Valley #440-529  
Henderson, Nevada 89074  
Telephone: (702) 595-1171  
owenscrimlaw@gmail.com  
*Attorney for Petitioner Luis Angel Castro*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

LUIS ANGEL CASTRO,

Petitioner,

vs.

THE STATE OF NEVADA.

Respondent.

CASE NO.: A-21-835827-W  
DEPT NO.: XVII

**CASE APPEAL STATEMENT**

**1. Appellant filing this case appeal statement:** LUIS ANGEL CASTRO

**2. Judge issuing the decision, judgment, or order appealed from:**

Honorable Jennifer Schwartz

**3. Appellant and the name and address of counsel for each appellant:**

STEVEN S. OWENS, ESQ.  
Nevada Bar No. 4352  
1000 N. Green Valley #440-529  
Henderson, Nevada 89074  
*Attorney for Petitioner*

LUIS ANGEL CASTRO, Petitioner

**4. Respondent and the name and address of appellate counsel:**

STEVEN B. WOLFSON  
Clark County, Nevada District Attorney  
200 Lewis Avenue  
Las Vegas, Nevada 89101

THE STATE OF NEVADA, Respondent

**5. Whether any attorney identified above is not licensed to practice law in Nevada:**

1 Licensed

2 **6. Whether appellant was represented by appointed or retained counsel in the district**  
3 **court:** Appointed

4 **7. Whether appellant is represented by appointed or retained counsel on appeal:**  
5 Appointed

6 **8. Whether appellant was granted leave to proceed in forma pauperis, and the date of**  
7 **entry of the district court order granting such leave:** N/A

8 **9. Date the proceedings commenced in the district court:** June 7, 2021

9 **10. Brief description of the nature of the action and result in the district court, including**  
10 **the type of judgment or order being appealed and the relief granted by the district court:**  
11 This is an appeal from the denial of petition for writ of habeas corpus (post-conviction)

12 **11. Whether the case has previously been the subject of an appeal to or original writ**  
13 **proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number**  
14 **of the prior proceedings:**

15 Luis Angel Castro v. State of Nevada, SC#78643 – direct appeal affirmed

16 **12. Whether this appeal involves child custody or visitation:** No

17 **13. If this is a civil case, whether this appeal involves the possibility of settlement:** No

18 DATED this 21<sup>st</sup> day of March, 2023.

19 */s/ Steven S. Owens, Esq.*  
20 STEVEN S. OWENS, ESQ.  
21 Nevada Bar No. 4352  
22 1000 N. Green Valley #440-529  
23 Henderson, Nevada 89074  
24 (702) 595-1171  
25 Attorney for Petitioner  
26 LUIS ANGEL CASTRO

## EIGHTH JUDICIAL DISTRICT COURT

# CASE SUMMARY

## CASE NO. A-21-835827-W

**Luis Castro, Plaintiff(s)**  
**vs.**  
**State of Nevada, Defendant(s)**

§  
§  
§  
§  
§  
§

Location: **Department 17**  
 Judicial Officer: **Schwartz, Jennifer**  
 Filed on: **06/07/2021**  
 Case Number History:  
 Cross-Reference Case Number: **A835827**  
 Supreme Court No.: **83680**

### CASE INFORMATION

**Related Cases**  
 C-16-314092-1 (Writ Related Case)

Case Type: **Writ of Habeas Corpus**

**Statistical Closures**  
 09/21/2021 Summary Judgment

Case Status: **09/21/2021 Closed**

### DATE

### CASE ASSIGNMENT

#### Current Case Assignment

Case Number A-21-835827-W  
 Court Department 17  
 Date Assigned 01/03/2023  
 Judicial Officer Schwartz, Jennifer

### PARTY INFORMATION

**Plaintiff** **Castro, Luis Angel**

*Lead Attorneys*

**Owens, Steven S.**  
*Retained*  
 7024556453(W)

**Defendant** **State of Nevada**






**Wolfson, Steven B**  
*Retained*  
 702-671-2700(W)

### DATE

### EVENTS & ORDERS OF THE COURT

### INDEX














#### EVENTS

06/07/2021	 Inmate Filed - Petition for Writ of Habeas Corpus Party: Plaintiff Castro, Luis Angel <i>[1] Petition for Writ of Habeas Corpus (Post Conviction-NRS 34.740) and to Withdraw Guilty Plea (Pursuant to NRS 176.165)</i>
06/07/2021	 Request Filed by: Plaintiff Castro, Luis Angel <i>[2] Request for Submission</i>
06/07/2021	 Ex Parte Motion Filed By: Plaintiff Castro, Luis Angel <i>[3] Ex Parte Motion for Appointment of Counsel and Request for Evidentiary Hearing</i>
06/07/2021	 Motion for Leave to Proceed in Forma Pauperis Filed By: Plaintiff Castro, Luis Angel <i>[4] Motion for Leave to Proceed in Forma Pauperis (Confidential)</i>
06/07/2021	 Affidavit in Support of Application Proceed Forma Pauperis Filed By: Plaintiff Castro, Luis Angel

**CASE SUMMARY**  
**CASE NO. A-21-835827-W**

	<i>[5] Affidavit in Support of Motion to Proceed in Forma Pauperis (Confidential)</i>
06/10/2021	 Order for Petition for Writ of Habeas Corpus <i>[6] Order for Petition for Writ of Habeas Corpus</i>
06/16/2021	 Clerk's Notice of Hearing <i>[7] Notice of Hearing</i>
07/06/2021	 Request <i>[8] Request for Submission of Pleading</i>
07/06/2021	 Supplement <i>[9] Petitioner's Supplement to Petition for Writ of Habeas Corpus</i>
07/14/2021	 Memorandum <i>[10] Memorandum of Facts and Law in Support of Petitioner's Motion for Appointment of Counsel...</i>
07/14/2021	 Request <i>[11] Request for Submission of Pleadings</i>
07/14/2021	 Notice <i>[12] Judicial Notice</i>
07/22/2021	 Addendum Filed By: Plaintiff Castro, Luis Angel <i>[13] Addendum to Petitioner's Ex Parte Motion for Appointment of Counsel and Request for an Evidentiary hearing</i>
07/22/2021	 Declaration Filed By: Plaintiff Castro, Luis Angel <i>[14] Declaration in Support of Petitioner's Ex Parte Motion for Appointment of Counsel and Request for an Evidentiary Hearing</i>
07/27/2021	 Response Filed by: Defendant State of Nevada <i>[15] State's Response to Defendant's Petition for Writ of Habeas Corpus (Post Conviction - NRS 34.740) and to Withdraw Guilty Plea (Pursuant to NRS 176.165), and Supplemental Brief in Support of Petitioner's Petition for Writ of Habeas Corpus</i>
08/26/2021	 Reply <i>[16] Reply to State's Response to Petitioner's Petition for Writ of Habeas Corpus and to Withdraw of Guilty Plea and Supplement to Petitioner's Petition for Writ of Habeas Corpus</i>
08/26/2021	 Request <i>[17] Request for Submission</i>
09/21/2021	 Order <i>[18] Order re: Petition for Writ of Habeas Corpus and re: Plaintiff's Motion for Appointment of Counsel and for Evidentiary Hearing</i>
09/23/2021	 Notice of Entry of Order Filed By: Defendant State of Nevada <i>[19] Notice of Entry of Order</i>

**CASE SUMMARY**  
**CASE NO. A-21-835827-W**

10/19/2021	 Notice of Appeal <i>[20] Notice of Appeal</i>
10/19/2021	 Notice of Appeal <i>[21] Notice of Appeal</i>
10/20/2021	 Case Appeal Statement Filed By: Plaintiff Castro, Luis Angel <i>[22] Case Appeal Statement</i>
10/20/2021	 Case Appeal Statement Filed By: Plaintiff Castro, Luis Angel <i>[23] Case Appeal Statement</i>
07/05/2022	Case Reassigned to Department 7 <i>Pursuant to Administrative Order 22-09 - Case Reassigned from Judge Jerry A. Wiese to Judge Linda Marie Bell</i>
07/11/2022	 NV Supreme Court Clerks Certificate/Judgment - Affd/Rev Part <i>[24] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed in Part, Reversed in Part and Remand</i>
08/16/2022	 Order <i>[25] Castro - Order appointing counsel</i>
09/19/2022	 Supplemental Filed by: Plaintiff Castro, Luis Angel <i>[26] Supplemental Brief in Support of Petition for Writ of Habeas Corpus</i>
11/22/2022	 Response <i>[27] State's Response to Defendant's Supplemental Petition for Writ of Habeas Corpus (Post Conviction)</i>
01/03/2023	Case Reassigned to Department 17 <i>Pursuant to Administrative Order 22-14 - Reassigned to Judge Jennifer Schwartz</i>
01/26/2023	 Order <i>[28] Order For Transcript</i>
02/21/2023	 Recorders Transcript of Hearing <i>[29] RECORDER'S TRANSCRIPT OF PROCEEDING: ALL PENDING MOTIONS</i>
02/21/2023	 Transcript of Proceedings <i>[30] Corrected Transcript of Proceedings: All Pending Motions</i>
03/06/2023	 Finding of Fact and Conclusions of Law <i>[31] Supplemental Findings of Fact, Conclusions of Law, and Order</i>
03/08/2023	 Notice of Entry of Findings of Fact, Conclusions of Law <i>[32] Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
03/21/2023	 Notice of Appeal (Criminal)

# CASE SUMMARY

## CASE NO. A-21-835827-W

Party: Plaintiff Castro, Luis Angel  
[33] Notice of Appeal

03/21/2023



Case Appeal Statement

Filed By: Plaintiff Castro, Luis Angel  
[34] Case Appeal Statement

### DISPOSITIONS

07/11/2022

**Clerk's Certificate** (Judicial Officer: Bell, Linda Marie)

Debtors: Luis Angel Castro (Plaintiff)

Creditors: State of Nevada (Defendant)

Judgment: 07/11/2022, Docketed: 07/12/2022

Comment: Supreme Court No. 83680; Judgment Affirmed in Part

Debtors: State of Nevada (Defendant)

Creditors: Luis Angel Castro (Plaintiff)

Judgment: 07/11/2022, Docketed: 07/12/2022

Comment: Supreme Court No. 83680; Judgment Reversed in Part and Remand

### HEARINGS

08/23/2021



**Minute Order** (3:00 AM) (Judicial Officer: Wiese, Jerry A.)

Minute Order - No Hearing Held;

Journal Entry Details:

*At the request of Court, for judicial economy, the Petition for Writ of Habeas Corpus and Motion of Appointment of Counsel currently scheduled for August 26, 2021 is RESCHEDULED to September, 23 2021 at 8:30 a.m. CLERK'S NOTE: A copy of the above minute order was distributed to Luis Angel Castro, ESP#1214547, P.O. Box 1989, Ely, NV 89301.;*

09/23/2021

**CANCELED Motion for Appointment of Attorney** (8:30 AM) (Judicial Officer: Wiese, Jerry A.)

*Vacated*

*Plaintiff's Motion for Appointment of Attorney and Request for Evidentiary Hearing*

08/09/2022



**Status Check** (8:30 AM) (Judicial Officer: Bell, Linda Marie)

**08/09/2022, 08/11/2022**

*Status Check: Set Hearing Date*

Matter Continued;

Matter Heard;

#### **MINUTES**

Matter Continued;

Matter Heard;

Journal Entry Details:

*Deft not present, not transported from Nevada Department of Corrections (NDC). COURT NOTED, It would like to appoint counsel and allow them the opportunity to file any supplemental briefing as outlined by the Court of Appeals. COURT ORDERED, matter CONTINUED; SET for Confirmation of Counsel. The Office of Appointed Counsel is to be contacted. CLERK'S NOTE: Subsequent to Court, the Clerk emailed Drew Christensen of the Office of Appointed Counsel regarding the case; he responded via email that Mr. Steve Owens, Esq. will appear. A copy of this minute order was mailed to Deft. (Luis Castro 1214547, PO BOX 1989, Ely, NV 89301). / sb 08/11/22;*

#### **SCHEDULED HEARINGS**



**Confirmation of Counsel** (08/11/2022 at 8:30 AM) (Judicial Officer: Bell, Linda Marie)

*Confirmation of Counsel: Office of Appointed Counsel*

08/11/2022



**Confirmation of Counsel** (8:30 AM) (Judicial Officer: Bell, Linda Marie)

*Confirmation of Counsel: Office of Appointed Counsel*

#### **MINUTES**





# CASE SUMMARY

## CASE NO. A-21-835827-W


Counsel Confirmed;  
Journal Entry Details:  
*Defendant not present. Steve Owens CONFIRMED counsel. Mr. Owens advised he would be requesting a status check be set in order for him to review case prior to setting a hearing date. COURT ORDERED, status check SET. NDC 09/06/22 8:30 AM STATUS CHECK: STATUS OF CASE;*

### SCHEDULED HEARINGS

 **Status Check** (09/06/2022 at 8:00 AM) (Judicial Officer: Bell, Linda Marie)  
*Status Check: Status of Case*

09/06/2022  **Status Check** (8:00 AM) (Judicial Officer: Bell, Linda Marie)

*Status Check: Status of Case*  
Hearing Set;  
Journal Entry Details:  
*Mr. Owens informed the Court he received the full file from prior counsel, and has been in contact with the Defendant and his parents, and they are ready for a hearing, pointing out the Defendants parents are available the second and third week in October. Mr. Owens stated he has not reached out to prior counsel as to their availability. COURT DIRECTED Mr. Owens to meet with parties to pick a date, and ORDERED, status check SET. NDC 9/20/2022 8:30 A.M. STATUS CHECK: EVIDENTIARY HEARING;*

09/20/2022  **Status Check** (8:30 AM) (Judicial Officer: Bell, Linda Marie)


**09/20/2022, 11/22/2022, 12/06/2022**  
*Status Check: Evidentiary Hearing*  
Continued;  
Matter Continued;  
Matter Heard;  
Journal Entry Details:  
*Deft. not present, not transported from Nevada Department of Corrections (NDC). Mr. Warren Geller, Esq., also present. COURT STATED, It received the State's Response; a Hearing needs to be set. Colloquy regarding scheduling. Mr. Owens stated he has spoken with the witnesses, they provided dates they would be available to testify. COURT SO NOTED, and ORDERED, an Evidentiary Hearing SET. Petition CONTINUED. State to prepare the Transport Order; parties are to inform the Court if there are ny scheduling issues. EVIDENTIARY HEARING: PETITION FOR WRIT OF HABEAS CORPUS...PETITION FOR WRIT OF HABEAS CORPUS 01.20.23 9:00 A.M.;*  
Continued;  
Matter Continued;  
Matter Heard;  
Journal Entry Details:  
*Deft. not present, not transported from Nevada Department of Corrections (NDC). Colloquy regarding State filing their Response, which COURT NOTED, is already late. Ms. Reeves stated the Response can be FILED by 12.2.22. COURT SO NOTED, matter CONTINUED. CONTINUED TO: 12.06.22 8:30 A.M.;*  
Continued;  
Matter Continued;  
Matter Heard;  
Journal Entry Details:  
*Court noted the supplement was just filed yesterday and ORDERED, matter CONTINUED to the date given. 11/22/22 8:30 A.M. STATUS CHECK: EVIDENTIARY HEARING;*

01/20/2023 **Petition for Writ of Habeas Corpus** (9:00 AM) (Judicial Officer: Schwartz, Jennifer)

Per Order 9/21/21  
Denied;

01/20/2023 **Evidentiary Hearing** (9:00 AM) (Judicial Officer: Schwartz, Jennifer)

*Evidentiary Hearing: Petition for Writ of Habeas Corpus*  
Matter Heard;

01/20/2023  **All Pending Motions** (9:00 AM) (Judicial Officer: Schwartz, Jennifer)

**CASE SUMMARY**  
**CASE NO. A-21-835827-W**

Matter Heard;

Journal Entry Details:

*Spanish Interpreters Lorena Orozco and Yul Haasman present. PETITION FOR WRIT OF HABEAS CORPUS...EVIDENTIARY HEARING: PETITION FOR WRIT OF HABEAS CORPUS, All parties invoke the present of witnesses in the Courtroom. Spanish Interpreter Lorena Orozco SWORN IN. Warran Geller SWORN IN and TESTIFIED. State admitted exhibit. Mr. Geller excused. Jose Antonio Castro Moreno SWORN IN and TESTIFIED. Mr. Castro excused. Angeles Castro SWORN IN and TESTIFIED. Ms. Castro is excused. Luis Castro SWORN IN and TESTIFIED. Mr. Castro excused. Parties proceed with closing arguments. COURT STATES The witnesses had inconsistent testimonies regarding the length of sentencing, Plaintiff was aware their options with previous attorney, and ORDERED, Petition is DENIED.;*

## DISTRICT COURT CIVIL COVER SHEET

A-21-835827-W

Dept. 30

County, Nevada

Case No. \_\_\_\_\_

(Assigned by Clerk's Office)

**I. Party Information** (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone):  Luis Castro	Defendant(s) (name/address/phone):  State of Nevada
Attorney (name/address/phone):	Attorney (name/address/phone):

**II. Nature of Controversy** (please select the one most applicable filing type below)**Civil Case Filing Types**

<b>Real Property</b> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <b>Title to Property</b> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <b>Other Real Property</b> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<b>Negligence</b> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <b>Malpractice</b> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<b>Torts</b> <b>Other Torts</b> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
<b>Probate</b> <b>Probate</b> (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <b>Estate Value</b> <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	<b>Construction Defect &amp; Contract</b> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <b>Contract Case</b> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<b>Judicial Review/Appeal</b> <b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <b>Nevada State Agency Appeal</b> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<b>Civil Writ</b> <b>Civil Writ</b> <input checked="" type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		<b>Other Civil Filing</b> <b>Other Civil Filing</b> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

June 7, 2021

Date

PREPARED BY CLERK

Signature of initiating party or representative

See other side for family-related case filings.

*Heather S. Hume*

CLERK OF THE COURT

**FFCO**

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
JOHN AFSHAR  
Chief Deputy District Attorney  
Nevada Bar #14408  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Respondent

DISTRICT COURT  
CLARK COUNTY, NEVADA

LUIS ANGEL CASTRO,  
#1214547

Petitioner,

-vs-

THE STATE OF NEVADA,

Respondent.

CASE NO: A-21-835827-W

DEPT NO: XVII

**SUPPLEMENTAL FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

DATE OF HEARING: January 20, 2023  
TIME OF HEARING: 9:00 AM

THIS MATTER having come on for hearing before the above-entitled Court on the 20<sup>th</sup> day of January, 2023, Petitioner being represented by STEVEN S. OWENS, ESQ, Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through MEGAN THOMSON, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

//

//

//





1 for Writ of Habeas Corpus (“Supplemental Petition”).<sup>1</sup> On July 14, 2021, Petitioner filed  
2 Memorandum of Facts and Law In Support of Petitioner’s Motion for Appointment of Counsel  
3 (“Memo In Support”) and various other pleadings. On July 27, 2021, the State filed a Response  
4 to the Petition, Supplemental Petition, Memo In Support, and various pleadings. Petitioner  
5 filed a Reply on August 26, 2021. This Court denied the Petition, Motion for Appointment of  
6 Counsel, and Request for an Evidentiary Hearing on September 21, 2021.

7 Petitioner appealed the denial of his Petition on October 19, 2021. Following appellate  
8 briefing, on July 8, 2022, the Nevada Court of Appeals affirmed in part, reversed in part, and  
9 remanded to the district court the denial of the Petition. The Court of Appeals held that this  
10 court correctly denied Petitioner’s claims that (1) he did not enter his plea knowingly and  
11 voluntarily due to “low intellectual functioning,” (Order at 2) (2) counsel was ineffective for  
12 failing to move to sever his case or challenge the contingent plea offers, (Order at 3), and (3)  
13 counsel was ineffective for allowing him to entered into a pela agreement that resulted in a  
14 prison sentence of life without the possibility of parole, (Order at 4). The Court further  
15 concluded that this Court correctly disregarded Petitioner’s supplemental petition. (Order at  
16 6), and that this Court did not “inaccurately embellish” the sentencing memorandum (Id.)  
17 However, the Court of Appeals held that this Court erred by denying Petitioner’s claim that  
18 counsel advised his parents that all four co-defendants would be prosecuted separately, and  
19 that counsel advised Petitioner’s parents that he would receive a prison sentence of 15 to 25  
20 years if he accepted the plea, and that Petitioner’s parents coerced him into pleading guilty  
21 without conducting an evidentiary hearing. (Order at 4-5.). Because the Court of Appeals held  
22 that this Court erred with respect to that claim, the Court further ordered this court to reconsider  
23 whether Petitioner should be appointed counsel. (Order at 6.)

24 Subsequent to the Court of Appeals remanding the case, this Court appointed counsel.  
25 Counsel filed a supplemental petition for writ of habeas corpus on September 19, 2022.  
26 (“Second Supplemental Petition”) The State responded on November 22, 2022. Petitioner did  
27  
28

---

1 not file a reply. The Court set an evidentiary hearing, which was held on January 20, 2023.  
2 Following the hearing, the Court denied the remaining claims.

### 3 ANALYSIS

#### 4 5 **I. PETITIONER'S CLAIM THAT COUNSEL ADVISED HIS PARENTS** 6 **THAT ALL FOUR CO-DEFENDANTS WOULD BE SENTENCED** 7 **SEPERATELY IS DENIED**

8 The Sixth Amendment to the United States Constitution provides that, "[i]n all criminal  
9 prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his  
10 defense." The United States Supreme Court has long recognized that "the right to counsel is  
11 the right to the effective assistance of counsel." Strickland v. Washington, 466 U.S. 668, 686,  
12 104 S. Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323  
(1993).

13 To establish a claim of ineffective assistance of counsel for advice regarding a guilty  
14 plea, a defendant must show "gross error on the part of counsel." Turner v. Calderon, 281 F.3d  
15 851, 880 (9th Cir. 2002). When a conviction is the result of a guilty plea, a defendant must  
16 show that there is a "reasonable probability that, but for counsel's errors, he would not have  
17 pleaded guilty and would have insisted on going to trial." Hill v. Lockhart, 474 U.S. 52, 59,  
18 106 S.Ct. 366, 370 (1985) (emphasis added); see also Kirksey v. State, 112 Nev. 980, 988, 923  
19 P.2d 1102, 1107 (1996); Molina v. State, 120 Nev. 185, 190-91, 87 P.3d 533, 537 (2004). A  
20 defendant is not entitled to relief on claims which are belied and repelled by the record.  
21 Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). "A claim is 'belied' when it  
22 is contradicted or proven to be false by the record as it existed at the time the claim was made."  
23 Mann v. State, 118 Nev. 351, 354, 46 P.3d 1228, 1230 (2002).

24 At the evidentiary hearing on January 30, 2023, Petitioner's counsel, Mr. Warren  
25 Geller, Esq., testified. Transcript of Proceedings ("TP"), January 20, 2023, at 4-25. Petitioner's  
26 father, Jose Castro, Sr., testified. Id. at 26-33. Petitioner's mother, Angeles Castro, testified.  
27 Id. at 34-43. Petitioner's brother, Jose Castro, Jr., testified. Id. at 43-50. Finally, Petitioner  
28 //



1 testified. Id. at 51-57. Petitioner and both his parents testified with the assistance of a Spanish  
2 interpreter.

3 Mr. Castro testified that Mr. Geller told him that he was going to separate the case  
4 because Petitioner was not present for the entire crime and that petitioner “would get what was  
5 coming to him for the time that he was there.” Transcript of Proceedings (“TP”), January 20,  
6 2023, at 29. Mrs. Castro testified that Mr. Geller had said Petitioner would be sentenced  
7 separate from the other co-defendants. Id. at 36. Petitioner’s brother, Jose Castro, Jr., testified  
8 that he believed Petitioner would be sentenced separately. Id. at 46.

9 Mr. Geller testified that he did not recall saying that the Petitioner would receive a  
10 separate sentencing hearing from the co-defendants, but did recall explaining that each  
11 defendant received an individualized sentence. Id. at 11. Mr. Geller testified that there were  
12 facts in the case that were both a little more aggravating and a little more mitigating, and that  
13 the court may have imposed different sentences based on that. Id. at 11-12. Mr. Geller  
14 understood, through many years of practice, that the majority of the time co-defendants are  
15 sentenced together on the same date, especially when there are victim speakers. Id. at 23-24.  
16 He did not recall anything about this case that would have caused the Court to sentence  
17 Petitioner on a separate date, or that he told the family that would happen. Id.

18 The Court finds that Mr. Geller is credible and that he adequately explained that while  
19 each sentence would be individualized the case was not to be altogether separated. While it is  
20 possible there was a misunderstanding given the numerous communications and presence of  
21 an interpreter, such a misunderstanding does not rise to deficient performance, nor does it  
22 render the guilty plea either unknowing or involuntary. Accordingly, the claim is denied.

23 **II. PETITIONER’S CLAIM THAT COUNSEL ADVISED PETITIONER’S**  
24 **PARENTS THAT HE WOULD RECEIVE A SENTENCE OF 15-25 YEARS**  
25 **IS DENIED**

26 Mr. Castro testified that, during a meeting with Mr. Geller, Mr. Geller told him that if  
27 Petitioner accepted the negotiations he would face a sentence of 15-25 years with the  
28 opportunity to get out, or something to that effect. TP, at 28. Because Mr. Geller does not  
speak Spanish, these negotiations occurred with the assistance of a translator. Id. at 28-29. Mr.



1 Castro testified that Mr. Geller would not send emails to him or his wife but did send emails  
2 to his son, would meet with them in person, and spoke with them over the phone through his  
3 son. Id. at 28-29, 32-33.

4 Mrs. Castro testified that Mr. Geller told her “in person, by email, and on the telephone”  
5 about the negotiations. Id. at 35, 39. She understood the negotiations to be 15-25 years  
6 maximum. Id. She testified that they had “very many interviews” with Mr. Geller. Id. at 39.  
7 When Mrs. Castro met with Mr. Geller, their son Jose interpreted for them. Id. at 40-41.

8 Petitioner’s brother, Jose Castro Jr., testified that he acted as a translator between his  
9 parents and Mr. Geller from “time to time” and that when Mr. Geller would communicate with  
10 him he would let his parents know. Id. at 44-46. He testified that the conversation where Mr.  
11 Geller said Petitioner was facing a 15-25 year sentence occurred in person. Id. at 49. He  
12 testified that when Mr. Geller emailed it was just “information about [Petitioner’s] case.” Id.  
13 He testified that he received an email, and that his understanding from the email was the same  
14 as the conversation in person, that Petitioner would receive a sentence of 15-25 years. Id. at  
15 49-50.

16 Petitioner testified that Mr. Geller explained he had two options, a 15 to life sentence,  
17 and a life without the possibility of parole sentence. Id. at 52. Mr. Geller explained the offer  
18 and that there was a 75% chance that he would get a 15-to-life sentence because he did not  
19 have a criminal history he might get a lower sentence or, if he behaved himself in prison,  
20 would be released early and deported. Id. at 54-56. Consequently, there was a 25% chance he  
21 would get a sentence of life without the possibility of parole. Id. at 56. Mr. Geller explained  
22 that an accomplice was liable for the same sentence as a perpetrator. Id. at 55-56.

23 Mr. Geller testified that he had emailed Petitioner’s brother the proposed negotiation  
24 on Saturday, February 2<sup>nd</sup>. Id. at 6, 18. That email was entered into evidence and considered  
25 by the court. Id. at 19. The two potential sentences were life without the possibility of parole,  
26 and life with the possibility of parole after 15 years, and the offer was contingent on all  
27 defendants accepting. Id. at 6. In addition to the email, Mr. Geller’s notes indicated that there  
28 was a follow-up call with the family explaining the offer. Id. at 20. Mr. Geller testified that

1 there “was a lot of back and forth” between the defense and the State regarding an offer, but  
2 that the State had rejected his proposed negotiations. Id. at 7. He testified that at one point he  
3 had asked for a right to argue on both sides, but that the State rejected the offer and insisted  
4 on a life-tail sentence. Id. at 16-18. He testified that he met with the family several times,  
5 largely through Jose, and that they would meet in person, talk via email, and over the phone.  
6 Id. at 9-10. Mr. Geller testified that he advised Petitioner to accept the plea negotiations  
7 because there was little chance of a better outcome at trial and, by accepting the negotiations,  
8 they could “avoid the Court hearing a lot of the gruesome details” in painstaking detail over  
9 the course of trial, and that they might get some benefit from the Court in sentencing by  
10 accepting responsibility. Id. at 10. He explained this to Petitioner’s brother via email. Id. He  
11 testified that he did not tell petitioner’s parents that Petitioner would receive a 15-25 year  
12 sentence, because that offer was not on the table, but that he might do a minimum of 15 years  
13 before being released on parole. Id. at 12-13.

14 As with the first claim, the Court finds Mr. Geller credible, and finds that the email he  
15 sent to the family clearly spells out the two potential sentences; Life with the possibility of  
16 parole after 15 years, or life without the possibility of parole. Based on the testimony presented  
17 at the evidentiary hearing, it is possible that different family members misunderstood, or  
18 understood only portions of the negotiation. The family members testified inconsistently  
19 regarding their understanding of the offer, and even what form various meetings took.  
20 Regardless, the email and Mr. Geller’s notes indicate that an email was sent, and that Mr.  
21 Geller followed up with a phone call to the family, reflecting the correct negotiations. While  
22 the family may have misunderstood the offer, Petitioner testified that he knew the two potential  
23 sentences and that he entered into the plea knowing those were the options. Accordingly, the  
24 claim is denied.

25 **III. PETITIONER’S CLAIM THAT HE WAS COERCED INTO ENTERING**  
26 **THE PLEA IS DENIED**

27 Mr. Castro testified that he encouraged his son to accept the plea agreement because  
28 Mr. Castro had already taken out a loan on his house to defend Petitioner, and that he would



1 not be able to come up with an additional \$50,000 to defend him. TP at 30. If Petitioner chose  
2 not to accept the negotiations, Mr. Geller explained to Mr. Castro that the proceedings would  
3 transfer to a different court, Mr. Castro would lose the benefit of the negotiations, and it would  
4 cost and additional \$50,000 to defend him. Id. at 32.

5 Petitioner testified that he was aware his attorney was speaking with his parents but did  
6 not know how strong the communication was between them. Id. at 53. He testified that he only  
7 had one phone call with his parents about accepting the negotiations, and they explained that  
8 if he did not accept the negotiations, they could not help him anymore. Id. at 53-54. Petitioner  
9 testified that he did not know how much money his parents paid for the case or how they paid  
10 for it before the day of the evidentiary hearing. Id. at 54. Petitioner asked Mr. Geller whether  
11 there was a possibility for a different negotiation, and Mr. Geller explained the offer and that  
12 there was a 75% chance that he would get a 15-to-life sentence because he did not have a  
13 criminal history, he might get a lower sentence or, if he behaved himself in prison, would be  
14 released early and deported. Id. at 54-56. Consequently, there was a 25% chance he would get  
15 a sentence of life without the possibility of parole. Id. at 56. Mr. Geller explained that an  
16 accomplice was liable for the same sentence as a perpetrator. Id. at 55-56. Mr. Geller testified  
17 that he did not recall telling Petitioner's parents that they needed to persuade him to accept the  
18 negotiations, but did believe the negotiations were in Petitioner's best interests. Id. at 13. The  
19 email Mr. Geller sent indicated that if Petitioner did not accept the negotiations that Mr. Geller  
20 would still be a zealous advocate for him at trial. Id. at 22.

21 Mr. Geller testified that his fee structure was such that if the case settled in justice court  
22 he charged \$20,000 to represent a client through sentencing, and that if the matter proceeded  
23 to district court the fee would have been an additional \$50,000. Id. at 13-14. Because the matter  
24 negotiated in district court, he believed the total fee should have been \$70,000. Id. at 13-14.  
25 He did not believe, based on his fee structure, that he asked Petitioner's parents for additional  
26 money unless there was some other service that was required. Id. at 14. He did get the office  
27 of appointed counsel to pay for a doctor to do a psychological evaluation, and that the parents  
28 hired an investigator at one point. Id. He did not recall saying that if the parents could not come

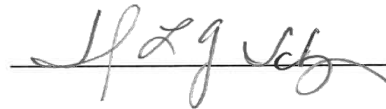
up with an additional \$50,000 that petitioner would have to get another lawyer. Id. at 14-15.  
Mr. Geller believed he had been paid in full by the time the trial was to begin when Petitioner  
pled guilty. Id. at 21-22.

The Court finds that Petitioner was not unduly coerced into entering the plea. The email  
Mr. Geller sent clearly indicated that he would continue to represent Petitioner even if he  
rejected the plea negotiations. Mr. Geller's testimony is credible and contradicts the claims  
that he demanded additional money from Petitioner's family. Accordingly, the claim is denied.

**ORDER**

THEREFORE, IT IS HEREBY ORDERED that the Supplemental Petition for Writ of  
Habeas Corpus shall be, and it is, hereby DENIED.

Dated this 6th day of March, 2023



STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565

10B 464 E241 C3B8  
Jennifer Schwartz  
District Court Judge

BY /s/ John Afshar  
JOHN AFSHAR  
Chief Deputy District Attorney  
Nevada Bar #14408

**CERTIFICATE OF SERVICE**

I certify that on the 28th day of February, 2023, I mailed a copy of the foregoing  
proposed Findings of Fact, Conclusions of Law, and Order to:

STEVEN S. OWENS, ESQ.  
Email: [owenscrimlaw@gmail.com](mailto:owenscrimlaw@gmail.com)

BY   
Secretary for the District Attorney's Office

16F03770A/JA/ckb/L4

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Luis Castro, Plaintiff(s)

CASE NO: A-21-835827-W

7 vs.

DEPT. NO. Department 17

8 State of Nevada, Defendant(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

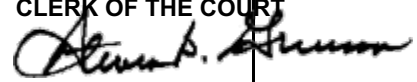
14 Service Date: 3/6/2023

15 Steven Owens

owenscrimlaw@gmail.com

16 Steven Wolfson

17 motions@clarkcountynyda.com  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



1 NEFF

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

4  
5 LUIS CASTRO,

6 Petitioner,

Case No: A-21-835827-W

Dept No: XVII

7 vs.

8 STATE OF NEVADA,

9 Respondent,

**NOTICE OF ENTRY OF FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER**

10  
11 **PLEASE TAKE NOTICE** that on March 6, 2023, the court entered a decision or order in this matter, a  
12 true and correct copy of which is attached to this notice.

13 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you  
14 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed  
to you. This notice was mailed on March 8, 2023.

15 STEVEN D. GRIERSON, CLERK OF THE COURT

16 /s/ Amanda Hampton

17 Amanda Hampton, Deputy Clerk

18  
19 **CERTIFICATE OF E-SERVICE / MAILING**

20 I hereby certify that on this 8 day of March 2023, I served a copy of this Notice of Entry on the following:

21 ☒ By e-mail:

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

23  
24 ☒ The United States mail addressed as follows:

25 Luis Castro # 1214547  
P.O. Box 650  
Indian Springs, NV 89070

Steven S. Owens, Esq.  
1000 N. Green Valley #440-529  
Henderson, NV 89074

26  
27 /s/ Amanda Hampton

28 Amanda Hampton, Deputy Clerk



*Heather S. Hume*

CLERK OF THE COURT

**FFCO**

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565  
JOHN AFSHAR  
Chief Deputy District Attorney  
Nevada Bar #14408  
200 Lewis Avenue  
Las Vegas, Nevada 89155-2212  
(702) 671-2500  
Attorney for Respondent

DISTRICT COURT  
CLARK COUNTY, NEVADA

LUIS ANGEL CASTRO,  
#1214547

Petitioner,

-vs-

THE STATE OF NEVADA,

Respondent.

CASE NO: A-21-835827-W

DEPT NO: XVII

**SUPPLEMENTAL FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

DATE OF HEARING: January 20, 2023  
TIME OF HEARING: 9:00 AM

THIS MATTER having come on for hearing before the above-entitled Court on the 20<sup>th</sup> day of January, 2023, Petitioner being represented by STEVEN S. OWENS, ESQ, Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through MEGAN THOMSON, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

//

//

//





1 for Writ of Habeas Corpus (“Supplemental Petition”).<sup>1</sup> On July 14, 2021, Petitioner filed  
2 Memorandum of Facts and Law In Support of Petitioner’s Motion for Appointment of Counsel  
3 (“Memo In Support”) and various other pleadings. On July 27, 2021, the State filed a Response  
4 to the Petition, Supplemental Petition, Memo In Support, and various pleadings. Petitioner  
5 filed a Reply on August 26, 2021. This Court denied the Petition, Motion for Appointment of  
6 Counsel, and Request for an Evidentiary Hearing on September 21, 2021.

7 Petitioner appealed the denial of his Petition on October 19, 2021. Following appellate  
8 briefing, on July 8, 2022, the Nevada Court of Appeals affirmed in part, reversed in part, and  
9 remanded to the district court the denial of the Petition. The Court of Appeals held that this  
10 court correctly denied Petitioner’s claims that (1) he did not enter his plea knowingly and  
11 voluntarily due to “low intellectual functioning,” (Order at 2) (2) counsel was ineffective for  
12 failing to move to sever his case or challenge the contingent plea offers, (Order at 3), and (3)  
13 counsel was ineffective for allowing him to entered into a pela agreement that resulted in a  
14 prison sentence of life without the possibility of parole, (Order at 4). The Court further  
15 concluded that this Court correctly disregarded Petitioner’s supplemental petition. (Order at  
16 6), and that this Court did not “inaccurately embellish” the sentencing memorandum (Id.)  
17 However, the Court of Appeals held that this Court erred by denying Petitioner’s claim that  
18 counsel advised his parents that all four co-defendants would be prosecuted separately, and  
19 that counsel advised Petitioner’s parents that he would receive a prison sentence of 15 to 25  
20 years if he accepted the plea, and that Petitioner’s parents coerced him into pleading guilty  
21 without conducting an evidentiary hearing. (Order at 4-5.). Because the Court of Appeals held  
22 that this Court erred with respect to that claim, the Court further ordered this court to reconsider  
23 whether Petitioner should be appointed counsel. (Order at 6.)

24 Subsequent to the Court of Appeals remanding the case, this Court appointed counsel.  
25 Counsel filed a supplemental petition for writ of habeas corpus on September 19, 2022.  
26 (“Second Supplemental Petition”) The State responded on November 22, 2022. Petitioner did  
27  
28

1 not file a reply. The Court set an evidentiary hearing, which was held on January 20, 2023.  
2 Following the hearing, the Court denied the remaining claims.

### 3 ANALYSIS

#### 4 5 **I. PETITIONER'S CLAIM THAT COUNSEL ADVISED HIS PARENTS** 6 **THAT ALL FOUR CO-DEFENDANTS WOULD BE SENTENCED** 7 **SEPERATELY IS DENIED**

8 The Sixth Amendment to the United States Constitution provides that, "[i]n all criminal  
9 prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his  
10 defense." The United States Supreme Court has long recognized that "the right to counsel is  
11 the right to the effective assistance of counsel." Strickland v. Washington, 466 U.S. 668, 686,  
12 104 S. Ct. 2052, 2063 (1984); see also State v. Love, 109 Nev. 1136, 1138, 865 P.2d 322, 323  
(1993).

13 To establish a claim of ineffective assistance of counsel for advice regarding a guilty  
14 plea, a defendant must show "gross error on the part of counsel." Turner v. Calderon, 281 F.3d  
15 851, 880 (9th Cir. 2002). When a conviction is the result of a guilty plea, a defendant must  
16 show that there is a "reasonable probability that, but for counsel's errors, he would not have  
17 pleaded guilty and would have insisted on going to trial." Hill v. Lockhart, 474 U.S. 52, 59,  
18 106 S.Ct. 366, 370 (1985) (emphasis added); see also Kirksey v. State, 112 Nev. 980, 988, 923  
19 P.2d 1102, 1107 (1996); Molina v. State, 120 Nev. 185, 190-91, 87 P.3d 533, 537 (2004). A  
20 defendant is not entitled to relief on claims which are belied and repelled by the record.  
21 Hargrove v. State, 100 Nev. 498, 502, 686 P.2d 222, 225 (1984). "A claim is 'belied' when it  
22 is contradicted or proven to be false by the record as it existed at the time the claim was made."  
23 Mann v. State, 118 Nev. 351, 354, 46 P.3d 1228, 1230 (2002).

24 At the evidentiary hearing on January 30, 2023, Petitioner's counsel, Mr. Warren  
25 Geller, Esq., testified. Transcript of Proceedings ("TP"), January 20, 2023, at 4-25. Petitioner's  
26 father, Jose Castro, Sr., testified. Id. at 26-33. Petitioner's mother, Angeles Castro, testified.  
27 Id. at 34-43. Petitioner's brother, Jose Castro, Jr., testified. Id. at 43-50. Finally, Petitioner  
28 //



1 testified. Id. at 51-57. Petitioner and both his parents testified with the assistance of a Spanish  
2 interpreter.

3 Mr. Castro testified that Mr. Geller told him that he was going to separate the case  
4 because Petitioner was not present for the entire crime and that petitioner “would get what was  
5 coming to him for the time that he was there.” Transcript of Proceedings (“TP”), January 20,  
6 2023, at 29. Mrs. Castro testified that Mr. Geller had said Petitioner would be sentenced  
7 separate from the other co-defendants. Id. at 36. Petitioner’s brother, Jose Castro, Jr., testified  
8 that he believed Petitioner would be sentenced separately. Id. at 46.

9 Mr. Geller testified that he did not recall saying that the Petitioner would receive a  
10 separate sentencing hearing from the co-defendants, but did recall explaining that each  
11 defendant received an individualized sentence. Id. at 11. Mr. Geller testified that there were  
12 facts in the case that were both a little more aggravating and a little more mitigating, and that  
13 the court may have imposed different sentences based on that. Id. at 11-12. Mr. Geller  
14 understood, through many years of practice, that the majority of the time co-defendants are  
15 sentenced together on the same date, especially when there are victim speakers. Id. at 23-24.  
16 He did not recall anything about this case that would have caused the Court to sentence  
17 Petitioner on a separate date, or that he told the family that would happen. Id.

18 The Court finds that Mr. Geller is credible and that he adequately explained that while  
19 each sentence would be individualized the case was not to be altogether separated. While it is  
20 possible there was a misunderstanding given the numerous communications and presence of  
21 an interpreter, such a misunderstanding does not rise to deficient performance, nor does it  
22 render the guilty plea either unknowing or involuntary. Accordingly, the claim is denied.

23 **II. PETITIONER’S CLAIM THAT COUNSEL ADVISED PETITIONER’S**  
24 **PARENTS THAT HE WOULD RECEIVE A SENTENCE OF 15-25 YEARS**  
25 **IS DENIED**

26 Mr. Castro testified that, during a meeting with Mr. Geller, Mr. Geller told him that if  
27 Petitioner accepted the negotiations he would face a sentence of 15-25 years with the  
28 opportunity to get out, or something to that effect. TP, at 28. Because Mr. Geller does not  
speak Spanish, these negotiations occurred with the assistance of a translator. Id. at 28-29. Mr.

1 Castro testified that Mr. Geller would not send emails to him or his wife but did send emails  
2 to his son, would meet with them in person, and spoke with them over the phone through his  
3 son. Id. at 28-29, 32-33.

4 Mrs. Castro testified that Mr. Geller told her “in person, by email, and on the telephone”  
5 about the negotiations. Id. at 35, 39. She understood the negotiations to be 15-25 years  
6 maximum. Id. She testified that they had “very many interviews” with Mr. Geller. Id. at 39.  
7 When Mrs. Castro met with Mr. Geller, their son Jose interpreted for them. Id. at 40-41.

8 Petitioner’s brother, Jose Castro Jr., testified that he acted as a translator between his  
9 parents and Mr. Geller from “time to time” and that when Mr. Geller would communicate with  
10 him he would let his parents know. Id. at 44-46. He testified that the conversation where Mr.  
11 Geller said Petitioner was facing a 15-25 year sentence occurred in person. Id. at 49. He  
12 testified that when Mr. Geller emailed it was just “information about [Petitioner’s] case.” Id.  
13 He testified that he received an email, and that his understanding from the email was the same  
14 as the conversation in person, that Petitioner would receive a sentence of 15-25 years. Id. at  
15 49-50.

16 Petitioner testified that Mr. Geller explained he had two options, a 15 to life sentence,  
17 and a life without the possibility of parole sentence. Id. at 52. Mr. Geller explained the offer  
18 and that there was a 75% chance that he would get a 15-to-life sentence because he did not  
19 have a criminal history he might get a lower sentence or, if he behaved himself in prison,  
20 would be released early and deported. Id. at 54-56. Consequently, there was a 25% chance he  
21 would get a sentence of life without the possibility of parole. Id. at 56. Mr. Geller explained  
22 that an accomplice was liable for the same sentence as a perpetrator. Id. at 55-56.

23 Mr. Geller testified that he had emailed Petitioner’s brother the proposed negotiation  
24 on Saturday, February 2<sup>nd</sup>. Id. at 6, 18. That email was entered into evidence and considered  
25 by the court. Id. at 19. The two potential sentences were life without the possibility of parole,  
26 and life with the possibility of parole after 15 years, and the offer was contingent on all  
27 defendants accepting. Id. at 6. In addition to the email, Mr. Geller’s notes indicated that there  
28 was a follow-up call with the family explaining the offer. Id. at 20. Mr. Geller testified that



1 there “was a lot of back and forth” between the defense and the State regarding an offer, but  
2 that the State had rejected his proposed negotiations. Id. at 7. He testified that at one point he  
3 had asked for a right to argue on both sides, but that the State rejected the offer and insisted  
4 on a life-tail sentence. Id. at 16-18. He testified that he met with the family several times,  
5 largely through Jose, and that they would meet in person, talk via email, and over the phone.  
6 Id. at 9-10. Mr. Geller testified that he advised Petitioner to accept the plea negotiations  
7 because there was little chance of a better outcome at trial and, by accepting the negotiations,  
8 they could “avoid the Court hearing a lot of the gruesome details” in painstaking detail over  
9 the course of trial, and that they might get some benefit from the Court in sentencing by  
10 accepting responsibility. Id. at 10. He explained this to Petitioner’s brother via email. Id. He  
11 testified that he did not tell petitioner’s parents that Petitioner would receive a 15-25 year  
12 sentence, because that offer was not on the table, but that he might do a minimum of 15 years  
13 before being released on parole. Id. at 12-13.

14 As with the first claim, the Court finds Mr. Geller credible, and finds that the email he  
15 sent to the family clearly spells out the two potential sentences; Life with the possibility of  
16 parole after 15 years, or life without the possibility of parole. Based on the testimony presented  
17 at the evidentiary hearing, it is possible that different family members misunderstood, or  
18 understood only portions of the negotiation. The family members testified inconsistently  
19 regarding their understanding of the offer, and even what form various meetings took.  
20 Regardless, the email and Mr. Geller’s notes indicate that an email was sent, and that Mr.  
21 Geller followed up with a phone call to the family, reflecting the correct negotiations. While  
22 the family may have misunderstood the offer, Petitioner testified that he knew the two potential  
23 sentences and that he entered into the plea knowing those were the options. Accordingly, the  
24 claim is denied.

25 **III. PETITIONER’S CLAIM THAT HE WAS COERCED INTO ENTERING**  
26 **THE PLEA IS DENIED**

27 Mr. Castro testified that he encouraged his son to accept the plea agreement because  
28 Mr. Castro had already taken out a loan on his house to defend Petitioner, and that he would

1 not be able to come up with an additional \$50,000 to defend him. TP at 30. If Petitioner chose  
2 not to accept the negotiations, Mr. Geller explained to Mr. Castro that the proceedings would  
3 transfer to a different court, Mr. Castro would lose the benefit of the negotiations, and it would  
4 cost and additional \$50,000 to defend him. Id. at 32.

5 Petitioner testified that he was aware his attorney was speaking with his parents but did  
6 not know how strong the communication was between them. Id. at 53. He testified that he only  
7 had one phone call with his parents about accepting the negotiations, and they explained that  
8 if he did not accept the negotiations, they could not help him anymore. Id. at 53-54. Petitioner  
9 testified that he did not know how much money his parents paid for the case or how they paid  
10 for it before the day of the evidentiary hearing. Id. at 54. Petitioner asked Mr. Geller whether  
11 there was a possibility for a different negotiation, and Mr. Geller explained the offer and that  
12 there was a 75% chance that he would get a 15-to-life sentence because he did not have a  
13 criminal history, he might get a lower sentence or, if he behaved himself in prison, would be  
14 released early and deported. Id. at 54-56. Consequently, there was a 25% chance he would get  
15 a sentence of life without the possibility of parole. Id. at 56. Mr. Geller explained that an  
16 accomplice was liable for the same sentence as a perpetrator. Id. at 55-56. Mr. Geller testified  
17 that he did not recall telling Petitioner's parents that they needed to persuade him to accept the  
18 negotiations, but did believe the negotiations were in Petitioner's best interests. Id. at 13. The  
19 email Mr. Geller sent indicated that if Petitioner did not accept the negotiations that Mr. Geller  
20 would still be a zealous advocate for him at trial. Id. at 22.

21 Mr. Geller testified that his fee structure was such that if the case settled in justice court  
22 he charged \$20,000 to represent a client through sentencing, and that if the matter proceeded  
23 to district court the fee would have been an additional \$50,000. Id. at 13-14. Because the matter  
24 negotiated in district court, he believed the total fee should have been \$70,000. Id. at 13-14.  
25 He did not believe, based on his fee structure, that he asked Petitioner's parents for additional  
26 money unless there was some other service that was required. Id. at 14. He did get the office  
27 of appointed counsel to pay for a doctor to do a psychological evaluation, and that the parents  
28 hired an investigator at one point. Id. He did not recall saying that if the parents could not come



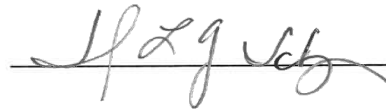
up with an additional \$50,000 that petitioner would have to get another lawyer. Id. at 14-15.  
Mr. Geller believed he had been paid in full by the time the trial was to begin when Petitioner  
pled guilty. Id. at 21-22.

The Court finds that Petitioner was not unduly coerced into entering the plea. The email  
Mr. Geller sent clearly indicated that he would continue to represent Petitioner even if he  
rejected the plea negotiations. Mr. Geller's testimony is credible and contradicts the claims  
that he demanded additional money from Petitioner's family. Accordingly, the claim is denied.

**ORDER**

THEREFORE, IT IS HEREBY ORDERED that the Supplemental Petition for Writ of  
Habeas Corpus shall be, and it is, hereby DENIED.

Dated this 6th day of March, 2023



STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565

10B 464 E241 C3B8  
Jennifer Schwartz  
District Court Judge

BY /s/ John Afshar  
JOHN AFSHAR  
Chief Deputy District Attorney  
Nevada Bar #14408

**CERTIFICATE OF SERVICE**

I certify that on the 28th day of February, 2023, I mailed a copy of the foregoing  
proposed Findings of Fact, Conclusions of Law, and Order to:

STEVEN S. OWENS, ESQ.  
Email: [owenscrimlaw@gmail.com](mailto:owenscrimlaw@gmail.com)

BY   
Secretary for the District Attorney's Office

16F03770A/JA/ckb/L4

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Luis Castro, Plaintiff(s)

CASE NO: A-21-835827-W

7 vs.

DEPT. NO. Department 17

8 State of Nevada, Defendant(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 3/6/2023

15 Steven Owens

owenscrimlaw@gmail.com

16 Steven Wolfson

17 motions@clarkcountynyda.com  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**August 23, 2021**

---

A-21-835827-W      Luis Castro, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

---

**August 23, 2021      3:00 AM      Minute Order**

**HEARD BY:** Wiese, Jerry A.      **COURTROOM:** Chambers

**COURT CLERK:** Lauren Kidd

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- At the request of Court, for judicial economy, the Petition for Writ of Habeas Corpus and Motion of Appointment of Counsel currently scheduled for August 26, 2021 is RESCHEDULED to September, 23 2021 at 8:30 a.m.

CLERK'S NOTE: A copy of the above minute order was distributed to Luis Angel Castro, ESP#1214547, P.O. Box 1989, Ely, NV 89301.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**August 09, 2022**

---

A-21-835827-W	Luis Castro, Plaintiff(s) vs. State of Nevada, Defendant(s)
---------------	---

---

<b>August 09, 2022</b>	<b>8:30 AM</b>	<b>Status Check</b>
------------------------	----------------	---------------------

<b>HEARD BY:</b> Bell, Linda Marie	<b>COURTROOM:</b> RJC Courtroom 05B
------------------------------------	-------------------------------------

**COURT CLERK:** Shelley Boyle

**RECORDER:** Kimberly Estala

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Botelho, Agnes M	Attorney
-----------------	------------------	----------

**JOURNAL ENTRIES**

- Deft not present, not transported from Nevada Department of Corrections (NDC).

COURT NOTED, It would like to appoint counsel and allow them the opportunity to file any supplemental briefing as outlined by the Court of Appeals. COURT ORDERED, matter CONTINUED; SET for Confirmation of Counsel. The Office of Appointed Counsel is to be contacted.

CLERK'S NOTE: Subsequent to Court, the Clerk emailed Drew Christensen of the Office of Appointed Counsel regarding the case; he responded via email that Mr. Steve Owens, Esq. will appear. A copy of this minute order was mailed to Deft. (Luis Castro 1214547, PO BOX 1989. Ely, NV 89301). / sb 08/11/22

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**August 11, 2022**

---

A-21-835827-W      Luis Castro, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

---

**August 11, 2022      8:30 AM      Confirmation of Counsel**

**HEARD BY:** Bell, Linda Marie      **COURTROOM:** RJC Courtroom 05B

**COURT CLERK:** Odalys Garcia

**RECORDER:** Kimberly Estala

**REPORTER:**

**PARTIES**

**PRESENT:** Castro, Luis Angel      Plaintiff

**JOURNAL ENTRIES**

- Defendant not present.

Steve Owens CONFIRMED counsel. Mr. Owens advised he would be requesting a status check be set in order for him to review case prior to setting a hearing date. COURT ORDERED, status check SET.

NDC

09/06/22 8:30 AM STATUS CHECK: STATUS OF CASE

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**September 06, 2022**

---

A-21-835827-W      Luis Castro, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

---

**September 06, 2022      8:00 AM      Status Check**

**HEARD BY:** Bell, Linda Marie      **COURTROOM:** RJC Courtroom 05B

**COURT CLERK:** Kory Schlitz

**RECORDER:** Kimberly Estala

**REPORTER:**

**PARTIES**

**PRESENT:** Owens, Steven S.      Attorney  
Reeves, Taylor Renee      Attorney

**JOURNAL ENTRIES**

- Mr. Owens informed the Court he received the full file from prior counsel, and has been in contact with the Defendant and his parents, and they are ready for a hearing, pointing out the Defendants parents are available the second and third week in October. Mr. Owens stated he has not reached out to prior counsel as to their availability. COURT DIRECTED Mr. Owens to meet with parties to pick a date, and ORDERED, status check SET.

NDC

9/20/2022 8:30 A.M. STATUS CHECK: EVIDENTIARY HEARING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**September 20, 2022**

---

A-21-835827-W      Luis Castro, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

---

**September 20, 2022      8:30 AM      Status Check**

**HEARD BY:** Bell, Linda Marie      **COURTROOM:** RJC Courtroom 05B

**COURT CLERK:** Teri Berkshire

**RECORDER:** Kimberly Estala

**REPORTER:**

**PARTIES**

**PRESENT:** Owens, Steven S.      Attorney

**JOURNAL ENTRIES**

- Court noted the supplement was just filed yesterday and ORDERED, matter CONTINUED to the date given.

11/22/22 8:30 A.M. STATUS CHECK: EVIDENTIARY HEARING

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**November 22, 2022**

---

A-21-835827-W      Luis Castro, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

---

**November 22, 2022      8:30 AM      Status Check**

**HEARD BY:** Bell, Linda Marie      **COURTROOM:** RJC Courtroom 05B

**COURT CLERK:** Serenity Sivongsa  
Vanessa Chavez-Holman  
April Cline  
Shelley Boyle

**RECORDER:** Kimberly Estala

**REPORTER:**

**PARTIES**

**PRESENT:** Owens, Steven S.      Attorney  
Reeves, Taylor Renee      Attorney

**JOURNAL ENTRIES**

- Deft. not present, not transported from Nevada Department of Corrections (NDC).

Colloquy regarding State filing their Response, which COURT NOTED, is already late. Ms. Reeves stated the Response can be FILED by 12.2.22. COURT SO NOTED, matter CONTINUED.

CONTINUED TO: 12.06.22 8:30 A.M.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**December 06, 2022**

---

A-21-835827-W      Luis Castro, Plaintiff(s)  
vs.  
State of Nevada, Defendant(s)

---

**December 06, 2022      8:00 AM      Status Check**

**HEARD BY:** Bell, Linda Marie

**COURTROOM:** RJC Courtroom 05B

**COURT CLERK:** April Cline  
Vanessa Chavez-Holman  
Serenity Sivongsa  
Shelley Boyle

**RECORDER:** Kimberly Estala

**REPORTER:**

**PARTIES**

**PRESENT:** Owens, Steven S.      Attorney  
Reeves, Taylor Renee      Attorney

**JOURNAL ENTRIES**

- Deft. not present, not transported from Nevada Department of Corrections (NDC). Mr. Warren Geller, Esq., also present.

COURT STATED, It received the State's Response; a Hearing needs to be set. Colloquy regarding scheduling. Mr. Owens stated he has spoken with the witnesses, they provided dates they would be available to testify. COURT SO NOTED, and ORDERED, an Evidentiary Hearing SET. Petition CONTINUED. State to prepare the Transport Order; parties are to inform the Court if there are ny scheduling issues.

EVIDENTIARY HEARING: PETITION FOR WRIT OF HABEAS CORPUS...PETITION FOR WRIT OF HABEAS CORPUS 01.20.23 9:00 A.M.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Writ of Habeas Corpus**

**COURT MINUTES**

**January 20, 2023**

---

A-21-835827-W	Luis Castro, Plaintiff(s)
	vs.
	State of Nevada, Defendant(s)

---

**January 20, 2023      9:00 AM      All Pending Motions**

**HEARD BY:** Schwartz, Jennifer      **COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Stephanie Squyres

**RECORDER:** Deloris Scott

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Castro, Luis Angel	Plaintiff
	Owens, Steven S.	Attorney
	Thomson, Megan	Attorney

**JOURNAL ENTRIES**

- Spanish Interpreters Lorena Orozco and Yul Haasman present.

PETITION FOR WRIT OF HABEAS CORPUS...EVIDENTIARY HEARING: PETITION FOR WRIT OF HABEAS CORPUS,

All parties invoke the present of witnesses in the Courtroom. Spanish Interpreter Lorena Orozco SWORN IN. Warran Geller SWORN IN and TESTIFIED. State admitted exhibit. Mr. Geller excused. Jose Antonio Castro Moreno SWORN IN and TESTIFIED. Mr. Castro excused. Angeles Castro SWORN IN and TESTIFIED. Ms. Castro is excused. Luis Castro SWORN IN and TESTIFIED. Mr. Castro excused. Parties proceed with closing arguments. COURT STATES The witnesses had inconsistent testimonies regarding the length of sentencing, Plaintiff was aware their options with previous attorney, and ORDERED, Petition is DENIED.



## EXHIBIT(S) LIST

Case No.: **A835827**

Evidentiary Hearing Date: 01/20/2023

Dept. No.: **17**

Judge: JENNIFER SCHWARTZ

Plaintiff: **LUIS CASTRO**

Court Clerk: Stephanie Squires  
Recorder: DELORIS SCOTT

Recorder: DELORIS SCOTT

Counsel for Plaintiff: STEVEN OWENS

**VS.**

Defendant: **STATE OF NEVADA**

Counsel for Defendant: MEGAN THOMSON

## EVIDENTIARY HEARING BEFORE THE COURT

## STATE'S EXHIBITS

[illegible]

# Certification of Copy

State of Nevada }  
County of Clark } SS:

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

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT  
DOCKET ENTRIES; CIVIL COVER SHEET; SUPPLEMENTAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND ORDER; NOTICE OF ENTRY OF FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER; DISTRICT COURT MINUTES; EXHIBITS LIST

LUIS ANGEL CASTRO,

Plaintiff(s),

vs.

STATE OF NEVADA,

Defendant(s),


Case No: A-21-835827-W

Dept No: XVII

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 23 day of March 2023.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk