

MARC SCHACHTER
#91445
TLVCC
P.O. BOX 208
INDIAN SPRINGS, NV
89070
IN PRO SE

FILED

APR 27 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY [Signature]
DEPUTY CLERK

IN THE SUPREME COURT OF THE
STATE OF NEVADA

MARC PAUL SCHACHTER,
PETITIONER

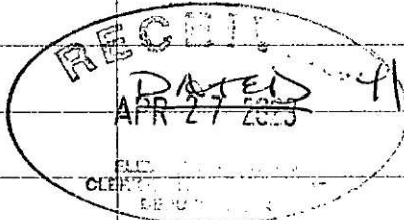
VS.

CASE NO. 86361

THE SECOND JUDICIAL
DISTRICT COURT - WASHOE
AND
STATE OF NEVADA

APPENDIX IN SUPPORT OF PETITION FOR
WRIT OF PROHIBITION

PETITIONER, MARC SCHACHTER, IN PRO SE,
REQUESTS THE FOLLOWING APPENDIX
BE ADDED TO THE RECORD TO
SUPPORT THE PETITION SHOULD THE
COURT GRANT HIS REQUEST FOR
RECONSIDERATION.

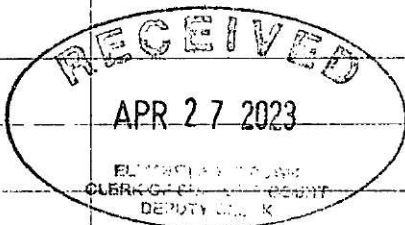


Mac [Signature]
MARC SCHACHTER #91445

23-13253 IN PRO SE

APPENDIX

- (1) JUDGMENT - CASE NO. CR14-1044
FILED ON 3/5/15
- (2) CORRECTED JUDGMENT - CASE NO. CR-14-1044
FILED ON 7/30/15
- (3) ORDER OF COURT OF APPEALS OF THE
STATE OF NEVADA - CASE NO. 84547-COA
FILED ON 9/9/22
- (4) CORRECTED JUDGMENT - CASE NO. CR14-1044
FILED ON 10/13/22
- (5) ORDER TO SET - CASE NO. CR14-1044
FILED ON 2/14/23



NO. 1

NO. 1

EX-11

FILED
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Jacqueline Bryant
Clerk of the Court
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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

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STATE OF NEVADA,

Case No. CR14-1044

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Plaintiff,

Dept. No. 4

11

vs.

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MARC PAUL SCHACHTER,

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Defendant.

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JUDGMENT

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The Defendant, having been found Guilty by a Jury of Attempted Robbery, a violation of NRS 193.330, being an attempt to violate NRS 200.380, a felony, as charged in Count I of the Amended Information, and no sufficient cause being shown by Defendant as to why judgment should not be pronounced against him, the Court renders judgment as follows:

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That Marc Paul Schachter is guilty of the crime of Attempted Robbery, a violation of NRS 193.330, being an attempt to violate NRS 200.380, a felony, as charged in Count I of the Amended Information.

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The State further filed a charge of Being A Habitual Criminal, as defined in NRS 207.010, as charged in Count III of the Amended Information. The matter was heard and the Court finds that the Defendant suffered constitutionally valid previous convictions to support the adjudication of habitual criminal. In addition, after considering all factors in mitigation, the prior lectures he has received, the prior chances from the State through



EX-11

1 negotiations as well as his prior chances on parole, this Court finds that it is just and
2 proper that the Defendant deserves to be declared a habitual criminal. Based upon those
3 findings, this Court finds the Defendant to be a habitual criminal. The Defendant shall be
4 sentenced as a Habitual Criminal, as defined in NRS 207.010(a).

5 The Defendant shall be punished by imprisonment in the Nevada
6 Department of Corrections for the term of forty-eight (48) months with minimum parole
7 eligibility of twelve (12) months with credit for two hundred sixty-three (263) days time
8 served, for Count I; by imprisonment in the Nevada Department of Corrections for the
9 maximum term of twenty (20) years with the minimum parole eligibility of five (5) years,
10 with credit for two hundred sixty-three (263) days time served, for Count III, to be served
11 concurrently with sentence imposed in Count I; and by payment of attorney's fees in the
12 amount of One Thousand Dollars (\$1,000.00) for reimbursement of legal expenses.
13 Defendant is further ordered to pay a Three Dollar (\$3.00) administrative assessment for
14 obtaining a biological specimen and conducting a genetic marker analysis and a Twenty-
15 Five Dollar (\$25.00) administrative assessment fee to the Clerk of the Second Judicial
16 District Court.

17 The fees are subject to removal from the Defendant's books at the Nevada
18 Department of Corrections.

19 Dated this 5 day of March, 2015.
20 NUNC PRO TUNC to February 26, 2015.

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22 Connie J. Steinheimer
23 DISTRICT JUDGE
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No. 2

No. 2

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE
8

9 STATE OF NEVADA,

10 Plaintiff,

Case No. CR14-1044

11 vs.

Dept. No. 4

12 MARC PAUL SCHACHTER,

13 Defendant.
14

15 CORRECTED JUDGMENT

16 The Defendant, having been found Guilty by a Jury of Attempted Robbery, a
17 violation of NRS 193.330, being an attempt to violate NRS 200.380, a felony, as charged
18 in Count I of the Amended Information, and no sufficient cause being shown by Defendant
19 as to why judgment should not be pronounced against him, the Court renders judgment as
20 follows:

21 That Marc Paul Schachter is guilty of the crime of Attempted Robbery, a
22 violation of NRS 193.330, being an attempt to violate NRS 200.380, a felony, as charged
23 in Count I of the Amended Information.

24 The State further filed a charge of Being A Habitual Criminal, as defined in
25 NRS 207.010, as charged in Count III of the Amended Information. The matter was heard
26 and the Court finds that the Defendant suffered constitutionally valid previous convictions
27 to support the adjudication of habitual criminal. In addition, after considering all factors in
28 mitigation, the prior lectures he has received, the prior chances from the State through

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APR 2

EX #2

1 negotiations as well as his prior chances on parole, this Court finds that it is just and
2 proper that the Defendant deserves to be declared a habitual criminal. Based upon those
3 findings, this Court finds the Defendant to be a habitual criminal. The Defendant shall be
4 sentenced as a Habitual Criminal, as defined in NRS 207.010, a felony.

5 For Count I, Attempted Robbery by a habitual criminal, the Defendant shall
6 be punished by imprisonment in the Nevada Department of Corrections for the maximum
7 term of twenty (20) years with the minimum parole eligibility of five (5) years, with credit for
8 two hundred sixty-three (263) days time served; and by payment of attorney's fees in the
9 amount of One Thousand Dollars (\$1,000.00) for reimbursement of legal expenses.
10 Defendant is further ordered to pay a Three Dollar (\$3.00) administrative assessment for
11 obtaining a biological specimen and conducting a genetic marker analysis and a Twenty-
12 Five Dollar (\$25.00) administrative assessment fee to the Clerk of the Second Judicial
13 District Court.

14 The fees are subject to removal from the Defendant's books at the Nevada
15 Department of Corrections.

16 Dated this 29 day of July, 2015.
17 NUNC PRO TUNC to February 26, 2015.

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19 Connie J. Steinheimer
20 DISTRICT JUDGE
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No. 3

No. 3

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARC PAUL SCHACHTER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 84547-COA

FILED

SEP 09 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

*ORDER AFFIRMING IN PART, REVERSING IN PART AND
REMANDING*

Marc Paul Schachter appeals from an order of the district court denying a motion to modify and/or correct an illegal sentence filed on June 11, 2021. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.


Schachter first claimed the sentencing court did not have jurisdiction to issue a corrected judgment of conviction on July 30, 2015, because at that time, Schachter's appeal from his judgment of conviction was pending before the Nevada Supreme Court. A sentence is facially illegal where either the district court was without jurisdiction to impose a sentence or the sentence was imposed in excess of the statutory maximum. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). The parties had agreed that Schachter's original sentence was illegal and should be corrected. However, once an appeal has been filed, the "district judge lacks jurisdiction over a case until the remittitur is issued." *Buffington v. State*, 110 Nev. 124, 126, 868 P.2d 643, 644 (1994).

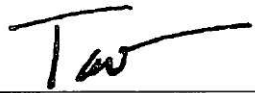
Because the remittitur had not yet issued for Schachter's appeal from his original judgment of conviction when the sentencing court issued the corrected judgment of conviction, the sentencing court did not have jurisdiction to issue the corrected judgment of conviction. Accordingly,

we reverse the district court's decision denying this claim, and we remand this matter to the district court to vacate the corrected judgment of conviction filed on July 30, 2015, and to reissue the judgment following the supreme court's issuance of remittitur in this case.¹

Schachter also claimed that the issuance of the corrected judgment of conviction nunc pro tunc was improper and that he should not have been adjudicated a habitual criminal. These claims fell outside the narrow scope of claims permissible in a motion to modify or correct an illegal sentence. *See Edwards*, 112 Nev. at 708, 918 P.2d at 324. Therefore, without considering the merits of these claims, we conclude the district court did not err by denying them. Accordingly, we

ORDER the judgment of the district court AFFIRMED IN PART AND REVERSED IN PART AND REMAND this matter to the district court for proceedings consistent with this order.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

¹The district court concluded this claim was moot because, in its affirmance of Schachter's original judgment of conviction, the Nevada Supreme Court stated that the corrected judgment of conviction rendered moot Schachter's claim challenging his original sentence. *See Schachter v. State*, No. 67673, 2016 WL 4445661, at *1 n.1 (Nev. Aug. 10, 2016) (Order of Affirmance). However, the Nevada Supreme Court did not address whether the sentencing court had jurisdiction to enter its corrected judgment of conviction. Therefore, we conclude the district court erred by rejecting Schachter's jurisdictional argument as moot.

No. 4

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE
8

9 STATE OF NEVADA,

10 Plaintiff,

Case No. CR14-1044

11 vs.

Dept. No. 4

12 MARC PAUL SCHACHTER,

13 Defendant.
14 _____ /

15 CORRECTED JUDGMENT

16 The Defendant, having been found Guilty by a Jury of Attempted Robbery, a
17 violation of NRS 193.330, being an attempt to violate NRS 200.380, a felony, as charged
18 in Count I of the Amended Information, and no sufficient cause being shown by Defendant
19 as to why judgment should not be pronounced against him, the Court renders judgment as
20 follows:

21 That Marc Paul Schachter is guilty of the crime of Attempted Robbery, a
22 violation of NRS 193.330, being an attempt to violate NRS 200.380, a felony, as charged
23 in Count I of the Amended Information.

24 The State further filed a charge of Being A Habitual Criminal, as defined in
25 NRS 207.010, as charged in Count III of the Amended Information. The matter was heard
26 and the Court finds that the Defendant suffered constitutionally valid previous convictions
27 to support the adjudication of habitual criminal. In addition, after considering all factors in
28 mitigation, the prior lectures he has received, the prior chances from the State through

APR 27 2023

CLERK OF COURT
DEPUTY CLERK

1 negotiations as well as his prior chances on parole, this Court finds that it is just and
2 proper and that the Defendant deserves to be declared a habitual criminal. Based upon
3 those findings, this Court finds the Defendant to be a habitual criminal. The Defendant
4 shall be sentenced as a Habitual Criminal, as defined in NRS 207.010, a felony.

5 For Count I, Attempted Robbery by a habitual criminal, the Defendant shall
6 be punished by imprisonment in the Nevada Department of Corrections for the maximum
7 term of twenty (20) years with the minimum parole eligibility of five (5) years, with credit for
8 two hundred sixty-three (263) days time served; and by payment of attorney's fees in the
9 amount of One Thousand Dollars (\$1,000.00) for reimbursement of legal expenses.
10 Defendant is further ordered to pay a Three Dollar (\$3.00) administrative assessment for
11 obtaining a biological specimen and conducting a genetic marker analysis and a Twenty-
12 Five Dollar (\$25.00) administrative assessment fee to the Clerk of the Second Judicial
13 District Court.

14 The fees are subject to removal from the Defendant's books at the Nevada
15 Department of Corrections.

16 Dated this 13 day of October, 2022.
17 NUNC PRO TUNC to February 26, 2015.

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19 Connie J. Steinheimer
20 DISTRICT JUDGE
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No. 5

No. 5

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6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**
8

9 **MARC PAUL SCHACHTER,**

10 **Petitioner,**

11 **vs.**

12 **THE STATE OF NEVADA,**

13 **Respondent.**
14 _____ /

Case No. CR14-1044

Dept. No. 4

15 **ORDER TO SET**

16 On September 13, 2022, the Nevada Supreme Court's Order Affirming in Part,
17 Reversing in Part and Remanding entered in Case No. 84547, was filed into the above
18 entitled matter.

19 On October 4, 2022, Petitioner Marc Paul Schachter (hereinafter "SCHACHTER"),
20 in pro per, filed a *Petition for Writ of Habeas Corpus (Post-Conviction)*.

21 On October 6, 2022, the Remittitur for Nevada Supreme Court Case 84547 was
22 issued on October 4, 2022, and entered into the above-entitled matter on October 6, 2022.

23 On October 13, 2022, the Court entered an *Order Vacating Corrected Judgment of*
24 *Conviction filed on July 30, 2015, and Re-Issuing the Corrected Judgment of Conviction*
25 *Pursuant to Order by Nevada Supreme Court, and a Corrected Judgment*. Also, on
26 October 13, 2022, the Court entered an *Order* directing the State of Nevada to Respond to
27 *Petition for Writ of Habeas Corpus (Post-Conviction)* filed on October 6, 2022 within forty-
28 *five (45) days* of the date of the Order.

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CLERK OF THE COURT
DEPUTY CLERK

1 On October 18, 2022, SCHACHTER filed a *Memorandum of Points and Authorities*
2 *in Support of a Habeas Corpus*.

3 On November 28, 2022, the STATE OF NEVADA filed a *Motion to Dismiss Petition*
4 *for Writ of Habeas Corpus*. On December 19, 2022, SCHACHTER filed a *Response to*
5 *Motion to Dismiss Petition for Writ of Habeas Corpus – Post Conviction Relief*, and
6 submitted his Petition for Writ of Habeas Corpus (Post-Conviction) for the Court's
7 consideration.

8 On January 31, 2023, SCHACHTER filed a *Request for Expedited Hearing on*
9 *Petitioner's Writ of Habeas Corpus*.

10 The Court having reviewed the pleadings filed herein, finds that oral arguments on
11 the State of Nevada's Motion to Dismiss filed on November 28, 2022 would assist the
12 Court in deciding the Motion.

13 Therefore, with good cause appearing and in the interests of justice,

14 IT IS HEREBY ORDERED that the State of Nevada shall contact Department
15 Four's Judicial Assistant within thirty (30) days of the date of this Order to set oral
16 arguments on the State of Nevada's Motion to Dismiss filed on November 28, 2022. Once
17 oral arguments on the Motion are set with the State and confirmed with the Nevada
18 Department of Corrections, the Petitioner will be notified of the hearing date by Order of
19 the Court.

20 Dated this 14 day of February, 2023.

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23 Connie J. Steinheimer
24 DISTRICT JUDGE
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