

Steven D. Grierson

WilburT Hickman #
62150
P.O. Box 650 H.D.S.P
Indian Springs, NV. 89070

Electronically Filed
May 12 2023 10:26 AM
Elizabeth A. Brown
Clerk of Supreme Court

District Court
CLARK COUNTY, NEVADA

WilburT Hickman #
905481
Defendant

C-12-2786 99-1

-VS-

STATE OF Nevada
Respondent

Notice OF APPEAL

Notice is hereby given that WilburT Hickman, Petitioner/
DEFENDANT ABOVE NAMED, hereby Appeals to the District Court
OF NEVADA from the DATE OF HEARING MARCH 29, 2023 Time of
HEARING 9:15 AM / (MOTION to CORRECT ILLEGAL SENTENCE)
ENTERED in this ACTION on the 7th day of February 2023

DATED this 03th Day OF MAY, 2023

WilburT Hickman Jr.
Appellant/DEFENDANT
WilburT Hickman

CLERK OF THE COURT

MAY 08 2023

RECEIVED

Wilbur T Hickman # 62150
H.D.S.P
P.O. Box 650
INDIAN SPRINGS, NV. 89070

REGIONAL JUSTICE CENTER
STEVEN D. GRIERSON
CLERK OF THE COURT
200 LEWIS AVE. 3RD FLOOR
LASGAS, NV. 89155-2212

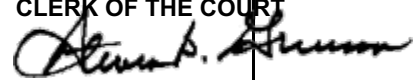
C/O CLERK OF THE COURT

89155-2212

LAS VEGAS NV 890

4 MAY 2023 PM 5 L





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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 WILBURT HICKMAN
14 aka WILLIAM HICKS,

15 Defendant(s),

Case No: C-12-278699-1

Dept No: XXIII

16
17 **CASE APPEAL STATEMENT**
18

19 1. Appellant(s): Wilburt Hickman, Jr.

20 2. Judge: Jasmin Lily-Spells

21 3. Appellant(s): Wilburt Hickman, Jr.

22 Counsel:

23 Wilburt Hickman, Jr. #62150
24 P.O. Box 650
25 Indain Springs, NV 89070

26 4. Respondent: The State of Nevada

27 Counsel:

28 Steven B. Wolfson, District Attorney
200 Lewis Ave.

Las Vegas, NV 89101
(702) 671-2700

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: Yes

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: January 10, 2012

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

Type of Judgment or Order Being Appealed: Misc. Order

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 64776, 80596, 84316

12. Child Custody or Visitation: N/A

Dated This 10 day of May 2023.

Steven D. Grierson, Clerk of the Court

/s/ Amanda Hampton

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

cc: Wilburt Hickman, Jr.

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY
CASE NO. C-12-278699-1

State of Nevada
vs
Wilburt Hickman

§ Location: Department 23
§ Judicial Officer: Lilly-Spells, Jasmin
§ Filed on: 01/10/2012
§ Case Number History:
§ Cross-Reference Case Number: C278699
§ Defendant's Scope ID #: 905481
§ ITAG Booking Number: 1100075829
§ ITAG Case ID: 1332273
§ Lower Court Case # Root: 11F21695
§ Lower Court Case Number: 11F21695X
§ Supreme Court No.: 64776
§ 80596
§ 84316

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
1. ATT. MURDER WITH A DEADLY WEAPON	200.030	F	12/18/2011	Case Status:	04/26/2023 Closed
2. ATT. MURDER WITH A DEADLY WEAPON	200.030	F	12/18/2011		
3. ATT. MURDER WITH A DEADLY WEAPON	200.030	F	12/18/2011		
4. ATT. MURDER WITH A DEADLY WEAPON	200.030	F	12/18/2011		
5. ATT. MURDER WITH A DEADLY WEAPON	200.030	F	12/18/2011		
6. ATT. MURDER WITH A DEADLY WEAPON	200.030	F	12/18/2011		
7. ATT. MURDER WITH A DEADLY WEAPON	200.030	F	12/18/2011		
8. ATT. MURDER WITH A DEADLY WEAPON	200.030	F	12/18/2011		
9. BATTERY WITH USE OF A DEADLY WEAPON	200.481	F	12/18/2011		
10. BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM	200.481	F	12/18/2011		
11. ASSAULT WITH A DEADLY WEAPON	200.471	F	12/18/2011		
12. ASSAULT WITH A DEADLY WEAPON	200.471	F	12/18/2011		
13. ASSAULT WITH A DEADLY WEAPON	200.471	F	12/18/2011		
14. ASSAULT WITH A DEADLY WEAPON	200.471	F	12/18/2011		
15. ASSAULT WITH A DEADLY WEAPON	200.471	F	12/18/2011		
16. ASSAULT WITH A DEADLY WEAPON	200.471	F	12/18/2011		
17. BURGLARY	205.060	F	12/18/2011		
18. MALICIOUS DESTRUCTION PRIVATE PROPERTY	206.310	F	12/18/2011		

Statistical Closures

04/26/2023 Other Manner of Disposition - Criminal
03/13/2014 Jury Trial - Conviction - Criminal
01/09/2014 Jury Trial - Conviction - Criminal

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number C-12-278699-1
Court Department 23
Date Assigned 09/07/2021

CASE SUMMARY**CASE NO. C-12-278699-1**
Lilly-Spells, Jasmin
















Judicial Officer

PARTY INFORMATION

Defendant	Hickman, Wilburt	<i>Lead Attorneys</i> Shell, Alina <i>Retained</i> 702-678-5070(W)
Plaintiff	State of Nevada	Wolfson, Steven B 702-671-2700(W)

DATE	EVENTS & ORDERS OF THE COURT	INDEX
	<u>EVENTS</u>	
01/10/2012	 Criminal Bindover - Confidential <i>[1] Criminal Bindover (Confidential)</i>	<i>In</i> #1
01/11/2012	 Information <i>[2] Information</i>	<i>In</i> #2
01/30/2012	 Notice of Witnesses <i>[3] Notice of Witnesses [NRS 174.234(1)(a)]</i>	<i>In</i> #3
02/01/2012	 Notice of Hearing <i>[4] Notice of Hearing</i>	<i>In</i> #4
02/09/2012	 Reporters Transcript Filed By: Plaintiff State of Nevada <i>[5] Transcript of Hearing Held on January 4, 2012</i>	<i>In</i> #5
02/16/2012	 Motion to Continue Trial Filed By: Defendant Hickman, Wilburt <i>[6] Motion to Continue Trial Date</i>	<i>In</i> #6
02/28/2012	 Petition for Writ of Habeas Corpus <i>[7] Petition for Writ of Habeas Corpus</i>	<i>In</i> #7
03/07/2012	 Order <i>[8] Order</i>	<i>In</i> #8
03/08/2012	 Writ of Habeas Corpus <i>[9] Writ of Habeas Corpus</i>	<i>In</i> #9
03/14/2012	 Return to Writ of Habeas Corpus <i>[10] Return to Writ of Habeas Corpus</i>	<i>In</i> #10
04/03/2012	 Amended Information <i>[11] Amended Information</i>	<i>In</i> #11

CASE SUMMARY
CASE NO. C-12-278699-1

04/09/2012	 Order Denying Filed By: Plaintiff State of Nevada <i>[12] Order Denying Defendant's Writ of Habeas Corpus in Part and Granting in Part</i>	In #1
04/30/2012	 Notice of Entry of Order <i>[13] Notice of Entry of Order</i>	In #1
06/29/2012	 Motion for Discovery Filed By: Defendant Hickman, Wilburt <i>[14] Motion for Discovery</i>	In #1
08/31/2012	 Supplemental <i>[15] Supplemental Notice of Witnesses [NRS 174.234(1)(a)]</i>	In #1
09/05/2012	 Supplemental <i>[16] Second Supplemental Notice of Witnesses [NRS 174.234(1)(a)]</i>	In #1
09/05/2012	 Notice of Expert Witnesses <i>[17] Notice of Expert Witnesses [NRS 174.234(2)]</i>	In #1
09/10/2012	 Supplemental <i>[18] Supplemental Notice of Expert Witnesses [NRS 174.234(2)]</i>	In #1
09/24/2012	 Motion to Continue Trial <i>[19] Motion to Continue Trial Date</i>	In #1
10/03/2012	 Response <i>[20] State's Response to Defendant's Motion for Discovery</i>	In #2
10/18/2012	 Order Filed By: Defendant Hickman, Wilburt <i>[21] Order</i>	In #2
04/17/2013	 Substitution of Attorney Filed by: Defendant Hickman, Wilburt <i>[22] Substitution of Attorneys</i>	In #2
06/20/2013	 Supplemental <i>[23] Second Supplemental Notice of Expert Witnesses [NRS 174.234(2)]</i>	In #2
06/20/2013	 Supplemental <i>[24] Third Supplemental Notice of Witnesses [NRS 174.234(1)(a)]</i>	In #2
06/21/2013	 Amended <i>[25] Amended Second Supplemental Notice of Expert Witnesses</i>	In #2
06/21/2013	 Amended	In #2

CASE SUMMARY

CASE NO. C-12-278699-1

	<i>[26] Amended Third Supplemental Notice of Witnesses [NRS 174.234(1)(a)]</i>	
08/23/2013	 Notice <i>[28] Notice of Habitual Criminality</i>	In #2
08/23/2013	 Supplemental <i>[27] Fourth Supplemental Notice of Witnesses [NRS 174.234(1)(a)]</i>	In #2
08/30/2013	 Amended Information <i>[29] Second Amended Information</i>	In #2
09/03/2013	 Jury List <i>[30] Jury List</i>	In #2
09/06/2013	 Proposed Jury Instructions Not Used At Trial <i>[34] Defendant's Proposed Jury Instructions Not Used at Trial</i>	In #2
09/09/2013	 Amended Jury List <i>[31] Amended Jury List</i>	In #2
09/09/2013	 Instructions to the Jury <i>[32] Instructions to the Jury</i>	In #2
09/09/2013	 Verdict <i>[33] Verdict</i>	In #2
10/17/2013	 Notice of Motion Filed By: Defendant Hickman, Wilburt <i>[35] Notice of Motion and Motion for Ineffective Assistance of Counsel and Motion for New Trial</i>	In #2
10/17/2013	 Notice of Change of Hearing <i>[36] Notice of Change of Hearing</i>	In #2
10/30/2013	 Opposition <i>[37] State's Opposition to Defendant's Notice of Motion and Motion for Ineffective Assistance of Counsel and Motion for New Trial</i>	In #2
11/06/2013	 PSI <i>[38] Presentence Investigation Report (Unfiled) Confidential</i>	In #2
11/26/2013	 Notice of Motion <i>[39] Notice of Motion</i>	In #2
11/26/2013	 Affidavit in Support <i>[41] Defendant's Affidavit of Support for Motion for Continuance on Grounds of Absences of Witness Testimonies and Discovery Evidence</i>	In #4
12/03/2013		In

CASE SUMMARY

CASE NO. C-12-278699-1

	 Receipt of Copy <i>[42] Receipt of Copy</i>	#4
01/02/2014	 Judgment of Conviction <i>[43] Judgment of Conviction (Jury Trial)</i>	In #4
01/06/2014	 Notice of Appeal (Criminal) Party: Defendant Hickman, Wilburt <i>[44] Notice of Direct Appeal</i>	In #4
01/06/2014	 Document Filed Filed by: Defendant Hickman, Wilburt <i>[45] Direct Appeal</i>	In #4
01/08/2014	 Case Appeal Statement <i>[46] Case Appeal Statement</i>	In #4
01/22/2014	 Notice of Motion <i>[47] Notice of Motion and Motion for Reconsideration of Motion for a New Trial Due to Ineffective Assistance of Counsel and Conflict of Interest</i>	In #4
01/24/2014	 Opposition <i>[48] State's Opposition to Defendant's Pro Per Direct Appeal</i>	In #4
02/07/2014	 Response <i>[49] State's Response to Defendant's Notice of Motion and Motion for Reconsideration of Motion for New Trial</i>	In #4
02/24/2014	 Order Denying <i>[50] Order Denying Defendant's Notice of Motion and Motion for Reconsideration of Motion for New Trial</i>	In #5
03/13/2014	 Criminal Order to Statistically Close Case <i>[51] Criminal Order to Statistically Close Case</i>	In #5
03/18/2014	 Recorders Transcript of Hearing <i>[52] Transcript of Hearing Held on September 3, 2013</i>	In #5
03/18/2014	 Recorders Transcript of Hearing <i>[53] Transcript of Hearing Held on September 4, 2013</i>	In #5
03/18/2014	 Recorders Transcript of Hearing <i>[54] Transcript of Hearing Held on September 5, 2013</i>	In #5
03/18/2014	 Recorders Transcript of Hearing <i>[55] Transcript of Hearing Held on September 6, 2013</i>	In #5
03/18/2014	 Recorders Transcript of Hearing <i>[56] Transcript of Hearing Held on September 9, 2013</i>	In #5

CASE SUMMARY**CASE NO. C-12-278699-1**

03/24/2014	 Recorders Transcript of Hearing <i>[57] Transcript of Hearing Held on December 18, 2013</i>	In #6
08/19/2014	 Ex Parte Order <i>[58] Ex-Parte Order to Appoint Counsel and to Waive District Court Filing Fees</i>	In #5
11/26/2014	 Request <i>[59] Request for Recorder's Transcripts</i>	In #5
01/09/2015	 Recorders Transcript of Hearing <i>[60] Transcript of Hearing Held on September 3, 2013</i>	In #6
01/09/2015	 Recorders Transcript of Hearing <i>[61] Transcript of Hearing Held on September 6, 2013</i>	In #6
10/16/2015	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>[62] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed</i>	In #6
01/07/2016	 Motion <i>[64] Motion for Production of Documents, Papers, Pleadings, and Tangible Property of Defendant</i>	In #6
01/07/2016	 Motion to Withdraw As Counsel <i>[63] Motion to Withdraw Counsel</i>	In #6
02/18/2016	 Order Granting Motion <i>[65] Order Granting Defendant's Pro Per Motion to Withdraw Counsel and Order Denying Defendant's Pro Per Motion for Production of Documents, Papers, Pleadings and Tangible Property of Defendant</i>	In #6
02/22/2016	 Motion to Compel <i>[66] Motion to Compel</i>	In #6
03/24/2016	 Filed Under Seal Filed By: Defendant Hickman, Wilburt <i>[67] Application to Proceed Informa Pauperis (Sealed)</i>	In #6
03/25/2016	 Notice of Motion <i>[70] Notice of Motion</i>	In #7
03/25/2016	 Petition for Writ of Habeas Corpus <i>[68] *Evidentiary Hearing Requested* Petition for Writ of Habeas Corpus (Post-Conviction)</i>	In #6
03/25/2016	 Motion for Appointment of Attorney <i>[69] Motion for the Appointment of Counsel</i>	In #6
04/06/2016	 Notice of Hearing <i>[71] Notice of Hearing</i>	In #7

CASE SUMMARY
CASE NO. C-12-278699-1

04/06/2016	 Order for Petition for Writ of Habeas Corpus <i>[72] Order for Petition for Writ of Habeas Corpus</i>	In #7
05/04/2016	 Motion <i>[73] Petitioner's Motion to Disqualification of Judge Carolyn Ellsworth - Dept. No. 5</i>	In #7
05/17/2016	 Response <i>[74] State's Response to Defendant's Post-Conviction Petition for Writ of Habeas Corpus and Opposition to Motion for the Appointment of Counsel and Request for Evidentiary Hearing</i>	In #7
05/25/2016	 Order Denying Motion <i>[75] Order Denying Defendant's Pro Per Motion to Compel</i>	In #7
07/01/2016	 Notice of Change of Hearing <i>[76] Notice of Change of Hearing</i>	In #7
08/08/2016	 Motion for Order <i>[77] Motion for Order for Production of Records from Prior Counsel</i>	In #7
08/16/2016	 Supplement <i>[78] Supplement to Motion for Order for Production of Records from Prior Counsel</i>	In #7
09/02/2016	 Motion <i>[79] Motion for Paralegal Fees</i>	In #7
09/07/2016	 Opposition to Motion <i>[80] State's Opposition to Defendant's Motion for Paralegal Fees</i>	In #8
09/12/2016	 Reply to Opposition <i>[81] Reply to State's Opposition to Motion for Paralegal Fees</i>	In #8
10/04/2016	 Notice of Entry of Order <i>[83] Notice of Entry of Order</i>	In #8
10/04/2016	 Order Granting Motion <i>[82] Order Granting Defendant's Motion for Paralegal Fees</i>	In #8
10/11/2016	 Request <i>[84] Request for Recorder's Transcripts</i>	In #8
10/20/2016	 Motion <i>[85] Motion and Notice of Motion for Supplemental Fees</i>	In #8
10/25/2016	 Opposition <i>[86] State's Opposition to Defendant's Motion for Supplemental Fees</i>	In #8

CASE SUMMARY

CASE NO. C-12-278699-1

10/27/2016	 Declaration <i>[87] Declaration of Alina M. Shell in Support of Petitioner's Motion for Supplemental Fees</i>	In #8
12/27/2016	 Notice of Entry of Order <i>[89] Notice of Entry of Order</i>	In #8
12/27/2016	 Stipulation and Order <i>[88] Stipulated Extension of Habeas Petition Dates and [Proposed] Order</i>	In #8
12/28/2016	 Order Denying Motion <i>[90] Order Denying Defendant's Motion for Supplemental Fees</i>	In #9
03/16/2017	 Stipulation and Order <i>[91] Stipulated Extension of Habeas Petition Dates and [Proposed] Order</i>	In #9
03/20/2017	 Notice of Entry of Order <i>[92] Notice of Entry of Order</i>	In #9
03/28/2017	 Notice of Entry of Order <i>[94] Notice of Entry of Order</i>	In #9
03/28/2017	 Stipulation and Order <i>[93] Stipulated Extension of Habeas Petition Dates and [Proposed] Order</i>	In #9
04/28/2017	 Supplemental <i>[95] Supplemental Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus (Post-Conviction)</i>	In #9
04/28/2017	 Appendix <i>[96] Appendix of Exhibits to Supplemental Memorandum Points and Authorities in Support of Petition for Writ of Habeas Corpus (Post-Conviction)</i>	In #9
05/11/2017	 Order <i>[97] Motion and [Proposed] Order to File Under Seal</i>	In #9
05/11/2017	 Notice of Entry of Order <i>[98] Notice of Entry of Order</i>	In #9
05/15/2017	 Filed Under Seal Filed By: Defendant Hickman, Wilburt <i>[99] Sealed Appendix of Exhibits to Supplemental Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus (Post- Conviction) Under Seal (Sealed)</i>	In #9
06/20/2017	 Response Filed by: Plaintiff State of Nevada <i>[100] State's Response to Defendant's Supplemental Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus (Post-Conviction)</i>	In #1

CASE SUMMARY
CASE NO. C-12-278699-1

08/22/2017	 Ex Parte Motion Filed By: Defendant Hickman, Wilburt <i>[101] Ex Parte Motion and Order to File Under Seal Under Seal (Sealed)</i>	In #1
08/22/2017	 Ex Parte Motion Filed By: Defendant Hickman, Wilburt <i>[102] Ex Parte Motion and [Proposed] Order for Retained Expert Under Seal (Sealed)</i>	In #1
09/19/2017	 Order Filed By: Defendant Hickman, Wilburt <i>[103] Protective Order</i>	In #1
09/19/2017	 Notice of Entry of Order Filed By: Defendant Hickman, Wilburt <i>[104] Notice of Entry of Order</i>	In #1
01/26/2018	 Stipulation and Order Filed by: Defendant Hickman, Wilburt <i>[105] Stipulated Extension of Habeas Petition Date and Order</i>	In #1
01/26/2018	 Notice of Entry of Order Filed By: Defendant Hickman, Wilburt <i>[106] Notice of Entry of Order</i>	In #1
03/02/2018	 Stipulation and Order Filed by: Defendant Hickman, Wilburt <i>[107] Stipulated Extension of Habeas Petition Dates and [Proposed] Order</i>	In #1
03/02/2018	 Notice of Entry of Order Filed By: Defendant Hickman, Wilburt <i>[108] Notice of Entry of Order</i>	In #1
06/05/2018	 Stipulation and Order Filed by: Defendant Hickman, Wilburt <i>[109] Stipulated Extension of Habeas Petition Dates and [Proposed] Order</i>	In #1
06/05/2018	 Notice of Entry of Order Filed By: Defendant Hickman, Wilburt <i>[110] Notice of Entry of Order</i>	In #1
06/14/2018	 Supplement Filed by: Defendant Hickman, Wilburt <i>[111] Supplement to Supplemental Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus (Post-Conviction)</i>	In #1
08/17/2018	 Response Filed by: Plaintiff State of Nevada <i>[112] State's Response to Defendant's Supplement to Supplemental Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus</i>	In #1

CASE SUMMARY

CASE NO. C-12-278699-1

08/30/2018	 Reply Filed by: Defendant Hickman, Wilburt <i>[113] Reply to Response to Supplemental Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus (Post-Conviction)</i>	In #1
09/28/2018	 Order for Production of Inmate <i>[114] Order for Production of Inmate Wilburt Hickman, BAC #62150</i>	In #1
05/14/2019	 Order Filed By: Defendant Hickman, Wilburt <i>[115] Order for Supplemental Fees for Expert</i>	In #1
06/06/2019	 Notice of Change of Firm Name Filed By: Defendant Hickman, Wilburt <i>[116] Notice of Change of Firm Name</i>	In #1
01/10/2020	 Findings of Fact, Conclusions of Law and Order <i>[117] Findings of Fact, Conclusions of Law and Order</i>	In #1
01/13/2020	 Notice of Entry Filed By: Plaintiff State of Nevada <i>[118] Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>	In #1
02/12/2020	 Notice of Appeal (Criminal) Party: Defendant Hickman, Wilburt <i>[119] Notice of Appeal</i>	In #1
02/12/2020	 Case Appeal Statement Filed By: Defendant Hickman, Wilburt <i>[120] Case Appeal Statement</i>	In #1
02/24/2020	 Request Filed by: Defendant Hickman, Wilburt <i>[121] Request for Transcript of Proceeding</i>	In #1
04/06/2020	 Recorders Transcript of Hearing <i>[122] Transcript of Hearing Held on September 27, 2019</i>	In #1
01/04/2021	Case Reassigned to Department 1 <i>Judicial Reassignment to Judge Bitu Yeager</i>	
09/07/2021	Case Reassigned to Department 23 <i>From Judge Bitu Yeager to Judge Jasmin Lilly-Spells</i>	
12/01/2021	 Motion to Modify Sentence Filed By: Defendant Hickman, Wilburt <i>[123] Motion to Modify and/or Correct Illegal Sentence</i>	In #1
12/01/2021	 Notice of Motion Filed By: Defendant Hickman, Wilburt	In #1

CASE SUMMARY

CASE NO. C-12-278699-1

	<i>[124] Notice of Motion</i>	
01/04/2022	 Response Filed by: Plaintiff State of Nevada <i>[125] State's Response to Defendant's Motion to Correct Illegal Sentence</i>	In #1
02/28/2022	 Notice of Appeal (Criminal) Party: Defendant Hickman, Wilburt <i>[126] Notice of Appeal</i>	In #1
03/01/2022	 Case Appeal Statement <i>[127] Case Appeal Statement</i>	In #1
03/10/2022	 Order Denying Motion <i>[128] Order Denying Defendant's Pro Per Motion to Modify and/or Correct Illegal Sentence</i>	In #1
03/15/2022	 Proof of Service by Mail Filed by: Defendant Hickman, Wilburt <i>[129] Proof of Service by Mail</i>	In #1
10/19/2022	 NV Supreme Court Clerks Certificate/Judgment - Affirmed <i>[130] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed</i>	In #1
03/07/2023	 Motion to Modify Sentence Filed By: Defendant Hickman, Wilburt <i>[131] Motion for Modification of Sentence</i>	In #1
03/21/2023	 Response <i>[132] State's Response to Defendant's Motion to Correct Illegal Sentence</i>	In #1
03/21/2023	 Certificate of Service <i>[133] State's Amended Certificate of Service</i>	In #1
04/14/2023	 Motion for Withdrawal Filed By: Defendant Hickman, Wilburt <i>[134] Motion for Withdrawal as Counsel of Record</i>	In #1
04/14/2023	 Clerk's Notice of Hearing <i>[135] Notice of Hearing</i>	In #1
04/19/2023	 Notice of Rescheduling of Hearing <i>[136] Motion to Withdraw as Counsel</i>	In #1
04/26/2023	 Order Denying <i>[137] Order Denying Defendant's Pro Per Motion to Modify Sentence</i>	In #1
05/09/2023	 Notice of Appeal (Criminal) <i>[138] Notice of Appeal</i>	In #1

CASE SUMMARY
CASE NO. C-12-278699-1

05/10/2023



Case Appeal Statement

Case Appeal Statement

*In
#1*

DISPOSITIONS

01/12/2012

Plea (Judicial Officer: Ellsworth, Carolyn)

1. ATT. MURDER WITH A DEADLY WEAPON

Not Guilty

PCN: Sequence:

2. ATT. MURDER WITH A DEADLY WEAPON

Not Guilty

PCN: Sequence:

3. ATT. MURDER WITH A DEADLY WEAPON

Not Guilty

PCN: Sequence:

4. ATT. MURDER WITH A DEADLY WEAPON

Not Guilty

PCN: Sequence:

5. ATT. MURDER WITH A DEADLY WEAPON

Not Guilty

PCN: Sequence:

6. ATT. MURDER WITH A DEADLY WEAPON

Not Guilty

PCN: Sequence:

7. ATT. MURDER WITH A DEADLY WEAPON

Not Guilty

PCN: Sequence:

8. ATT. MURDER WITH A DEADLY WEAPON

Not Guilty

PCN: Sequence:

9. BATTERY WITH USE OF A DEADLY WEAPON

Not Guilty

PCN: Sequence:

10. BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM

Not Guilty

PCN: Sequence:

11. ASSAULT WITH A DEADLY WEAPON

Not Guilty

PCN: Sequence:

12. ASSAULT WITH A DEADLY WEAPON

Not Guilty

PCN: Sequence:

13. ASSAULT WITH A DEADLY WEAPON

Not Guilty

PCN: Sequence:

14. ASSAULT WITH A DEADLY WEAPON

Not Guilty

PCN: Sequence:

CASE SUMMARY
CASE NO. C-12-278699-1

15. ASSAULT WITH A DEADLY WEAPON

Not Guilty

PCN: Sequence:

16. ASSAULT WITH A DEADLY WEAPON

Not Guilty

PCN: Sequence:

17. BURGLARY

Not Guilty

PCN: Sequence:

18. MALICIOUS DESTRUCTION PRIVATE PROPERTY

Not Guilty

PCN: Sequence:

08/30/2013 **Disposition** (Judicial Officer: Ellsworth, Carolyn)

18. MALICIOUS DESTRUCTION PRIVATE PROPERTY

Amended Information Filed/Charges Not Addressed

PCN: Sequence:

09/09/2013 **Disposition** (Judicial Officer: Ellsworth, Carolyn)

9. BATTERY WITH USE OF A DEADLY WEAPON

Guilty

PCN: Sequence:

10. BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM

Guilty

PCN: Sequence:

11. ASSAULT WITH A DEADLY WEAPON

Guilty

PCN: Sequence:

12. ASSAULT WITH A DEADLY WEAPON

Guilty

PCN: Sequence:

13. ASSAULT WITH A DEADLY WEAPON

Guilty

PCN: Sequence:

14. ASSAULT WITH A DEADLY WEAPON

Guilty

PCN: Sequence:

15. ASSAULT WITH A DEADLY WEAPON

Guilty

PCN: Sequence:

16. ASSAULT WITH A DEADLY WEAPON

Guilty

PCN: Sequence:

17. BURGLARY

Guilty

PCN: Sequence:

CASE SUMMARY
CASE NO. C-12-278699-1

09/25/2013	<p>Disposition (Judicial Officer: Ellsworth, Carolyn)</p> <p><i>Hung Jury</i></p> <p>1. ATT. MURDER WITH A DEADLY WEAPON Dismissed PCN: Sequence:</p> <p>2. ATT. MURDER WITH A DEADLY WEAPON Dismissed PCN: Sequence:</p> <p>3. ATT. MURDER WITH A DEADLY WEAPON Dismissed PCN: Sequence:</p> <p>4. ATT. MURDER WITH A DEADLY WEAPON Dismissed PCN: Sequence:</p> <p>5. ATT. MURDER WITH A DEADLY WEAPON Dismissed PCN: Sequence:</p> <p>6. ATT. MURDER WITH A DEADLY WEAPON Dismissed PCN: Sequence:</p> <p>7. ATT. MURDER WITH A DEADLY WEAPON Dismissed PCN: Sequence:</p> <p>8. ATT. MURDER WITH A DEADLY WEAPON Dismissed PCN: Sequence:</p>
12/18/2013	<p>Adult Adjudication (Judicial Officer: Ellsworth, Carolyn)</p> <p>9. BATTERY WITH USE OF A DEADLY WEAPON 12/18/2011 (F) 200.481 (5025) PCN: Sequence:</p> <hr/> <p>Sentenced to Nevada Dept. of Corrections Term: Minimum:60 Months, Maximum:215 Months Other Fees 1. , \$26,272.50 Payable to Anneesah Franklin</p>
12/18/2013	<p>Adult Adjudication (Judicial Officer: Ellsworth, Carolyn)</p> <p>10. BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM 12/18/2011 (F) 200.481 (8005) PCN: Sequence:</p> <hr/> <p>Sentenced to Nevada Dept. of Corrections Term: Minimum:60 Months, Maximum:215 Months Consecutive: Charge 9 Other Fees 1. , \$3,263.73 Anyla Hoye</p>
12/18/2013	<p>Adult Adjudication (Judicial Officer: Ellsworth, Carolyn)</p> <p>11. ASSAULT WITH A DEADLY WEAPON 12/18/2011 (F) 200.471 (5024) PCN: Sequence:</p> <hr/> <p>Sentenced to Nevada Dept. of Corrections</p>

CASE SUMMARY**CASE NO. C-12-278699-1**

Term: Minimum:16 Months, Maximum:72 Months
Concurrent: Charge 10

12/18/2013 **Adult Adjudication** (Judicial Officer: Ellsworth, Carolyn)
12. ASSAULT WITH A DEADLY WEAPON
12/18/2011 (F) 200.471 (5024)
PCN: Sequence:

Sentenced to Nevada Dept. of Corrections
Term: Minimum:16 Months, Maximum:72 Months
Concurrent: Charge 11

12/18/2013 **Adult Adjudication** (Judicial Officer: Ellsworth, Carolyn)
13. ASSAULT WITH A DEADLY WEAPON
12/18/2011 (F) 200.471 (5024)
PCN: Sequence:

Sentenced to Nevada Dept. of Corrections
Term: Minimum:16 Months, Maximum:72 Months
Concurrent: Charge 12

12/18/2013 **Adult Adjudication** (Judicial Officer: Ellsworth, Carolyn)
14. ASSAULT WITH A DEADLY WEAPON
12/18/2011 (F) 200.471 (5024)
PCN: Sequence:

Sentenced to Nevada Dept. of Corrections
Term: Minimum:16 Months, Maximum:72 Months
Concurrent: Charge 13

12/18/2013 **Adult Adjudication** (Judicial Officer: Ellsworth, Carolyn)
15. ASSAULT WITH A DEADLY WEAPON
12/18/2011 (F) 200.471 (5024)
PCN: Sequence:

Sentenced to Nevada Dept. of Corrections
Term: Minimum:16 Months, Maximum:72 Months
Concurrent: Charge 14

12/18/2013 **Adult Adjudication** (Judicial Officer: Ellsworth, Carolyn)
16. ASSAULT WITH A DEADLY WEAPON
12/18/2011 (F) 200.471 (5024)
PCN: Sequence:

Sentenced to Nevada Dept. of Corrections
Term: Minimum:16 Months, Maximum:72 Months
Concurrent: Charge 15

12/18/2013 **Adult Adjudication** (Judicial Officer: Ellsworth, Carolyn)
17. BURGLARY
12/18/2011 (F) 205.060 (5506)
PCN: Sequence:

Sentenced to Nevada Dept. of Corrections
Term: Minimum:22 Months, Maximum:96 Months
Concurrent: Charge 16
Credit for Time Served: 731 Days

Fee Totals:

Administrative	
Assessment Fee	25.00
\$25	
DNA Fee \$150	150.00

CASE SUMMARY

CASE NO. C-12-278699-1

Fee Totals \$

175.00

HEARINGS

01/12/2012	 Initial Arraignment (9:00 AM) (Judicial Officer: De La Garza, Melisa) Events: 01/10/2012 Criminal Bindover - Confidential Plea Entered; Journal Entry Details: <i>DEFT. HICKMAN ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. COURT ORDERED, matter set for trial. COURT ORDERED, counsel has 21 days after the filing of the Preliminary Hearing transcript or today's date, whichever is later, to file a Writ. CUSTODY 02/29/12 9:00 AM CALENDAR CALL 03/05/12 1:30 PPM JURY TRIAL ;</i>
02/22/2012	 Motion (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) Events: 02/16/2012 Motion to Continue Trial <i>Motion to Continue Trial Date</i> Granted; Journal Entry Details: <i>There being no opposition, good cause appearing and the Defendant waiving his right to a speedy trial. COURT ORDERED, motion GRANTED; trial dates VACATED and RESET. CUSTODY 9/24/12 9:00 AM CALENDAR CALL 10/1/12 1:30 PM JURY TRIAL ;</i>
02/27/2012	CANCELED Calendar Call (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Vacated</i>
03/05/2012	CANCELED Jury Trial (1:30 PM) (Judicial Officer: Ellsworth, Carolyn) <i>Vacated - per Judge</i>
03/28/2012	 Petition for Writ of Habeas Corpus (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) Events: 02/28/2012 Petition for Writ of Habeas Corpus Granted in Part; Journal Entry Details: <i>DEFT'S PETITION FOR WRIT OF HABEAS CORPUS Deft. present in custody. Counsel submitted matter on the briefs. COURT finds as to the issue of the alternate theory on Count 15 Motion GRANTED, but DENIED as to the rest of the Motion; as to the Attempt Murder, Petition DENIED; and as to Malicious Destruction Petition is DENIED for purpose of the Writ. State to prepare order and file Amended Information. CUSTODY ;</i>
09/24/2012	Calendar Call (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) Matter Heard;
09/24/2012	 Motion for Discovery (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) 09/24/2012, 10/10/2012, 10/15/2012 Events: 06/29/2012 Motion for Discovery <i>Defendant's Motion for Discovery</i> Continued; Continued; Motion Granted; Journal Entry Details: <i>DEFENDANT'S MOTION FOR DISCOVERY Deft. present in custody. As to Request #1-4, Motion GRANTED; as to Request #5 any and all records of car-to-car police communications is already covered by #4, Motion GRANTED; as to Request #6 any and all information relating to other suspects, Motion GRANTED; as to Request #7-24 any and all statements taped or otherwise, Motion GRANTED, and State to make an affirmative inquiry; as to Request #25-42 any and all relevant criminal history, Motion GRANTED to the extent of Brady material; as to Request #43-44, Motion GRANTED; as to Request #45 any and all officer and/or detective reports, Motion GRANTED; as to Request #46 and an all officer and/or detective notes, Motion GRANTED and State to make an affirmative inquiry; as to Request #47 any other reports, witness statements, affidavits, declarations, video, or other material the State is relying on in its case in chief, Motion GRANTED. Ms. Ballou to prepare the Order. CUSTODY ;</i> Continued; Continued; Motion Granted; Journal Entry Details:

CASE SUMMARY

CASE NO. C-12-278699-1

	<p><i>DEFT'S MOTION FOR DISCOVERY</i> Deft. present in custody. Mr. Bonaventure requested this be continued for Ms. Ballou to be present. COURT ORDERED, matter CONTINUED. CUSTODY CONTINUED TO: 10/15/12 9 AM ;</p> <p>Continued;</p> <p>Continued;</p> <p>Motion Granted;</p>
09/24/2012	<p> All Pending Motions (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)</p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>CALENDAR CALL...DEFENDANT'S MOTION FOR DISCOVERY MOTION TO CONTINUE TRIAL DATE FILED IN OPEN COURT</i> Mr. Scow announced ready to proceed to Trial, but indicated there was no opposition to the Motion to Continue, as this case needed investigating. COURT ORDERED Motion to Continue GRANTED; Trial date VACATED and RESET. Court noted that the Motion for Discovery was filed on June 29, 2012, and no opposition had been filed. Mr. Scow stated that he believed the Motion could be resolved out of Court, and requested a continuance; Ms. Ballou advised she was amenable to a continuance, and suggested a Status Check be set. COURT ORDERED Motion for Discovery CONTINUED two weeks; Mr. Scow to file a response within ten (10) days. CUSTODY 10/10/12 9:00 AM DEFENDANT'S MOTION FOR DISCOVERY 4/8/13 9:00 AM CALENDAR CALL 4/15/13 1:30 PM JURY TRIAL ;</p>
10/01/2012	<p>CANCELED Jury Trial (1:30 PM) (Judicial Officer: Ellsworth, Carolyn)</p> <p><i>Vacated - per Judge</i></p>
03/13/2013	<p> Request (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)</p> <p><i>Deft's request for new trial setting</i></p> <p>Vacated and Reset;</p> <p>Journal Entry Details:</p> <p><i>ALSO PRESENT: Michael Posen, Esq. Mr. Posen advised he is not counsel of record for Deft., but he will be substituting in. Court directed Mr. Posen to file a Substitution of Attorney motion; once filed, the Public Defender's office will then transfer Deft.'s file to Mr. Posen. All parties agreed to set new trial dates for mid to late May. COURT ORDERED, trial dates vacated and reset. CUSTODY 5/6/2013 9:00 AM CALENDAR CALL 5/13/2013 1:30 PM JURY TRIAL ;</i></p>
04/08/2013	<p>CANCELED Calendar Call (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)</p> <p><i>Vacated - per Judge</i></p>
04/15/2013	<p>CANCELED Jury Trial (1:30 PM) (Judicial Officer: Ellsworth, Carolyn)</p> <p><i>Vacated - per Judge</i></p>
04/17/2013	<p> Status Check: Trial Setting (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)</p> <p>Vacated and Reset;</p> <p>Journal Entry Details:</p> <p><i>STATUS CHECK: TRIAL SETTING</i> Deft. present in custody. Mr. Posin filed a Substitution of Attorney in OPEN COURT, and requested trial date to be reset. COURT ORDERED, trial date VACATED and RESET. Court noted this is the last time trial date will be reset. CUSTODY 8/26/13 9:00 AM CALENDAR CALL 9/3/13 1:30 PM JURY TRIAL ;</p>
05/06/2013	<p>CANCELED Calendar Call (9:00 AM) (Judicial Officer: Thompson, Charles)</p> <p><i>Vacated - per Judge</i></p>
05/13/2013	<p>CANCELED Jury Trial (1:00 PM) (Judicial Officer: Ellsworth, Carolyn)</p> <p><i>Vacated - per Judge</i></p>
08/26/2013	<p> Calendar Call (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)</p> <p>08/26/2013, 08/28/2013</p> <p>Matter Continued;</p> <p>Trial Date Set;</p> <p>Journal Entry Details:</p> <p><i>CALENDAR CALL</i> Deft. present in custody. Counsel announced ready. COURT ORDERED, matter SET for trial. CUSTODY 9/3/13 9 AM JURY TRIAL HAMNER/POSIN 5-6 DAYS ;</p> <p>Matter Continued;</p> <p>Trial Date Set;</p>

CASE SUMMARY**CASE NO. C-12-278699-1**

Journal Entry Details:

Mr. Hamner advised the Court trial is expected to go 5-6 days making is not eligible for overflow. Court TRAILED matter to allow Mr. Posin to be present. Matter RECALLED with Mr. Posin present but not Mr. Hamners. Court CONTINUED matter. 8/28/13 9:00 AM CONTINUED CUSTODY ;

09/03/2013

**Jury Trial (9:00 AM)** (Judicial Officer: Ellsworth, Carolyn)**09/03/2013-09/06/2013, 09/09/2013**

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

JURY TRIAL Jury Deliberations continued. OUTSIDE THE PRESENCE OF THE JURY. Court advised the jury foreman was bring brought into the courtroom to as the foreman had sent out a question regarding if the jury could not come to an agreement on all the charges. At 12:13 PM Jury Foreman brought into the courtroom. Upon Court's inquiry, Foreman stated the jurors had agreed upon some of the charges but not others; however, there was a possibility they might be able to continue deliberations. Court advised the Jury Foreman that the Jury could come back with a verdict on some charges even if they were hung on other charges; however, those undecided charges would have to be re-tried and advised the foreman to return to continue deliberations. Foreman excused at 12:15 PM tor return to jury room for further deliberations. Juror's note admitted as Court's exhibit #1. Court advised the jury foreman was going to be brought in as the jury had not reached a verdict on all of the counts and to inquire if further deliberations would change the jury's decision. At 3:26 PM Jury Foreman brought into the courtroom. Upon Court's inquiry, Foreman stated he did not think further deliberations would change the jurors decision on the undecided charges. Foreman excused at 3:26 PM. Court noted the amount of time the Jury had deliberated and that additional deliberations would not result in the jury making a decision on the hung charges. State and Defense agreed to discontinue additional deliberations and accept the verdict as it stands at this time. **IN THE PRESENCE OF THE JURY:** Upon Court's inquiry, Foreman advised further deliberations would not return a verdict as to the hung charges. At 3:31 PM this date, jury returned with the following verdicts: COUNTS 1, 2, 3, 4, 5, 6, 7, and 8 HUNG JURY. **GUILTY of: COUNT 9 BATTERY WITH USE OF A DEADLY WEAPON (AMNESIA FRANKLIN); COUNT 10 BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (ANIELA HOYER); COUNT 11 ASSAULT WITH USE OF A DEADLY WEAPON (ALLEN BURSE); COUNT 12 ASSAULT WITH USE OF A DEADLY WEAPON (WASHINGTON THOMPSON); COUNT 13 ASSAULT WITH USE OF A DEADLY WEAPON (MARQUETTE JENKINS); COUNT 14 ASSAULT WITH USE OF A DEADLY WEAPON (RAMEKIN ADAMS); COUNT 15 ASSAULT WITH USE OF A DEADLY WEAPON (SHARON POWELL); COUNT 16 ASSAULT WITH USE OF A DEADLY WEAPON (TIFFANY TRESS); COUNT 17 BURGLARY. OUTSIDE THE PRESENCE OF THE JURY:** Upon Court's inquiry, State requested additional time to determine whether they would like a trial set on the hung charges. Arguments by State in support of remanding Deft. Argument by Mr. Posin regarding bail. **COURT ORDERED, Deft. REMANDED INTO CUSTODY; NO BAIL. COURT FURTHER ORDERED, matter SET for Status Check on setting a sentencing date and whether the state would like a re-trial set on the hung charges. CUSTODY 9/25/13 9:00 AM - STATUS CHECK: SET SENTENCING DATE...STATE'S DECISION ON RETRYING ON REMAINING COUNTS/RESET TRIAL DATE ;**

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY: Argument by Mr. Posin as to whether Defendant's proposed instruction regarding when voluntary intoxication may be considered and what should be considered to convict a defendant of attempted murder. Court advised Mr. Posin the specific intent was already covered in other instructions and would therefore be duplicative. Jury Instructions settled. Court advised Deft. of his right not to testify. Deft. **INVOKED** his right to remain silent and chose to not to testify. **IN THE PRESENCE OF THE JURY.** Testimony presented per worksheet. Plaintiff and Defense rested. Court instructed jury. Closing arguments by counsel. At 12:30 PM this date, jury retired to begin deliberations. Jury Trial, CONTINUED for deliberations. Court **ADJOURNED. EVENING RECESS CUSTODY 9/9/13 8:30 AM - JURY TRIAL ;**

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

JURY TRIAL IN THE PRESENCE OF THE JURY. Testimony and exhibits per worksheets. **CONFERENCE AT BENCH. COURT ADMONISHED and EXCUSED** jury for evening recess; ADVISED to return tomorrow at 10:00

CASE SUMMARY

CASE NO. C-12-278699-1

A.M. OUTSIDE THE PRESENCE OF THE JURY: COURT DIRECTED counsel to meet in Chambers at 2:00 PM to settle jury instructions off the record. Matter CONTINUED. Court ADJOURNED. EVENING RECESS CUSTODY CONTINUED TO: 9/6/13 10:00 AM;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

JURY TRIAL IN THE PRESENCE OF THE JURY. Testimony and exhibits per worksheets. EVENING RECESS CONTINUED TO: 9/4/13 9 AM ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

TRIAL BY JURY IN THE PRESENCE OF JURY VENIRE. Panel sworn and jury selection commenced. Twelve jurors and two alternates selected. Clerk read information and advised of Deft's pleas of not guilty. Court instructed jury as to trial procedure. Opening statements by counsel. Testimony and exhibits per worksheets. EVENING RECESS CONTINUED TO: 9/4/13 1:30 PM ;

09/25/2013



Status Check (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

Status Check: Set Sentencing Date...State's Decision on Retrying on remaining counts/Reset trial date Continued;

Journal Entry Details:

STATUS CHECK: SET SENTENCING DATE...STATE'S DECISION ON RETRYING ON REMAINING COUNTS / RESET TRIAL DATE Deft. present in custody. State advised they are not going to proceed on counts 1-8. COURT ORDERED, CTS 1- 8 DISMISSED WITH PREJUDICE. FURTHER, matter referred to P&P and SET for sentencing. CUSTODY CONTINUED TO: 12/4/13 9 AM ;

11/04/2013



Motion to Withdraw as Counsel (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

Defendant's Notice of Motion and Motion for Ineffective Assistance of Counsel and Motion for New Trial Motion Denied; Defendant's Notice of Motion and Motion for Ineffective Assistance of Counsel and Motion for New Trial

Journal Entry Details:

DEFENDANT'S NOTICE OF MOTION AND MOTION FOR INEFFECTIVE ASSISTANCE OF COUNSEL AND MOTION FOR NEW TRIAL Deft. present in custody and Mitchell Posin, Esq., not present. COURT ADVISED, Deft. he was not allowed to file a motion when represented by counsel; noted a Motion for New Trial and Ineffective Assistance of Counsel had been filed. Statement by Deft. regarding whether his attorney was ineffective due to trial preparations and the lack of attorney client correspondence leading up to trial; whether his attorney had filed a timely motion on his behalf. COURT FURTHER NOTED, Mr. Posin would not be discharged as counsel until he had filed a proper motion and, ORDERED, Motion DENIED. FURTHER NOTED, ineffective assistance is a post trial conviction matter. CUSTODY;

12/04/2013



Sentencing (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

12/04/2013, 12/09/2013, 12/18/2013

Sentencing - CTS 9 - 17

Continued;

Defendant Sentenced;

Journal Entry Details:

SENTENCING 9-17 Deft. present in custody. DEFT. HICKMAN ADJUDGED GUILTY OF CT 9 - BATTERY WITH USE OF A DEADLY WEAPON (F) under the SMALL HABITUAL STATUTE; CT 10 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (F) under the SMALL HABITUAL STATUTE; COUNTS 11 - 16 - ASSAULT WITH USE OF A DEADLY WEAPON (F); and CT 17 BURGLARY (F). A packet of Deft's PRIOR JOC'S provided by the State ADMITTED as State's exhibit number 1. Arguments by counsel. Statement by Deft. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, a \$150.00 DNA Analysis fee including testing to determine genetic markers, and RESTITUTION total amount of \$26,272.50, payable as noted in sentence below, Deft. SENTENCED to: CT 9 - a MAXIMUM TWO HUNDRED AND FIFTEEN (215) of MONTHS and MINIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC) and \$12,639.83 RESTITUTION payable to ANNEESA FRANKLIN; CT 10 - a MAXIMUM TWO HUNDRED AND FIFTEEN (215) of MONTHS and MINIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC) and \$3,263.73 RESTITUTION

CASE SUMMARY

CASE NO. C-12-278699-1

payable to ANYLA HOYE, to run CONSECUTIVE to CT 9; CT 11 - a MAXIMUM SEVENTY TWO (72) MONTHS and MINIMUM of SIXTEEN (16) MONTHS in the NDC to run CONCURRENT with CT 10; CT 12 - a MAXIMUM SEVENTY TWO (72) MONTHS and MINIMUM of SIXTEEN (16) MONTHS in the NDC to run CONCURRENT with CT 11; CT 13 - a MAXIMUM SEVENTY TWO (72) MONTHS and MINIMUM of SIXTEEN (16) MONTHS in the NDC to run CONCURRENT with CT 12; CT 14 - a MAXIMUM SEVENTY TWO (72) MONTHS and MINIMUM of SIXTEEN (16) MONTHS in the NDC to run CONCURRENT with CT 13; CT 15 - a MAXIMUM SEVENTY TWO (72) MONTHS and MINIMUM of SIXTEEN (16) MONTHS in the NDC to run CONCURRENT with CT 14; CT 16 - a MAXIMUM SEVENTY TWO (72) MONTHS and MINIMUM of SIXTEEN (16) MONTHS in the NDC to run CONCURRENT with CT 15; CT 17 - a MAXIMUM NINETY SIX (96) MONTHS and MINIMUM of TWENTY TWO (22) MONTHS in the NDC, and \$10,369.04 RESTITUTION payable to ANTIOCH CHURCH OF LAS VEGAS, INC A NON-PROFIT CORP dba ANTIOCH CHURCH, to run CONCURRENT with CT 16 with 731 DAYS credit for time served. NDC ;

Continued;

Defendant Sentenced;

Journal Entry Details:


SENTENCING CTS 9-17 Deft. present in custody. Mr. Posin advised both sides agree to continue sentencing as Deft. wants him to withdraw as counsel. COURT ORDERED, Mr. Posin allowed to withdraw, and PD's office to interview Deft. to see if he qualifies. Mr. Bonaventure objected as it is the policy of office not to take over cases for sentencing. Court noted they are only going to see if he qualifies at this time. Deft. advised he did not fire Mr. Posin, but Mr. Posin wants more money for sentencing, and he can not pay him now as he is in custody. COURT ORDERED, matter CONTINUED. CUSTODY 12/9/13 9 AM SENTENCING CTS 9-17...CONFIRMATION OF COUNSEL (PD) ;

12/09/2013 **Motion to Continue** (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

Motion for Continuance on Grounds of Absences of Witnesses and Discover Evidence Requesting New Counsel and New Trial to Submit New Evidence

12/09/2013 **Confirmation of Counsel** (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

Confirmation of Counsel (PD)


12/09/2013  **All Pending Motions** (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

All Pending Motions 12/9/13

Matter Heard;

Journal Entry Details:

DEFT'S MOTION FOR CONTINUANCE ON GROUNDS OF ABSENCES OF WITNESSES & DISCOVER EVIDENCE, REQUESTING NEW COUNSEL & NEW TRIAL TO SUBMIT NEW EVIDENCE...SENTENCING...CONFIRMATION OF COUNSEL (PUBLIC DEFENDER) Deft. present in custody. Mr. Posin advised he withdrew on Monday. Mr. Rue objected based on office policy not to take over a case at sentencing. Mr. Posin stated Deft. wanted him to withdraw, but will do as ordered by the Court. COURT ORDERED, it is reversing Judge Hardcastle's order and Mr. Posin will NOT be allowed to withdraw as counsel. FURTHER, he will remain as counsel until he has filed fast track appeal for Deft. after sentencing. COURT noted as to Deft's Motion, it is a fugitive document that should not have been filed and ORDERED, it to be stricken. State noted there is an issue with the PSI, as it lists 6 misdemeanor's but Scope shows about 17. Court provided copies handwritten letters on Deft's behalf to State and Mr. Posin. Mr. Posin advised he gave Deft. a copy of his file, and requested sentencing be continued so he can speak to Deft. COURT ORDERED, sentencing CONTINUED. Upon request of Mr. Posin, COURT ORDERED, Deft. determined to be indigent for purposes of obtaining transcripts. CUSTODY 12/18/13 9 AM SENTENCING ;

01/29/2014  **Hearing** (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)


Events: 01/06/2014 Document Filed

Defendant - Direct Appeal

Appeal Dismissed;

Journal Entry Details:

HEARING DEFT. - DIRECT APPEAL Deft. nor his counsel present. COURT NOTED this motion was filed in properly in State Court, however, his counsel properly filed direct appeal with Supreme Court. FURTHER, this Court does not have jurisdiction to hear direct appeal and ORDERED, appeal is stricken as moot. CCDC (NDC) CLERK'S NOTE: Clerk mailed copy of minutes to Deft. this date./dt Wilbert Hickman #0905481 Clark County Detention Center 330 S. Casino Center Blvd. Las Vegas, NV 89101 ;

02/12/2014  **Motion For Reconsideration** (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

Defendant's Notice of Motion and Motion for Reconsideration of Motion for a New Trial Due to Ineffective Assistance of Counsel and Conflict of Interest






Denied;

Journal Entry Details:

CASE SUMMARY

CASE NO. C-12-278699-1

DEFT'S PRO PER MOTION FOR RECONSIDERATION OF MOTION FOR A NEW TRIAL DUE TO INEFFECTIVE ASSISTANCE OF COUNSEL AND CONFLICT OF ANSWER Deft. nor his counsel present. COURT ORDERED, Motion DENIED, this type of motion must be filed by way of a post conviction relief writ of habeas corpus. NDC ;

08/18/2014	 Appointment of Counsel (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) Granted; Journal Entry Details: <i>APPOINTMENT OF COUNSEL Deft. not present. Ms. Wildeveld confirmed as counsel and Order to Appoint Counsel signed in open court. Upon Ms. Wildeveld inquiry, Court advised she can put matter back on calendar if she has trouble getting file. NDC ;</i>
02/01/2016	Motion (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Defendant's Pro Per Motion to Withdraw Counsel</i>
02/01/2016	Motion (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Defendant's Pro Per Motion for Production of Documents, Papers, Pleadings, and Tangible Property of Defendant</i>
02/01/2016	 All Pending Motions (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>All Pending Motions: 2/1/16</i> Matter Heard; Journal Entry Details: <i>DEFT'S PRO PER MOTION TO WITHDRAW COUNSEL...DEFT'S PRO PER MOTION FOR PRODUCTION OF DOCUMENTS, PAPERS, PLEADINGS AND TANGIBLE PROPERTY OF DEFT. Deft. not present. Without benefit of argument, COURT finds both motions have identical points and authorities, an attached affidavit is mentioned, however, there is not affidavit attached. FURTHER, there is nothing in motion indicating he has tried to obtain his file and counsel refused to send it to him. COURT ORDERED, Motion to withdraw counsel is GRANTED and Motion for Pro Per Motion for Production is DENIED WITHOUT PREJUDICE, unless or until he can show Court that he has/had requested said documents and counsel refused. State to prepare the order. NDC CLERK'S NOTE: A copy of minute order mailed to Deft. on 2/2/16./dt WILBER HICKMAN NDOP #62150 P.O. BOX 208 INDIAN SPRINGS, NV 89070;</i>
03/14/2016	 Motion to Compel (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Defendant's Motion to Compel</i> Denied; Journal Entry Details: <i>DEFT'S MOTION TO COMPEL Deft. not present. Ms. Wildeveld advised she has sent Deft. 2 copies, the latest one was 1/14/16, and showed Court proof. Further, she brought another copy in case someone else wanted to send it and see if it got to Deft. COURT ORDERED, Motion to Compel is DENIED, and had Ms. Wildeveld provide Court with the copy for her staff to send to Deft. NDC;</i>
06/15/2016	Petition for Writ of Habeas Corpus (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)
06/15/2016	Motion for Appointment of Attorney (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Petitioner's Pro Per Motion for Appointment of Counsel</i>
06/15/2016	 All Pending Motions (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>All Pending Motions: C278699</i> Matter Heard; Journal Entry Details: <i>PETITIONER'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS...PETITIONER'S PRO PER MOTION FOR APPOINTMENT OF COUNSEL Deft. not present. Court noted as to ground 1, it should have been brought up on initial appeal. As to general allegations of ineffective assistance of trial counsel, COURT ORDERED, matter referred to Mr. Christensen's office for appoint of counsel to review Deft's allegations. FURTHER, Matter CONTINUED. NDC 6/20/16 9 AM CONFIRMATION OF COUNSEL ...RESET WRIT;</i>
06/20/2016	 Confirmation of Counsel (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Confirmation of Counsel / Reset Writ</i> Confirmed; Journal Entry Details: <i>CONFIRMATION OF COUNSEL / RESET WRIT Deft. present in custody. Ms. Shell advised she can accept</i>

CASE SUMMARY**CASE NO. C-12-278699-1**

appointment for post-conviction relief and request this be continued for 30 days before setting briefing schedule so she can try to get file from trial lawyer. COURT ORDERED, matter CONTINUED. NDC 7/20/16 9 AM STATUS CHECK: SET BRIEFING SCHEDULE ;

07/20/2016

**Status Check** (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

Status Check: Receipt of File...Set Briefing Schedule

Continued;

Journal Entry Details:

STATUS CHECK: RECEIPT OF FILE...SET BRIEFING SCHEDULE Deft. not present. Ms. Shell advised she is still waiting for records and requested until early January to file her supplemental petition. COURT ORDERED, briefing schedule as follows: Deft's Supplemental brief due January 9, 2017; State to respond by 3/13/17; Deft. to reply by 5/3/17 with matter being set for hearing thereafter. Court noted after hearing, she will decide if evidentiary hearing is needed with Deft. present. NDC 5/3/17 9 AM HEARING: WRIT OF HABEAS CORPUS (POST-CONVICTION) ;

07/28/2016

**Motion to Disqualify Judge** (3:00 AM) (Judicial Officer: Barker, David)

Petitioner's Pro Per Motion to Disqualification of Judge Carolyn Ellsworth, Dept. No. 5

Off Calendar; Petitioner's Pro Per Motion to Disqualification of Judge Carolyn Ellsworth, Dept. No. V

Journal Entry Details:

COURT NOTES no record of proper service of the motion upon Judge Ellsworth. As a result, Judge Ellsworth's obligation to file an answer in response to the motion pursuant to NRS 1.235(5) has not been triggered. COURT FURTHER NOTES Defendant filed the motion to disqualify in proper person but he is now represented in this matter by attorney Alina Shell. COURT ORDERED, the clerk is directed to forward a copy of Defendant's motion and this minute order to attorney Alina Shell for review. Upon review of Defendant's motion and after consultation with Defendant, Ms. Shell as Defendant's attorney to decide whether to file and properly serve a motion for disqualification of Judge Ellsworth. It is FURTHER ORDERED, Defendant's Motion for Disqualification of Judge Carolyn Ellsworth Dept. No. 5, FILED, May 4, 2016, OFF CALENDAR. CLERK'S NOTE: The above minute order has been distributed to: McLetchie Shell, LLC (Alina Shell, Esq.). ac/07/28/16.;

08/22/2016

**Motion for Order** (9:00 AM) (Judicial Officer: Bixler, James)

Petitioner's Motion for Order for Production of Records from Prior Counsel

Matter Heard;

Journal Entry Details:

PETITIONER'S MOTION FOR ORDER FOR PRODUCTION OF RECORDS FROM PRIOR COUNSEL Deft. not present. Court noted he received a letter by fax this morning about sending file to Deft. in 2014. Ms. Shell advised Court of the problems she has had trying to obtain the file. She did receive a file, but it has no work product, such as interviews with witnesses, etc., and this was a long case with multiple charges, so there has to be more than what was presented. COURT ORDERED, Mr. Posin to provide everything he has on the case and provide Court with written verification to Court and counsel. FURTHER, matter CONTINUED for status check. NDC 9/25/16 9 AM STATUS CHECK: RECORDS CLERK'S NOTE: Law clerk called and left message on Mr. Posin's voicemail./dt;

09/19/2016

**Motion** (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

Defendant's Motion for Paralegal Fees

Granted;

Journal Entry Details:

DEFT'S MOTION FOR PARALEGAL FEES Deft. not present. State opposes motion. COURT finds that \$50.00 per hour for a paralegal is preferable to paying for attorney to do some of the work needed on this case. Upon Court's inquiry, Ms. Shell stated she could probably use 60 - 80 hours. COURT ORDERED, Motion GRANTED for 40 hours, and if she needs more time, she can bring matter back on calendar. NDC;

09/28/2016

**Status Check** (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

Status Check: Records

Off Calendar;

Journal Entry Details:

STATUS CHECK: RECORDS Deft. not present. Ms. Shell advised she believes she has received Mr. Posin's entire file. COURT ORDERED, matter OFF CALENDAR. NDC;

11/07/2016

**Motion** (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

Defendant's Motion for Supplemental Fees

Denied;

Journal Entry Details:

CASE SUMMARY

CASE NO. C-12-278699-1

DEFT'S MOTION FOR SUPPLEMENTAL FEES Deft. not present. Statement by Ms. Shell. COURT stated findings and ORDERED, Motion DENIED. NDC;

07/24/2017  **Status Check** (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

07/24/2017, 08/14/2017, 08/21/2017


Status Check: Request for Briefing Schedule Extension
Continued; Status Check: Request for Briefing Schedule Extension
Continued;
Briefing Schedule Set;
Continued; Status Check: Request for Briefing Schedule Extension
Continued;
Briefing Schedule Set;
Continued; Status Check: Request for Briefing Schedule Extension
Continued;
Briefing Schedule Set;
Journal Entry Details:

Deft. not present, incarcerated in the Nevada Dept. of Corrections (NDC). COURT NOTED, it was concerned that there was a request for a briefing schedule extension for the Reply, there was no request for an evaluation and there would be new matters raised. Ms. Shell stated when she took on this case in November she had started requesting records, but she didn't receive the social security records until June, which was after she had filed the supplement on this matter; additionally, she had issues getting hold of her investigator and she wanted to give the State time to responded. Ms. Pandukht stated she had concerns that the 90 day request seemed lengthy, mental health was not brought up to prior counsel, or in the plea, there was an evaluation done four months prior to the incident and he did not have any issues; argued this was irrelevant and no matter what the Deft. s mental state was now it was irrelevant. COURT NOTED, it had this type of matter come up before, where a psychiatrist or psychologist couldn't say whether the Deft. had a mental health issue at the time; therefore, it wanted to make sure first there was a basis and the expert the Defense wanted to hire, could say he would be able to opine on what the Deft.'s mental health state was at the time and that request would need to be made upon the Court. Ms. Shell stated the Deft. was receiving treatment from Southern Nevada Adult Mental Health Services (SNAMHS) at the time of the offense and several years prior to, and that was included with her supplement; advised she needed an expert to look at the voluminous records. COURT DIRECTED, the defense to send those records for in camera review this week and ORDERED, matter CONTINUED three weeks to allow it to review the records, then it would look at the State's documents and determine how much time for the supplement, the States response, and the Defense reply. COURT FURTHER ORDERED, the matter currently set on July 31, 2017 is VACATED. NDC 8/17/17 - 9:00 AM - STATUS CHECK: REQUEST FOR BRIEFING SCHEDULE EXTENSION ... STATUS CHECK: RESET HEARING;

07/31/2017 **CANCELED Hearing** (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)
Vacated - per Judge

08/14/2017 **Status Check** (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)
08/14/2017, 08/21/2017

Status Check: Reset Hearing
Continued;
Matter Heard;
Continued;
Matter Heard;

08/14/2017  **All Pending Motions** (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

MINUTES

Matter Heard;
Journal Entry Details:

STATUS CHECK: RESET HEARING ... STATUS CHECK: REQUEST FOR BRIEFING SCHEDULE EXTENSION
Deft. not present, incarcerated in the Nevada Dept. of Corrections (NDC). COURT NOTED, it had the ex parte motion to retina the expert and the order to file under seal for all the records, which it had reviewed and there were a lot of records. FURTHER NOTED, the social security was messed up as in 2008 the evaluator indicated the Deft. was a malingerer, but two years later after reviewing the same documentation another evaluator approved and gave the Deft. benefits; therefore, ORDERED, the ex parte motion to appoint an expert GRANTED; DIRECTED, counsel to provide the documents to the State, the new evaluator will have to look at the documents, and the defense will have to show how this matter fits into Strickland. As to providing the documents, Ms. Shell requested to prepare an order as medical records were protected. COURT SO AGREED. Further, Ms. Shell requested the status checks be CONTINUED one week. COURT SO ORDERED and DIRECTED Ms. Shell to send the Widdis order over as it had approved fees to obtain an expert. Order related to filing documents under seal SIGNED IN OPEN COURT and provided to Ms. Shell to

CASE SUMMARY

CASE NO. C-12-278699-1

file. NDC CONTINUED TO: 8/21/17 - 9:00 AM;

08/21/2017



All Pending Motions (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

Matter Heard;

Journal Entry Details:

STATUS CHECK: RESET HEARING ... STATUS CHECK: REQUEST FOR BRIEFING SCHEDULE EXTENSION
Deft. not present incarcerated in the Nevada Dept. of Corrections. Ms. Shell stated she spoke with the expert and based on his schedule he will be able to go out to do the assessment in October; therefore, requested the briefing schedule be set to begin in later December. COURT ORDERED, matter SET for hearing and counsel advised of following briefing schedule: Defendant's supplemental brief DUE BY 12/18/17, State's response DUE BY 2/16/18, Defendant's reply DUE BY 3/2/18. NDC 3/19/18 - 9:00 AM - HEARING: SUPPLEMENTAL MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION);

02/28/2018



At Request of Court (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

Re: Stipulation to Extend Habeas Petition Dates

Matter Heard;

Journal Entry Details:

Deft. not present. CONFERENCE AT THE BENCH. COURT NOTED this matter was placed on calendar because there was another stipulation to extend the petition dates and it wanted to make sure this was the last extension; therefor, ADVISED, it would sign the order and figure out the appropriate date and have its JEA indicate the date within the order. COURT ORDERED, matter CURRENTLY set for June 11, 2018 is VACATED and TO BE RESET sometime after July 20, 2018. NDC ;

09/10/2018



Hearing (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

Hearing: Supplemental Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus (Post-Conviction)

08/13/2018 Continued to 09/10/2018 - Stipulation and Order - Hickman, Wilburt

VACATED & TO BE RESET AFTER ORDER HAS BEEN SIGNED

Hearing Set;

Journal Entry Details:

Deft. not present, incarcerated in the Nevada Dept. of Corrections (NDC). COURT ORDERED, matter SET for evidentiary hearing on whether the Deft. was mentally ill at any time counsel had dealt with the Deft. Colloquy regarding the other attorneys who represented the Deft. Ms. Pandukht stated she was ready to argue the matter and opposed an evidentiary hearing from being set. CONFERENCE AT THE BENCH. NDC 11/30/18 - 9:00 AM - EVIDENTIARY HEARING: SUPPLEMENTAL MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION);

11/30/2018

CANCELED Evidentiary Hearing (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

Vacated

EVIDENTIARY HEARING: SUPPLEMENTAL MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

09/27/2019



Evidentiary Hearing (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)

EVIDENTIARY HEARING: SUPPLEMENTAL MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

03/22/2019 Continued to 05/31/2019 - At the Request of Counsel - Hickman, Wilburt

counsel unavailable

Matter Heard;

Journal Entry Details:

Deft. present at liberty. Upon Court's inquiry, Deft. ACKNOWLEDGED his attorney client privilege would have to be WAIVED. Mr. Hamner INVOKED the exclusionary rule. Testimony and Exhibit presented (see worksheets). Argument by Ms. Shell in support of the Petition, noting that the Deft.'s trial and sentencing counsel had a duty, to ask the Deft. about his Mental Health (MH). Further argument by Ms. Shell regarding how it prejudiced the Deft. at sentencing, as the Court may not have imposed the small habitual criminal provision, if it had known the Deft. had MH issues. COURT ADVISED, knowing what it knew now, that the Deft. intentionally went off his medications and he had been grossly intoxicated, it more than likely would have sentenced the Deft. for a longer time, as it would have felt the Deft. was a danger. COURT NOTED, even in a controlled environment, the Deft. refused to take his medications, FURTHER ADVISED, the Deft. was a hazard to society and it would not have sentenced the Deft. to a lesser time, as all those things wouldn't have mitigated, they would have enhanced. Ms. Shell submitted. Argument by Mr. Hamner in opposition to the petition, noting why Mr. Posin would not have asked about the Deft.'s MH status, as the Deft. did not show any external symptoms of having a MH illness. COURT FURTHER NOTED, based upon the testimony, it didn't

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-12-278699-1


think the Deft.'s attorney would have thought the Deft. had a MH issue, as the Deft. stated he concealed it. COURT FINDS there was no showing that trial counsel was ineffective, there was no prejudice to the Deft., as it didn't think it would have made a difference, and considering the evidence today, it was better for the Deft. to be in prison. FURTHER FINDS, trial counsel did good at trial, there was no prejudice at sentencing, and all the other things were without merit. COURT DIRECTED, the State to prepare the Findings of Fact and Conclusions of Law, and provide to Ms. Shell, before submission to the Court. NDC;

01/05/2022 **Motion to Modify Sentence** (12:00 PM) (Judicial Officer: Lilly-Spells, Jasmin)

Motion to Modify and or Correct Illegal Sentence
Denied;

01/05/2022 **Motion to Modify Sentence** (12:00 PM) (Judicial Officer: Lilly-Spells, Jasmin)


Denied;

01/05/2022  **All Pending Motions** (12:00 PM) (Judicial Officer: Lilly-Spells, Jasmin)

Denied;

Journal Entry Details:

STATE- MEGAN THOMSON MOTION TO MODIFY OR CORRECT ILLEGAL SENTENCE MOTION TO MODIFY SENTENCE COURT FINDS it lacks jurisdiction to modify the sentence because Deft has already started serving the sentence. Passanisi v. State, 108 Nev. 318, 321 (1992). The sentence imposed does not violate due process. State v. 8th Judicial District Court, 100 Nev. 90, 97 (1984), here there is no evidence that the Court sentenced Deft based upon a materially false assumption of fact that worked to Deft's detriment. Passani v. State, 108 Nev. 318 (1992). Here, AB 236 cannot be applied retroactively. COURT ORDERED motions DENIED. State to prepare the order. NDC;

03/29/2023  **Motion to Modify Sentence** (9:15 AM) (Judicial Officer: Lilly-Spells, Jasmin)

Motion for Modification of Sentence

Denied;

Journal Entry Details:

Deft. not present, in Nevada Department of Corrections. Court noted the Motion for Modification of Sentence will be heard with no Deft. counsel present. COURT STATED FINDINGS, and stated in general, a District Court lacks jurisdiction to modify a sentence once the defendant has started serving it. Passanisi v. State, 108 Nev. 318, 321, 831 P.2d 1371, 1373 (1992). However, a district court has inherent authority to correct, vacate, or modify a sentence that violates due process where the defendant can demonstrate the sentence is based on a materially untrue assumption or mistake of fact about the defendant s criminal record that has worked to the extreme detriment of the defendant. Edwards v. State, 112 Nev. 704,707, 918 P.2d 321, 324 (1996); see also Passanisi, 108 Nev. at 322, 831 P.2d at 1373. Not every mistake or error during sentencing gives rise to a due process violation. State v. Eighth Judicial Dist. Court, 100 Nev. 90, 97, 677 P.2d 1044, 1048 (1984). A district court has jurisdiction to modify a defendant s sentence only if (1) the district court actually sentenced appellant based on a materially false assumption of fact that worked to appellant's extreme detriment, and (2) the particular mistake at issue was of the type that would rise to the level of a violation of due process. Passanisi, 108 Nev. at 322-23, 831 P.2d at 1373-74. Crimes are to be punished in accord with the law in force at the time a crime is committed unless the Legislature clearly expresses its intent to the contrary. State v. Second Judicial District, 124 Nev. 564188 P.3d 1079 (2008). AB 236 has listed no indication that the legislature wished for the habitual criminal statute to apply to crimes that took place retroactively. Therefore, COURT ORDERS motion DENIED. State to prepare the Order. The State to prepare the Order. NDC;

05/01/2023  **Motion to Withdraw as Counsel** (9:15 AM) (Judicial Officer: Lilly-Spells, Jasmin)

Motion for Withdrawal as Counsel of Record

Granted;

Journal Entry Details:

There being no opposition. COURT ORDERED, motion GRANTED. NDC;

DATE

FINANCIAL INFORMATION

Defendant Hickman, Wilburt
Total Charges
Total Payments and Credits
Balance Due as of 5/10/2023

175.00
175.00
0.00

Steven B. Wolfson
CLERK OF THE COURT

ORDR
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
ELAN A. ELDAR
Deputy District Attorney
Nevada Bar #015910
200 Lewis Avenue
Las Vegas, NV 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

WILBURT HICKMAN,
#0905481

Defendant.

CASE NO: C-12-278699-1

DEPT NO: XXIII

**ORDER DENYING DEFENDANT'S PRO PER MOTION
TO MODIFY SENTENCE**

DATE OF HEARING: MARCH 29, 2023
TIME OF HEARING: 9:15 A.M.

THIS MATTER having come on for hearing before the above entitled Court on the 29th day of March, 2023, the Defendant not being present, in proper person, the Plaintiff being represented by STEVEN B. WOLFSON, District Attorney, through ELAN A. ELDAR, Deputy District Attorney, and without argument, based on the pleadings and good cause appearing therefor,

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1 IT IS HEREBY ORDERED that the Defendant's Pro Per Motion to Modify Sentence,
2 shall be, and COURT STATED FINDINGS, and stated in general, a District Court lacks
3 jurisdiction to modify a sentence once the defendant has started serving it. Passanisi v. State,
4 108 Nev. 318, 321, 831 P.2d 1371, 1373 (1992). However, a district court has inherent
5 authority to correct, vacate, or modify a sentence that violates due process where the
6 defendant can demonstrate the sentence is based on a materially untrue assumption or mistake
7 of fact about the defendant s criminal record that has worked to the extreme detriment of the
8 defendant. Edwards v. State, 112 Nev. 704,707, 918 P.2d 321, 324 (1996); see also Passanisi,
9 108 Nev. at 322, 831 P.2d at 1373. Not every mistake or error during sentencing gives rise to
10 a due process violation. State v. Eighth Judicial Dist. Court, 100 Nev. 90, 97, 677 P.2d 1044,
11 1048 (1984). A district court has jurisdiction to modify a defendant s sentence only if (1) the
12 district court actually sentenced appellant based on a materially false assumption of fact that
13 worked to appellant's extreme detriment, and (2) the particular mistake at issue was of the
14 type that would rise to the level of a violation of due process. Passanisi, 108 Nev. at 322-23,
15 831 P.2d at 1373-74. Crimes are to be punished in accord with the law in force at the time a
16 crime is committed unless the Legislature clearly expresses its intent to the contrary. State v.
17 Second Judicial District, 124 Nev. 564188 P.3d 1079 (2008). AB 236 has listed no indication
18 that the legislature wished for the habitual criminal statute to apply to crimes that took place
19 retroactively. Therefore, COURT ORDERS motion DENIED.

20 DATED this _____ day of April, 2023. Dated this 26th day of April, 2023

21 
22 DISTRICT JUDGE

4CD 5F6 55CA 544F
Jasmin Lilly-Spells
District Court Judge

EB

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

25 
26 BY

ELAN A. ELDAR
Deputy District Attorney
Nevada Bar #015910

1 **CERTIFICATE OF MAILING**

2 I hereby certify that service of the above and foregoing was made this _____ day of
3 April, 2023, by depositing a copy in the U.S. Mail, postage pre-paid, addressed to:

4 WILBURT HICKMAN, BAC# 62150
5 HIGH DESERT STATE PRISON
6 P. O. BOX 650
7 INDIAN SPRINGS, NV 89070

8 BY /s/ E. Goddard
9 Secretary – District Attorney's Office
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15 11F21695X/erg/L-1
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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 State of Nevada

CASE NO: C-12-278699-1

7 vs

DEPT. NO. Department 23

8 Wilburt Hickman
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 4/26/2023

15 Margaret McLetchie

maggie@nvlitigation.com

16 Alina Shell .

alina@nvlitigation.com

17 E-File .

efile@nvlitigation.com

18 Margaret McLetchie .

maggie@nvlitigation.com

19 Alina Shell

AShell@Atllp.com

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 12, 2012

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

January 12, 2012 9:00 AM Initial Arraignment

HEARD BY: De La Garza, Melisa

COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Carole D'Aloia
 Athena Trujillo
 Sharry Frascarelli

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PRESENT:	Ballou, Erika D.	Attorney
	Hickman, Wilburt	Defendant
	Mitchell, Scott Steven	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFT. HICKMAN ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. COURT ORDERED, matter set for trial. COURT ORDERED, counsel has 21 days after the filing of the Preliminary Hearing transcript or today's date, whichever is later, to file a Writ.

CUSTODY

02/29/12 9:00 AM CALENDAR CALL

03/05/12 1:30 PPM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 22, 2012

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

February 22, 2012 9:00 AM Motion

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16A

COURT CLERK: Alice Jacobson

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Ballou, Erika D.	Attorney
	Hickman, Wilburt	Defendant
	Morgan, Shaun	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- There being no opposition, good cause appearing and the Defendant waiving his right to a speedy trial. COURT ORDERED, motion GRANTED; trial dates VACATED and RESET.

CUSTODY

9/24/12 9:00 AM CALENDAR CALL

10/1/12 1:30 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 28, 2012

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

**March 28, 2012 9:00 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Ellsworth, Carolyn

COURTROOM: RJC Courtroom 16A

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Ballou, Erika D.	Attorney
	Hamner, Christopher S.	Attorney
	Hickman, Wilburt	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFT'S PETITION FOR WRIT OF HABEAS CORPUS

Deft. present in custody. Counsel submitted matter on the briefs. COURT finds as to the issue of the alternate theory on Count 15 Motion GRANTED, but DENIED as to the rest of the Motion; as to the Attempt Murder, Petition DENIED; and as to Malicious Destruction Petition is DENIED for purpose of the Writ. State to prepare order and file Amended Information.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 24, 2012

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

September 24, 2012 9:00 AM All Pending Motions

HEARD BY: Ellsworth, Carolyn

COURTROOM: RJC Courtroom 16A

COURT CLERK: Denise Trujillo
 Kristin Duncan

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Ballou, Erika D.	Attorney
	Hickman, Wilburt	Defendant
	Scow, Richard H.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- CALENDAR CALL...DEFENDANT'S MOTION FOR DISCOVERY

MOTION TO CONTINUE TRIAL DATE FILED IN OPEN COURT

Mr. Scow announced ready to proceed to Trial, but indicated there was no opposition to the Motion to Continue, as this case needed investigating. COURT ORDERED Motion to Continue GRANTED; Trial date VACATED and RESET.

Court noted that the Motion for Discovery was filed on June 29, 2012, and no opposition had been filed. Mr. Scow stated that he believed the Motion could be resolved out of Court, and requested a continuance; Ms. Ballou advised she was amenable to a continuance, and suggested a Status Check be set. COURT ORDERED Motion for Discovery CONTINUED two weeks; Mr. Scow to file a response within ten (10) days.

CUSTODY

10/10/12 9:00 AM DEFENDANT'S MOTION FOR DISCOVERY

4/8/13 9:00 AM CALENDAR CALL

4/15/13 1:30 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 10, 2012

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

October 10, 2012 9:00 AM Motion for Discovery

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16A

COURT CLERK: Denise Trujillo
 Aaron Carbajal

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Ballou, Erika D.	Attorney
	Hickman, Wilburt	Defendant
	State of Nevada	Plaintiff
	Wong, Hetty O.	Attorney

JOURNAL ENTRIES

- DEFT'S MOTION FOR DISCOVERY

Deft. present in custody. Mr. Bonaventure requested this be continued for Ms. Ballou to be present.
COURT ORDERED, matter CONTINUED.

CUSTODY

CONTINUED TO: 10/15/12 9 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

October 15, 2012

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

October 15, 2012 9:00 AM Motion for Discovery

HEARD BY: Ellsworth, Carolyn

COURTROOM: RJC Courtroom 16A

COURT CLERK: Denise Trujillo
 Aaron Carbajal

RECORDER: Debbie Winn

REPORTER:

PARTIES

PRESENT:	Ballou, Erika D.	Attorney
	Hickman, Wilburt	Defendant
	State of Nevada	Plaintiff
	Wong, Hetty O.	Attorney

JOURNAL ENTRIES

- DEFENDANT'S MOTION FOR DISCOVERY

Deft. present in custody. As to Request #1-4, Motion GRANTED; as to Request #5 any and all records of car-to-car police communications is already covered by #4, Motion GRANTED; as to Request #6 any and all information relating to other suspects, Motion GRANTED; as to Request #7-24 any and all statements taped or otherwise, Motion GRANTED, and State to make an affirmative inquiry; as to Request #25-42 any and all relevant criminal history, Motion GRANTED to the extent of Brady material; as to Request #43-44, Motion GRANTED; as to Request #45 any and all officer and/or detective reports, Motion GRANTED; as to Request #46 and an all officer and/or detective notes, Motion GRANTED and State to make an affirmative inquiry; as to Request #47 any other reports, witness statements, affidavits, declarations, video, or other material the State is relying on in its case in chief, Motion GRANTED. Ms. Ballou to prepare the Order.

C-12-278699-1

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 13, 2013

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

March 13, 2013 9:00 AM Request

HEARD BY: Ellsworth, Carolyn

COURTROOM: RJC Courtroom 03E

COURT CLERK: Denise Trujillo
 Dania Batiste
 Teresa Slade
 Keri Cromer
 Sharon Coffman

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Ballou, Erika D.	Attorney
	Hickman, Wilburt	Defendant
	Monje, Ofelia L.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- ALSO PRESENT: Michael Posen, Esq.

Mr. Posen advised he is not counsel of record for Deft., but he will be substituting in. Court directed Mr. Posen to file a Substitution of Attorney motion; once filed, the Public Defender's office will then transfer Deft.'s file to Mr. Posen.

All parties agreed to set new trial dates for mid to late May. COURT ORDERED, trial dates vacated and reset.

C-12-278699-1

CUSTODY

5/6/2013 9:00 AM CALENDAR CALL

5/13/2013 1:30 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 17, 2013

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

April 17, 2013 9:00 AM Status Check: Trial Setting

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Denise Trujillo
Dania Batiste

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Ballou, Erika D.	Attorney
	Hamner, Christopher S.	Attorney
	Hickman, Wilburt	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- STATUS CHECK: TRIAL SETTING

Deft. present in custody. Mr. Posin filed a Substitution of Attorney in OPEN COURT, and requested trial date to be reset. COURT ORDERED, trial date VACATED and RESET. Court noted this is the last time trial date will be reset.

CUSTODY

8/26/13 9:00 AM CALENDAR CALL

9/3/13 1:30 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 26, 2013

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

August 26, 2013 9:00 AM Calendar Call

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Denise Trujillo
 Jill Chambers

RECORDER: Debbie Winn

REPORTER:

PARTIES

PRESENT:	Hamner, Christopher S.	Attorney
	Hickman, Wilburt	Defendant
	Posin, Mitchell L	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Hamner advised the Court trial is expected to go 5-6 days making is not eligible for overflow.
Court TRAILED matter to allow Mr. Posin to be present.

Matter RECALLED with Mr. Posin present but not Mr. Hamners. Court CONTINUED matter.

8/28/13 9:00 AM CONTINUED

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 28, 2013

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

August 28, 2013 9:00 AM Calendar Call

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Hamner, Christopher S.	Attorney
	Hickman, Wilburt	Defendant
	Posin, Mitchell L	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- CALENDAR CALL

Deft. present in custody. Counsel announced ready. COURT ORDERED, matter SET for trial.

CUSTODY

9/3/13 9 AM JURY TRIAL

HAMNER/POSIN
5-6 DAYS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 03, 2013

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

September 03, 2013 9:00 AM Jury Trial

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Hamner, Christopher S.	Attorney
	Hickman, Wilburt	Defendant
	Posin, Mitchell L	Attorney
	Scow, Richard H.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- TRIAL BY JURY

IN THE PRESENCE OF JURY VENIRE. Panel sworn and jury selection commenced. Twelve jurors and two alternates selected. Clerk read information and advised of Deft's pleas of not guilty. Court instructed jury as to trial procedure. Opening statements by counsel. Testimony and exhibits per worksheets.

EVENING RECESS

CONTINUED TO: 9/4/13 1:30 PM

September 04, 2013

Minutes Date: January 12, 2012

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 05, 2013

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

September 05, 2013 9:00 AM Jury Trial

HEARD BY: Ellsworth, Carolyn

COURTROOM: RJC Courtroom 03E

COURT CLERK: Andrea Natali

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Hamner, Christopher S.	Attorney
	Hickman, Wilburt	Defendant
	Posin, Mitchell L	Attorney
	Scow, Richard H.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- JURY TRIAL

IN THE PRESENCE OF THE JURY. Testimony and exhibits per worksheets. CONFERENCE AT BENCH. COURT ADMONISHED and EXCUSED jury for evening recess; ADVISED to return tomorrow at 10:00 A.M.

OUTSIDE THE PRESENCE OF THE JURY: COURT DIRECTED counsel to meet in Chambers at 2:00 PM to settle jury instructions off the record. Matter CONTINUED. Court ADJOURNED.

EVENING RECESS

CUSTODY

PRINT DATE: 05/10/2023

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Minutes Date: January 12, 2012

CONTINUED TO: 9/6/13 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 06, 2013

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

September 06, 2013 10:00 AM Jury Trial

HEARD BY: Ellsworth, Carolyn

COURTROOM: RJC Courtroom 10D

COURT CLERK: Andrea Natali

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Hamner, Christopher S.	Attorney
	Hickman, Wilburt	Defendant
	Posin, Mitchell L	Attorney
	Scow, Richard H.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Argument by Mr. Posin as to whether Defendant's proposed instruction regarding when voluntary intoxication may be considered and what should be considered to convict a defendant of attempted murder. Court advised Mr. Posin the specific intent was already covered in other instructions and would therefore be duplicative. Jury Instructions settled. Court advised Deft. of his right not to testify. Deft. INVOKED his right to remain silent and chose to not to testify.

IN THE PRESENCE OF THE JURY. Testimony presented per worksheet. Plaintiff and Defense rested. Court instructed jury. Closing arguments by counsel. At 12:30 PM this date, jury retired to begin deliberations.

Jury Trial, CONTINUED for deliberations. Court ADJOURNED.

C-12-278699-1

EVENING RECESS

CUSTODY

9/9/13 8:30 AM - JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 09, 2013

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

September 09, 2013 8:30 AM Jury Trial

HEARD BY: Ellsworth, Carolyn

COURTROOM: RJC Courtroom 03B

COURT CLERK: Andrea Natali

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Hamner, Christopher S.	Attorney
	Hickman, Wilburt	Defendant
	Posin, Mitchell L	Attorney
	Scow, Richard H.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- JURY TRIAL

Jury Deliberations continued.

OUTSIDE THE PRESENCE OF THE JURY. Court advised the jury foreman was bring brought into the courtroom to as the foreman had sent out a question regarding if the jury could not come to an agreement on all the charges. At 12:13 PM Jury Foreman brought into the courtroom. Upon Court's inquiry, Foreman stated the jurors had agreed upon some of the charges but not others; however, there was a possibility they might be able to continue deliberations. Court advised the Jury Foreman that the Jury could come back with a verdict on some charges even if they were hung on other charges; however, those undecided charges would have to be re-tried and advised the foreman to return to continue deliberations. Foreman excused at 12:15 PM tor return to jury room for further

deliberations. Juror's note admitted as Court's exhibit #1.

Court advised the jury foreman was going to be brought in as the jury had not reached a verdict on all of the counts and to inquire if further deliberations would change the jury's decision. At 3:26 PM Jury Foreman brought into the courtroom. Upon Court's inquiry, Foreman stated he did not think further deliberations would change the jurors decision on the undecided charges. Foreman excused at 3:26 PM. Court noted the amount of time the Jury had deliberated and that additional deliberations would not result in the jury making a decision on the hung charges. State and Defense agreed to discontinue additional deliberations and accept the verdict as it stands at this time.

IN THE PRESENCE OF THE JURY: Upon Court's inquiry, Foreman advised further deliberations would not return a verdict as to the hung charges. At 3:31 PM this date, jury returned with the following verdicts:

COUNTS 1, 2, 3, 4, 5, 6, 7, and 8 HUNG JURY.

GUILTY of:

COUNT 9 BATTERY WITH USE OF A DEADLY WEAPON (AMNESIA FRANKLIN);
COUNT 10 BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (ANIELA HOYER);
COUNT 11 ASSAULT WITH USE OF A DEADLY WEAPON (ALLEN BURSE);
COUNT 12 ASSAULT WITH USE OF A DEADLY WEAPON (WASHINGTON THOMPSON);
COUNT 13 ASSAULT WITH USE OF A DEADLY WEAPON (MARQUETTE JENKINS);
COUNT 14 ASSAULT WITH USE OF A DEADLY WEAPON (RAMEKIN ADAMS);
COUNT 15 ASSAULT WITH USE OF A DEADLY WEAPON (SHARON POWELL);
COUNT 16 ASSAULT WITH USE OF A DEADLY WEAPON (TIFFANY TRESS);
COUNT 17 BURGLARY.

OUTSIDE THE PRESENCE OF THE JURY: Upon Court's inquiry, State requested additional time to determine whether they would like a trial set on the hung charges. Arguments by State in support of remanding Deft. Argument by Mr. Posin regarding bail. COURT ORDERED, Deft. REMANDED INTO CUSTODY; NO BAIL. COURT FURTHER ORDERED, matter SET for Status Check on setting a sentencing date and whether the state would like a re-trial set on the hung charges.

CUSTODY

9/25/13 9:00 AM - STATUS CHECK: SET SENTENCING DATE...STATE'S DECISION ON RETRYING ON REMAINING COUNTS/RESET TRIAL DATE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 25, 2013

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

September 25, 2013 9:00 AM Status Check

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Anthony, Michelle	Attorney
	Hickman, Wilburt	Defendant
	Posin, Mitchell L	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- STATUS CHECK: SET SENTENCING DATE...STATE'S DECISION ON RETRYING ON
REMAINING COUNTS / RESET TRIAL DATE

Deft. present in custody. State advised they are not going to proceed on counts 1-8. COURT
ORDERED, CTS 1- 8 DISMISSED WITH PREJUDICE. FURTHER, matter referred to P&P and SET for
sentencing.

CUSTODY

CONTINUED TO: 12/4/13 9 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****November 04, 2013**

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

November 04, 2013	9:00 AM	Motion to Withdraw as Counsel	Defendant's Notice of Motion and Motion for Ineffective Assistance of Counsel and Motion for New Trial
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HEARD BY: Ellsworth, Carolyn**COURTROOM:** RJC Courtroom 03E**COURT CLERK:** Denise Trujillo
Andrea Natali**RECORDER:** Lara Corcoran**REPORTER:****PARTIES**

PRESENT:	Graham, Elana L.	Attorney
	Hickman, Wilburt	Defendant
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFENDANT'S NOTICE OF MOTION AND MOTION FOR INEFFECTIVE ASSISTANCE OF COUNSEL AND MOTION FOR NEW TRIAL

Deft. present in custody and Mitchell Posin, Esq., not present. COURT ADVISED, Deft. he was not allowed to file a motion when represented by counsel; noted a Motion for New Trial and Ineffective Assistance of Counsel had been filed. Statement by Deft. regarding whether his attorney was ineffective due to trial preparations and the lack of attorney client correspondence leading up to trial; whether his attorney had filed a timely motion on his behalf. COURT FURTHER NOTED, Mr. Posin

would not be discharged as counsel until he had filed a proper motion and, ORDERED, Motion DENIED. FURTHER NOTED, ineffective assistance is a post trial conviction matter.

CUSTODY

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 04, 2013

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

December 04, 2013 9:00 AM Sentencing

HEARD BY: Hardcastle, Kathy

COURTROOM: RJC Courtroom 03E

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Bonaventure, Santino	Attorney
	Hickman, Wilburt	Defendant
	Posin, Mitchell L	Attorney
	Scow, Richard H.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- SENTENCING CTS 9-17

Deft. present in custody. Mr. Posin advised both sides agree to continue sentencing as Deft. wants him to withdraw as counsel. COURT ORDERED, Mr. Posin allowed to withdraw, and PD's office to interview Deft. to see if he qualifies. Mr. Bonaventure objected as it is the policy of office not to take over cases for sentencing. Court noted they are only going to see if he qualifies at this time. Deft. advised he did not fire Mr. Posin, but Mr. Posin wants more money for sentencing, and he can not pay him now as he is in custody. COURT ORDERED, matter CONTINUED.

CUSTODY

12/9/13 9 AM SENTENCING CTS 9-17...CONFIRMATION OF COUNSEL (PD)

PRINT DATE: 05/10/2023

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Minutes Date: January 12, 2012

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

December 09, 2013

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

December 09, 2013 9:00 AM All Pending Motions

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Hamner, Christopher S.	Attorney
	Hickman, Wilburt	Defendant
	Rue, Jeffrey T.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFT'S MOTION FOR CONTINUANCE ON GROUNDS OF ABSENCES OF WITNESSES & DISCOVER EVIDENCE, REQUESTING NEW COUNSEL & NEW TRIAL TO SUBMIT NEW EVIDENCE...SENTENCING...CONFIRMATION OF COUNSEL (PUBLIC DEFENDER)

Deft. present in custody. Mr. Posin advised he withdrew on Monday. Mr. Rue objected based on office policy not to take over a case at sentencing. Mr. Posin stated Deft. wanted him to withdraw, but will do as ordered by the Court. COURT ORDERED, it is reversing Judge Hardcastle's order and Mr. Posin will NOT be allowed to withdraw as counsel. FURTHER, he will remain as counsel until he has filed fast track appeal for Deft. after sentencing. COURT noted as to Deft's Motion, it is a fugitive document that should not have been filed and ORDERED, it to be stricken. State noted there is an issue with the PSI, as it lists 6 misdemeanor's but Scope shows about 17. Court provided copies handwritten letters on Deft's behalf to State and Mr. Posin. Mr. Posin advised he gave Deft. a copy of his file, and requested sentencing be continued so he can speak to Deft. COURT ORDERED,

PRINT DATE: 05/10/2023

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Minutes Date: January 12, 2012

sentencing CONTINUED. Upon request of Mr. Posin, COURT ORDERED, Deft. determined to be indigent for purposes of obtaining transcripts.

CUSTODY

12/18/13 9 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****December 18, 2013**

C-12-278699-1 State of Nevada
vs
Wilburt Hickman

December 18, 2013 9:00 AM Sentencing

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Hamner, Christopher S.	Attorney
	Hickman, Wilburt	Defendant
	Posin, Mitchell L	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- SENTENCING 9-17

Deft. present in custody. DEFT. HICKMAN ADJUDGED GUILTY OF CT 9 - BATTERY WITH USE OF A DEADLY WEAPON (F) under the SMALL HABITUAL STATUTE; CT 10 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (F) under the SMALL HABITUAL STATUTE; COUNTS 11 - 16 - ASSAULT WITH USE OF A DEADLY WEAPON (F); and CT 17 BURGLARY (F). A packet of Deft's PRIOR JOC'S provided by the State ADMITTED as State's exhibit number 1. Arguments by counsel. Statement by Deft. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, a \$150.00 DNA Analysis fee including testing to determine genetic markers, and RESTITUTION total amount of \$26,272.50, payable as noted in sentence below, Deft. SENTENCED to:

CT 9 - a MAXIMUM TWO HUNDRED AND FIFTEEN (215) of MONTHS and MINIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC) and \$12,639.83 RESTITUTION

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Minutes Date: January 12, 2012

payable to ANNEESAH FRANKLIN;

CT 10 - a MAXIMUM TWO HUNDRED AND FIFTEEN (215) of MONTHS and MINIMUM of SIXTY (60) MONTHS in the Nevada Department of Corrections (NDC) and \$3,263.73 RESTITUTION payable to ANYLA HOYE, to run CONSECUTIVE to CT 9;

CT 11 - a MAXIMUM SEVENTY TWO (72) MONTHS and MINIMUM of SIXTEEN (16) MONTHS in the NDC to run CONCURRENT with CT 10;

CT 12 - a MAXIMUM SEVENTY TWO (72) MONTHS and MINIMUM of SIXTEEN (16) MONTHS in the NDC to run CONCURRENT with CT 11;

CT 13 - a MAXIMUM SEVENTY TWO (72) MONTHS and MINIMUM of SIXTEEN (16) MONTHS in the NDC to run CONCURRENT with CT 12;

CT 14 - a MAXIMUM SEVENTY TWO (72) MONTHS and MINIMUM of SIXTEEN (16) MONTHS in the NDC to run CONCURRENT with CT 13;

CT 15 - a MAXIMUM SEVENTY TWO (72) MONTHS and MINIMUM of SIXTEEN (16) MONTHS in the NDC to run CONCURRENT with CT 14;

CT 16 - a MAXIMUM SEVENTY TWO (72) MONTHS and MINIMUM of SIXTEEN (16) MONTHS in the NDC to run CONCURRENT with CT 15;

CT 17 - a MAXIMUM NINETY SIX (96) MONTHS and MINIMUM of TWENTY TWO (22) MONTHS in the NDC, and \$10,369.04 RESTITUTION payable to ANTIOCH CHURCH OF LAS VEGAS, INC A NON-PROFIT CORP dba ANTIOCH CHURCH, to run CONCURRENT with CT 16 with 731 DAYS credit for time served.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 29, 2014

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

January 29, 2014 9:00 AM Hearing

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT: Di Giacomo, Marc P. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- HEARING DEFT. - DIRECT APPEAL

Deft. nor his counsel present. COURT NOTED this motion was filed in properly in State Court, however, his counsel properly filed direct appeal with Supreme Court. FURTHER, this Court does not have jurisdiction to hear direct appeal and ORDERED, appeal is stricken as moot.

CCDC (NDC)

CLERK'S NOTE: Clerk mailed copy of minutes to Deft. this date./dt

Wilbert Hickman #0905481
Clark County Detention Center
330 S. Casino Center Blvd.
Las Vegas, NV 89101

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 12, 2014

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

**February 12, 2014 9:00 AM Motion For
Reconsideration**

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT: Di Giacomo, Marc P. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- DEFT'S PRO PER MOTION FOR RECONSIDERATION OF MOTION FOR A NEW TRIAL DUE TO INEFFECTIVE ASSISTANCE OF COUNSEL AND CONFLICT OF ANSWER

Deft. nor his counsel present. COURT ORDERED, Motion DENIED, this type of motion must be filed by way of a post conviction relief writ of habeas corpus.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 18, 2014

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

August 18, 2014 9:00 AM Appointment of Counsel

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Jones, Tierra D.	Attorney
	State of Nevada	Plaintiff
	Wildeveld, Kristina M.	Attorney

JOURNAL ENTRIES

- APPOINTMENT OF COUNSEL

Deft. not present. Ms. Wildeveld confirmed as counsel and Order to Appoint Counsel signed in open court. Upon Ms. Wildeveld inquiry, Court advised she can put matter back on calendar if she has trouble getting file.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 01, 2016

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

February 01, 2016 9:00 AM All Pending Motions

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Denise Trujillo

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

PRESENT: Craggs, Genevieve C. Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- DEFT'S PRO PER MOTION TO WITHDRAW COUNSEL...DEFT'S PRO PER MOTION FOR PRODUCTION OF DOCUMENTS, PAPERS, PLEADINGS AND TANGIBLE PROPERTY OF DEFT.

Deft. not present. Without benefit of argument, COURT finds both motions have identical points and authorities, an attached affidavit is mentioned, however, there is not affidavit attached. FURTHER, there is nothing in motion indicating he has tried to obtain his file and counsel refused to send it to him. COURT ORDERED, Motion to withdraw counsel is GRANTED and Motion for Pro Per Motion for Production is DENIED WITHOUT PREJUDICE, unless or until he can show Court that he has/had requested said documents and counsel refused. State to prepare the order.

NDC

CLERK'S NOTE: A copy of minute order mailed to Deft. on 2/2/16./dt

WILBER HICKMAN

C-12-278699-1

NDOP #62150

P.O. BOX 208

INDIAN SPRINGS, NV 89070

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

March 14, 2016

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

March 14, 2016 9:00 AM Motion to Compel

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT: Mishler, Karen Attorney
 State of Nevada Plaintiff
 Wildeveld, Kristina M. Attorney

JOURNAL ENTRIES

- DEFT'S MOTION TO COMPEL

Deft. not present. Ms. Wildeveld advised she has sent Deft. 2 copies, the latest one was 1/14/16, and showed Court proof. Further, she brought another copy in case someone else wanted to send it and see if it got to Deft. COURT ORDERED, Motion to Compel is DENIED, and had Ms. Wildeveld provide Court with the copy for her staff to send to Deft.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 15, 2016

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

June 15, 2016 9:00 AM All Pending Motions

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT: Heap, Hilary Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- PETITIONER'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS...PETITIONER'S PRO PER MOTION FOR APPOINTMENT OF COUNSEL

Deft. not present. Court noted as to ground 1, it should have been brought up on initial appeal. As to general allegations of ineffective assistance of trial counsel, COURT ORDERED, matter referred to Mr. Christensen's office for appoint of counsel to review Deft's allegations. FURTHER, Matter CONTINUED.

NDC

6/20/16 9 AM CONFIRMATION OF COUNSEL ...RESET WRIT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 20, 2016

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

June 20, 2016 9:00 AM Confirmation of Counsel

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Denise Trujillo

RECORDER: Debbie Winn

REPORTER:

PARTIES

PRESENT:	Heap, Hilary	Attorney
	Hickman, Wilburt	Defendant
	Shell, Alina	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- CONFIRMATION OF COUNSEL / RESET WRIT

Deft. present in custody. Ms. Shell advised she can accept appointment for post-conviction relief and request this be continued for 30 days before setting briefing schedule so she can try to get file from trial lawyer. COURT ORDERED, matter CONTINUED.

NDC

7/20/16 9 AM STATUS CHECK: SET BRIEFING SCHEDULE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 20, 2016

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

July 20, 2016 9:00 AM Status Check

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Pandukht, Taleen R	Attorney
	Shell, Alina	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- STATUS CHECK: RECEIPT OF FILE...SET BRIEFING SCHEDULE

Deft. not present. Ms. Shell advised she is still waiting for records and requested until early January to file her supplemental petition. COURT ORDERED, briefing schedule as follows: Deft's Supplemental brief due January 9, 2017; State to respond by 3/13/17; Deft. to reply by 5/3/17 with matter being set for hearing thereafter. Court noted after hearing, she will decide if evidentiary hearing is needed with Deft. present.

NDC

5/3/17 9 AM HEARING: WRIT OF HABEAS CORPUS (POST-CONVICTION)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 28, 2016**

C-12-278699-1 State of Nevada
vs
Wilburt Hickman

July 28, 2016	3:00 AM	Motion to Disqualify Judge	Petitioner's Pro Per Motion to Disqualification of Judge Carolyn Ellsworth, Dept. No. V
----------------------	----------------	-----------------------------------	--

HEARD BY: Barker, David**COURTROOM:** No Location**COURT CLERK:** Alan Castle**RECORDER:****REPORTER:**

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT NOTES no record of proper service of the motion upon Judge Ellsworth. As a result, Judge Ellsworth's obligation to file an answer in response to the motion pursuant to NRS 1.235(5) has not been triggered.

COURT FURTHER NOTES Defendant filed the motion to disqualify in proper person but he is now represented in this matter by attorney Alina Shell. COURT ORDERED, the clerk is directed to forward a copy of Defendant's motion and this minute order to attorney Alina Shell for review. Upon review of Defendant's motion and after consultation with Defendant, Ms. Shell as Defendant's attorney to decide whether to file and properly serve a motion for disqualification of Judge Ellsworth. It is FURTHER ORDERED, Defendant's Motion for Disqualification of Judge Carolyn Ellsworth Dept. No. 5, FILED, May 4, 2016, OFF CALENDAR.

CLERK'S NOTE: The above minute order has been distributed to: McLetchie Shell, LLC (Alina Shell, Esq.). ac/07/28/16.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

August 22, 2016

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

August 22, 2016 9:00 AM Motion for Order

HEARD BY: Bixler, James **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Denise Trujillo

RECORDER: Debbie Winn

REPORTER:

PARTIES

PRESENT: Pandukht, Taleen R Attorney
 Shell, Alina Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- PETITIONER'S MOTION FOR ORDER FOR PRODUCTION OF RECORDS FROM PRIOR COUNSEL

Deft. not present. Court noted he received a letter by fax this morning about sending file to Deft. in 2014. Ms. Shell advised Court of the problems she has had trying to obtain the file. She did receive a file, but it has no work product, such as interviews with witnesses, etc., and this was a long case with multiple charges, so there has to be more than what was presented. COURT ORDERED, Mr. Posin to provide everything he has on the case and provide Court with written verification to Court and counsel. FURTHER, matter CONTINUED for status check.

NDC

9/25/16 9 AM STATUS CHECK: RECORDS

CLERK'S NOTE: Law clerk called and left message on Mr. Posin's voicemail./ dt

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 19, 2016

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

September 19, 2016 9:00 AM Motion

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Flinn, William W.	Attorney
	Shell, Alina	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFT'S MOTION FOR PARALEGAL FEES

Deft. not present. State opposes motion. COURT finds that \$50.00 per hour for a paralegal is preferable to paying for attorney to do some of the work needed on this case. Upon Court's inquiry, Ms. Shell stated she could probably use 60 - 80 hours. COURT ORDERED, Motion GRANTED for 40 hours, and if she needs more time, she can bring matter back on calendar.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 28, 2016

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

September 28, 2016 9:00 AM Status Check

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Craggs, Genevieve C.	Attorney
	Shell, Alina	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- STATUS CHECK: RECORDS

Deft. not present. Ms. Shell advised she believes she has received Mr. Posin's entire file. COURT ORDERED, matter OFF CALENDAR.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

November 07, 2016

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

November 07, 2016 9:00 AM Motion

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Pandukht, Taleen R	Attorney
	Shell, Alina	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- DEFT'S MOTION FOR SUPPLEMENTAL FEES

Deft. not present. Statement by Ms. Shell. COURT stated findings and ORDERED, Motion DENIED.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 24, 2017**

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

July 24, 2017**9:00 AM****Status Check**

**Status Check:
Request for Briefing
Schedule Extention**

HEARD BY: Ellsworth, Carolyn**COURTROOM:** RJC Courtroom 16D**COURT CLERK:** Andrea Natali**RECORDER:** Lara Corcoran**REPORTER:****PARTIES**

PRESENT:	Hickman, Wilburt	Defendant
	Pandukht, Taleen R	Attorney
	Shell, Alina	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft. not present, incarcerated in the Nevada Dept. of Corrections (NDC). COURT NOTED, it was concerned that there was a request for a briefing schedule extension for the Reply, there was no request for an evaluation and there would be new matters raised. Ms. Shell stated when she took on this case in November she had started requesting records, but she didn't receive the social security records until June, which was after she had filed the supplement on this matter; additionally, she had issues getting hold of her investigator and she wanted to give the State time to responded. Ms. Pandukht stated she had concerns that the 90 day request seemed lengthy, mental health was not brought up to prior counsel, or in the plea, there was an evaluation done four months prior to the incident and he did not have any issues; argued this was irrelevant and no matter what the Deft. s mental state was now it was irrelevant. COURT NOTED, it had this type of matter come up before, where a psychiatrist or psychologist couldn't say whether the Deft. had a mental health issue at the

time; therefore, it wanted to make sure first there was a basis and the expert the Defense wanted to hire, could say he would be able to opine on what the Deft.'s mental health state was at the time and that request would need to be made upon the Court. Ms. Shell stated the Deft. was receiving treatment from Southern Nevada Adult Mental Health Services (SNAMHS) at the time of the offense and several years prior to, and that was included with her supplement; advised she needed an expert to look at the voluminous records. COURT DIRECTED, the defense to send those records for in camera review this week and ORDERED, matter CONTINUED three weeks to allow it to review the records, then it would look at the State's documents and determine how much time for the supplement, the States response, and the Defense reply. COURT FURTHER ORDERED, the matter currently set on July 31, 2017 is VACATED.

NDC

8/17/17 - 9:00 AM - STATUS CHECK: REQUEST FOR BRIEFING SCHEDULE EXTENSION ...
STATUS CHECK: RESET HEARING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 14, 2017**

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

August 14, 2017 9:00 AM All Pending Motions

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Andrea Natali

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Pandukht, Taleen R	Attorney
	Shell, Alina	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- STATUS CHECK: RESET HEARING ... STATUS CHECK: REQUEST FOR BRIEFING SCHEDULE EXTENSION

Deft. not present, incarcerated in the Nevada Dept. of Corrections (NDC). COURT NOTED, it had the ex parte motion to retina the expert and the order to file under seal for all the records, which it had reviewed and there were a lot of records. FURTHER NOTED, the social security was messed up as in 2008 the evaluator indicated the Deft. was a malingerer, but two years later after reviewing the same documentation another evaluator approved and gave the Deft. benefits; therefore, ORDERED, the ex parte motion to appoint an expert GRANTED; DIRECTED, counsel to provide the documents to the State, the new evaluator will have to look at the documents, and the defense will have to show how this matter fits into Strickland. As to providing the documents, Ms. Shell requested to prepare an order as medical records were protected. COURT SO AGREED. Further, Ms. Shell requested the status checks be CONTINUED one week. COURT SO ORDERED and DIRECTED Ms. Shell to send the Widdis order over as it had approved fees to obtain an expert. Order related to filing documents

under seal SIGNED IN OPEN COURT and provided to Ms. Shell to file.

NDC

CONTINUED TO: 8/21/17 - 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 21, 2017**

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

August 21, 2017 9:00 AM All Pending Motions

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Andrea Natali

RECORDER: Patti Slattery

REPORTER:

PARTIES

PRESENT:	Luong, Vivian	Attorney
	Shell, Alina	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- STATUS CHECK: RESET HEARING ... STATUS CHECK: REQUEST FOR BRIEFING SCHEDULE EXTENSION

Deft. not present incarcerated in the Nevada Dept. of Corrections. Ms. Shell stated she spoke with the expert and based on his schedule he will be able to go out to do the assessment in October; therefore, requested the briefing schedule be set to begin in later December. COURT ORDERED, matter SET for hearing and counsel advised of following briefing schedule:
 Defendant's supplemental brief DUE BY 12/18/17,
 State's response DUE BY 2/16/18,
 Defendant's reply DUE BY 3/2/18.

NDC

3/19/18 - 9:00 AM - HEARING: SUPPLEMENTAL MEMORANDUM OF POINTS AND

PRINT DATE: 05/10/2023

Page 52 of 62

Minutes Date: January 12, 2012

**AUTHORITIES IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS (POST-
CONVICTION)**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 28, 2018

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

February 28, 2018 9:00 AM At Request of Court

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Andrea Natali

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Hickman, Wilburt	Defendant
	Pandukht, Taleen R	Attorney
	Shell, Alina	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft. not present. CONFERENCE AT THE BENCH. COURT NOTED this matter was placed on calendar because there was another stipulation to extend the petition dates and it wanted to make sure this was the last extension; therefor, ADVISED, it would sign the order and figure out the appropriate date and have its JEA indicate the date within the order. COURT ORDERED, matter CURRENTLY set for June 11, 2018 is VACATED and TO BE RESET sometime after July 20, 2018.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 10, 2018

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

September 10, 2018 9:00 AM Hearing

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Andrea Natali

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Pandukht, Taleen R	Attorney
	Shell, Alina	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft. not present, incarcerated in the Nevada Dept. of Corrections (NDC). COURT ORDERED, matter SET for evidentiary hearing on whether the Deft. was mentally ill at any time counsel had dealt with the Deft. Colloquy regarding the other attorneys who represented the Deft. Ms. Pandukht stated she was ready to argue the matter and opposed an evidentiary hearing from being set. CONFERENCE AT THE BENCH.

NDC

11/30/18 - 9:00 AM - EVIDENTIARY HEARING: SUPPLEMENTAL MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 27, 2019

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

September 27, 2019 9:00 AM Evidentiary Hearing

HEARD BY: Ellsworth, Carolyn **COURTROOM:** RJC Courtroom 16D

COURT CLERK: Andrea Natali

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:	Hamner, Christopher S.	Attorney
	Hickman, Wilburt	Defendant
	Shell, Alina	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Deft. present at liberty. Upon Court's inquiry, Deft. ACKNOWLEDGED his attorney client privilege would have to be WAIVED. Mr. Hamner INVOKED the exclusionary rule. Testimony and Exhibit presented (see worksheets). Argument by Ms. Shell in support of the Petition, noting that the Deft.'s trial and sentencing counsel had a duty, to ask the Deft. about his Mental Health (MH). Further argument by Ms. Shell regarding how it prejudiced the Deft. at sentencing, as the Court may not have imposed the small habitual criminal provision, if it had known the Deft. had MH issues. COURT ADVISED, knowing what it knew now, that the Deft. intentionally went off his medications and he had been grossly intoxicated, it more than likely would have sentenced the Deft. for a longer time, as it would have felt the Deft. was a danger. COURT NOTED, even in a controlled environment, the Deft. refused to take his medications, FURTHER ADVISED, the Deft. was a hazard to society and it would not have sentenced the Deft. to a lesser time, as all those things wouldn't have mitigated, they would have enhanced. Ms. Shell submitted. Argument by Mr. Hamner in opposition to the petition, noting why Mr. Posin would not have asked about the Deft.'s MH status, as the Deft. did not show

any external symptoms of having a MH illness. COURT FURTHER NOTED, based upon the testimony, it didn't think the Deft.'s attorney would have thought the Deft. had a MH issue, as the Deft. stated he concealed it. COURT FINDS there was no showing that trial counsel was ineffective, there was no prejudice to the Deft., as it didn't think it would have made a difference, and considering the evidence today, it was better for the Deft. to be in prison. FURTHER FINDS, trial counsel did good at trial, there was no prejudice at sentencing, and all the other things were without merit. COURT DIRECTED, the State to prepare the Findings of Fact and Conclusions of Law, and provide to Ms. Shell, before submission to the Court.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

January 05, 2022

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

January 05, 2022 12:00 AM All Pending Motions

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** RJC Courtroom 12D

COURT CLERK: Grecia Snow
 Quara Pyatt
 Anntoinette Naumec-Miller

RECORDER: Maria Garibay

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- STATE- MEGAN THOMSON

MOTION TO MODIFY OR CORRECT ILLEGAL SENTENCE

MOTION TO MODIFY SENTENCE

COURT FINDS it lacks jurisdiction to modify the sentence because Deft has already started serving the sentence. Passanisi v. State, 108 Nev. 318, 321 (1992). The sentence imposed does not violate due process. State v. 8th Judicial District Court, 100 Nev. 90, 97 (1984), here there is no evidence that the Court sentenced Deft based upon a materially false assumption of fact that worked to Deft's detriment. Passani v. State, 108 Nev. 318 (1992). Here, AB 236 cannot be applied retroactively. COURT ORDERED motions DENIED. State to prepare the order.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 29, 2023**

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

March 29, 2023 9:15 AM Motion to Modify Sentence

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** RJC Courtroom 12D

COURT CLERK:
Alice Jacobson

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT: Eldar, Elan A Attorney
State of Nevada Plaintiff

JOURNAL ENTRIES

- Deft. not present, in Nevada Department of Corrections.

Court noted the Motion for Modification of Sentence will be heard with no Deft. counsel present. COURT STATED FINDINGS, and stated in general, a District Court lacks jurisdiction to modify a sentence once the defendant has started serving it. *Passanisi v. State*, 108 Nev. 318, 321, 831 P.2d 1371, 1373 (1992). However, a district court has inherent authority to correct, vacate, or modify a sentence that violates due process where the defendant can demonstrate the sentence is based on a materially untrue assumption or mistake of fact about the defendant's criminal record that has worked to the extreme detriment of the defendant. *Edwards v. State*, 112 Nev. 704, 707, 918 P.2d 321, 324 (1996); see also *Passanisi*, 108 Nev. at 322, 831 P.2d at 1373. Not every mistake or error during sentencing gives rise to a due process violation. *State v. Eighth Judicial Dist. Court*, 100 Nev. 90, 97, 677 P.2d 1044, 1048 (1984). A district court has jurisdiction to modify a defendant's sentence only if (1) the district court actually sentenced appellant based on a materially false assumption of fact that worked to appellant's extreme detriment, and (2) the particular mistake at issue was of the type that would rise to the level

of a violation of due process. *Passanisi*, 108 Nev. at 322-23, 831 P.2d at 1373-74. Crimes are to be punished in accord with the law in force at the time a crime is committed unless the Legislature clearly expresses its intent to the contrary. *State v. Second Judicial District*, 124 Nev. 564188 P.3d 1079 (2008). AB 236 has listed no indication that the legislature wished for the habitual criminal statute to apply to crimes that took place retroactively. Therefore, COURT ORDERS motion DENIED. State to prepare the Order. The State to prepare the Order.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 01, 2023

C-12-278699-1 State of Nevada
 vs
 Wilburt Hickman

**May 01, 2023 9:15 AM Motion to Withdraw as
 Counsel**

HEARD BY: Lilly-Spells, Jasmin **COURTROOM:** RJC Courtroom 12D

COURT CLERK:
 Alice Jacobson

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT: Eldar, Elan A Attorney
 Shell, Alina Attorney
 State of Nevada Plaintiff

JOURNAL ENTRIES

- There being no opposition. COURT ORDERED, motion GRANTED.

NDC

STATE'S EXHIBITS

CASE NO. C 278699

		Date Offered	Objection	Date Admitted
1)	Photo - overhead of church	9/3/13	no	9/3/13
2)	" "	↓	↓	↓
3)	" "	↓	↓	↓
4)	" Streetview of church	↓	↓	↓
5)	" "	9/3	no	9/3
6)	" Frontview of entrance with car in it	↓	↓	↓
7)	" "	↓	↓	↓
8)	" Side view of car in church	↓	↓	↓
9)	" "	↓	↓	↓
10)	" Hood of car in church	9/3/13	no	9/3/13
11)	" "	↓	↓	↓
12)	" "	9/3/13	↓	↓
13)	" treadmarks from car	↓	↓	↓
14)	" "	↓	↓	↓
15)	" "	9-5-13	NONE	9-5-13
16)	" firemark from car on street	9/4	no	9/4
17)	" "	9-5-13	NONE	9-5-13
18)	" "	9-5-13	NONE	9-5-13
19)	" tire marks on Street	9-5-13	NONE	9-5-13
20)	" car being towed away	9-5-13	NONE	9-5-13
21)	" Aniya Hoge at church	9/4/13	no	9/4/13
22)	" Aniya Hoge's Foot	↓	↓	↓
23)	" "	↓	↓	↓

STATE'S EXHIBITS

CASE NO. C 278699

[illegible]

VAULT EXHIBIT FORM[illegible]

VAULT EXHIBIT FORM

JURY FEES: \$

COUNSEL FOR PLAINTIFF
Chris Hamner
COUNSEL FOR DEFENDANT
Mitchell Posin

[illegible]

EXHIBIT(S) LIST

Case No.: C278699 Hearing Date: 9-27-19
Dept. No.: 5 Judge: CAROLYN ELLSWORTH
Court Clerk: ANDREA NATALI
Plaintiff: State of Nevada Recorder: Rubina Feda
Counsel for Plaintiff: Christopher Hamner,
Chf. Dep. D.A.
Defendant: Wilburt Hickman Counsel for Defendant: Alina Shell, Esq.

Hearing

BEFORE THE COURT

Defendant's EXHIBITS

[illegible]



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

WILBURT HICKMAN, JR. #62150
P.O. BOX 650
INDIAN SPRINGS, NV 89070

DATE: May 10, 2023
CASE: C-12-278699-1

RE CASE: STATE OF NEVADA vs. WILBURT HICKMAN aka WILLIAM HICKS

NOTICE OF APPEAL FILED: May 9, 2023

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

☐

Case Appeal Statement

- NRAP 3 (a)(1), Form 2

☐

Order

☒

Notice of Entry of Order *for Order filed 04/26/2023*

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

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; ORDER DENYING DEFENDANT'S PRO PER MOTION TO MODIFY
SENTENCE; DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

STATE OF NEVADA,

Plaintiff(s),

vs.

WILBURT HICKMAN
aka WILLIAM HICKS,

Defendant(s).

Case No: C-12-278699-1

Dept No: XXIII

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 10 day of May 2023.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk