

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILBURT HICKMAN, JR., A/K/A
WILLIAM HICKS,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

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Elizabeth A. Brown
Clerk of Supreme Court

Case No: C-12-278699-1

Docket No: 86554

RECORD ON APPEAL VOLUME 7

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INSTRUCTION NO. 16

No act committed by a person while in a state of voluntary intoxication shall be deemed less criminal by reason of his condition, but whenever the actual existence of any particular intent is a necessary element to constitute a particular crime, the fact of his intoxication may be taken into consideration in determining such intent.

INSTRUCTION NO. 17

If the jury finds that the defendant, at the time of the crime, had, by drinking intoxicating liquors, made himself incapable mentally of entertaining the specific intent to kill, then he is not guilty of attempted murder. However if the defendant had the capacity to form the intent to kill, and conceives and acts upon such intent, it is not a defense to the crime of attempted murder that he was intoxicated.

INSTRUCTION NO. 18

Battery is a general intent crime. Therefore, any claim, or evidence of drinking alcohol or voluntary intoxication by the defendant is no defense to a charge of Battery.

When a person is accused of committing a particular crime and at the same time and by the same conduct may have committed another offense of lesser grade or degree, the latter is with respect to the former, a lesser included offense.

If you are not satisfied beyond a reasonable doubt that the defendant is guilty of the offense charged, he may, however, be found guilty of any lesser included offense, if the evidence is sufficient to establish his guilt of such lesser offense beyond a reasonable doubt.

The offense of Battery With a Deadly Weapon Resulting in Substantial Bodily Harm, necessarily includes the lesser offenses of Battery With a Deadly Weapon and/or Battery Resulting in Substantial Bodily Harm and/or Battery.

To constitute the crime charged, there must exist a union or joint operation of an act forbidden by law and an intent to do the act.

The intent with which an act is done is shown by the facts and circumstances surrounding the case.

Do not confuse intent with motive. Motive is what prompts a person to act. Intent refers only to the state of mind with which the act is done.

Motive is not an element of the crime charged and the State is not required to prove a motive on the part of the Defendant in order to convict. However, you may consider evidence of motive or lack of motive as a circumstance in the case.

1
2 The Defendant is presumed innocent until the contrary is proved. This presumption
3 places upon the State the burden of proving beyond a reasonable doubt every material
4 element of the crime charged and that the Defendant is the person who committed the
5 offense.

6 A reasonable doubt is one based on reason. It is not mere possible doubt but is such a
7 doubt as would govern or control a person in the more weighty affairs of life. If the minds of
8 the jurors, after the entire comparison and consideration of all the evidence, are in such a
9 condition that they can say they feel an abiding conviction of the truth of the charge, there is
10 not a reasonable doubt. Doubt to be reasonable must be actual, not mere possibility or
11 speculation.

12 If you have a reasonable doubt as to the guilt of the Defendant, he is entitled to a
13 verdict of not guilty.
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INSTRUCTION NO. 22

It is a constitutional right of a defendant in a criminal trial that he may not be compelled to testify. Thus, the decision as to whether he should testify is left to the Defendant on the advice and counsel of his attorney. You must not draw any inference of guilt from the fact that he does not testify, nor should this fact be discussed by you or enter into your deliberations in any way.

The evidence which you are to consider in this case consists of the testimony of the witnesses, the exhibits, and any facts admitted or agreed to by counsel.

There are two types of evidence; direct and circumstantial. Direct evidence is the testimony of a person who claims to have personal knowledge of the commission of the crime which has been charged, such as an eyewitness. Circumstantial evidence is the proof of a chain of facts and circumstances which tend to show whether the Defendant is guilty or not guilty. The law makes no distinction between the weight to be given either direct or circumstantial evidence. Therefore, all of the evidence in the case, including the circumstantial evidence, should be considered by you in arriving at your verdict.

Statements, arguments and opinions of counsel are not evidence in the case. However, if the attorneys stipulate to the existence of a fact, you must accept the stipulation as evidence and regard that fact as proved.

You must not speculate to be true any insinuations suggested by a question asked a witness. A question is not evidence and may be considered only as it supplies meaning to the answer.

You must disregard any evidence to which an objection was sustained by the court and any evidence ordered stricken by the court.

Anything you may have seen or heard outside the courtroom is not evidence and must also be disregarded.

1
2 The credibility or believability of a witness should be determined by his or her
3 manner upon the stand, his or her relationship to the parties, his or her fears, motives,
4 interests or feelings, his or her opportunity to have observed the matter to which he or she
5 testified, the reasonableness of his or her statements and the strength or weakness of his or
6 her recollections.

7 If you believe that a witness has lied about any material fact in the case, you may
8 disregard the entire testimony of that witness or any portion of his testimony which is not
9 proved by other evidence.
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2 Although you are to consider only the evidence in the case in reaching a verdict, you
3 must bring to the consideration of the evidence your everyday common sense and judgment
4 as reasonable men and women. Thus, you are not limited solely to what you see and hear as
5 the witnesses testify. You may draw reasonable inferences from the evidence which you feel
6 are justified in the light of common experience, keeping in mind that such inferences should
7 not be based on speculation or guess.

8 A verdict may never be influenced by sympathy, prejudice or public opinion. Your
9 decision should be the product of sincere judgment and sound discretion in accordance with
10 these rules of law.
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INSTRUCTION NO. 26

In your deliberation you may not discuss or consider the subject of punishment, as that is a matter which lies solely with the court. Your duty is confined to the determination of whether the Defendant is guilty or not guilty.

When you retire to consider your verdict, you must select one of your number to act as foreperson who will preside over your deliberation and will be your spokesperson here in court.

During your deliberation, you will have all the exhibits which were admitted into evidence, these written instructions and forms of verdict which have been prepared for your convenience.

Your verdict must be unanimous. As soon as you have agreed upon a verdict, have it signed and dated by your foreperson and then return with it to this room.

1
2 If, during your deliberation, you should desire to be further informed on any point of
3 law or hear again portions of the testimony, you must reduce your request to writing signed
4 by the foreperson. The officer will then return you to court where the information sought
5 will be given you in the presence of, and after notice to, the district attorney and the
6 Defendant and his counsel.

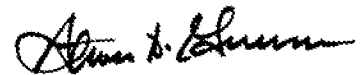
7 Playbacks of testimony are time-consuming and are not encouraged unless you deem
8 it a necessity. Should you require a playback, you must carefully describe the testimony to
9 be played back so that the court recorder can arrange her notes. Remember, the court is not
10 at liberty to supplement the evidence.
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Now you will listen to the arguments of counsel who will endeavor to aid you to reach a proper verdict by refreshing in your minds the evidence and by showing the application thereof to the law; but, whatever counsel may say, you will bear in mind that it is your duty to be governed in your deliberation by the evidence as you understand it and remember it to be and by the law as given to you in these instructions, with the sole, fixed and steadfast purpose of doing equal and exact justice between the Defendant and the State of Nevada.

GIVEN:


DISTRICT JUDGE

EXHIBIT 11



CLERK OF THE COURT

1 RTRAN

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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 WILBURT HICKS
12 Aka WILLIAM HICKS,

13 Defendant.

CASE#: C278699

DEPT. V

14
15 BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

16 MONDAY, SEPTEMBER 9, 2013

17 **RECORDER'S ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS**
18 **JURY TRIAL, DAY 5**

19 APPEARANCES:

20 For the State:

RICHARD H. SCOW, ESQ.
Chief Deputy District Attorney
CHRISTOPHER S. HAMNER, ESQ.
Deputy District Attorney

21
22 For the Defendant:

MITCHELL L. POSIN, ESQ.

23
24
25 RECORDED BY: LARA CORCORAN, COURT RECORDER

1 SEPTEMBER 9, 2013 AT 12:13 P.M.

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3 [Inside the presence of the Jury Foreperson,
4 outside the presence of the jurors]

5 THE COURT: All right. Please seated. All right. We're on the record in case
6 number C278699, State of Nevada versus Wilburt Hickman. The Defendant is
7 present with his counsel and Deputy District Attorney prosecuting the case and all
8 officers of the Court. And we have the foreman of our jury present, Mr. Alford;
9 correct?

10 THE JURY FOREPERSON: Yes.

11 THE COURT: And, Mr. Alford, I received a note from the jury which I have in
12 my hand that reads, if we cannot come to an agreement on one or more charges,
13 will it be a complete mistrial or will sentencing occur on the charges that we have
14 agreed upon? Is the jury still in a posture where apparently you don't have
15 agreement on all of the counts?

16 THE JURY FOREPERSON: We have not reached agreement on all of the
17 charges.

18 THE COURT: All right. And do you think that additional deliberation time
19 would change that?

20 THE JURY FOREPERSON: I though this morning that at least one of the
21 jurors was changing their mind, another juror seems pretty entrenched, and then a
22 third juror, I think, is still open to discussion.

23 THE COURT: All right. So, it's a possibility. So, the answer of course
24 to the question is that the jury can come back with on verdicts -- counts where
25 you've reached a verdict and not on others that will result in the necessity to retry

1 those that whether no verdict has been reached because those -- the jury would be
2 hung on those. But if you have -- if the jury has reached verdicts on some of them
3 then we could go forward with getting the verdict on those. But it sounds as if
4 maybe you could deliberate a little further. If we ordered you lunch maybe that
5 would be the thing to do.

6 Also I did get word that the parking garage where presumably all
7 the jurors have parked is closed due to some police activity there.

8 THE COURT RECORDER: Potential jurors. Do seated jurors park in the
9 same area?

10 THE MARSHAL: Actually, Your Honor, that is on 4th Street. My jurors are
11 parked right across the street on Casino Center and Lewis.

12 THE COURT: Oh, good. Okay. I thought it was where the jurors -- never
13 mind. That doesn't affect you because I was worried that you wouldn't be able to
14 leave. Why don't you go back and let us know whether you'd like to continue to
15 deliberate some more. I'd like you to try and deliberate and some more. Do you
16 want me to order lunch? It'll take about an hour usually to get lunch. So, I would
17 need to order it.

18 So, we'll order lunch and you can continue to try and deliberate. All
19 right.

20 THE FOREPERSON: Okay.

21 THE COURT: Thank you.

22 [Outside the presence of the Jury Foreperson]

23 THE COURT: All right. And we'll mark the note as a Court exhibit. The
24 record will reflect the Foreman has departed. Anything further?

25 MR. POSIN: Nothing further, Your Honor.

1 THE COURT: All right. I'll call you.

2 MR. POSIN: Thank you.

3 MR. HAMNER: Thank you.

4 [Jury resumed deliberations at 12:17 p.m.]

5 [Proceedings resumed at 3:26 p.m.]

6 [Inside the presence of the Jury Foreperson;

7 outside the presence of the jurors]

8 THE COURT: I'm going to call C278699, State of Nevada versus Wilburt
9 Hickman. The record will reflect the presence of the Defendant with his counsel, the
10 Deputy District Attorney prosecuting the case and all officers of the Court. I'm
11 bringing the Foreman in because my understanding that they haven't reached a
12 verdict on all the counts yet so I want to ask whether he thinks further deliberation
13 will change that. So, that's where we are.

14 All right. Marshal, bring in our Foreman. Please be seated. Good
15 afternoon.

16 THE JURY FOREPERSON: Hi.

17 THE COURT: So, the jury has been able to reach a verdict on some of the
18 counts but still not on some counts; is that correct?

19 THE JURY FOREPERSON: Correct.

20 THE COURT: Do you feel that further deliberation would change that?

21 THE JURY FOREPERSON: No.

22 THE COURT: All right.

23 THE JURY FOREPERSON: I don't think so.

24 THE COURT: All right. And the jury's been deliberating basically all day
25 today since 8:30. And we had -- how many hours did you deliberate last week?

1 THE JURY FOREPERSON: Till about 4:15.

2 THE COURT: Okay.

3 THE JURY FOREPERSON: So, four and a half hours.

4 THE COURT: Okay. All right. Thank you. If you'll depart the courtroom and
5 let me consult with counsel.

6 [Outside the presence of the Jury Foreperson]

7 THE COURT: The record will reflect that the Foreman has departed the
8 courtroom. Frankly, I don't see that it's going to make -- you know, to ask them to
9 deliberate again. We've already done that. And frankly since we sent them back,
10 they deliberated quite an additional amount of hours, and I don't know whether
11 they've -- it's changed from what it was earlier. But it sounds to me like they've
12 done their best and have reached a verdict as to some of the counts. I think we
13 should proceed. Is there any argument to the contrary?

14 MR. POSIN: No, Your Honor.

15 MR. HAMNER: No, Your Honor.

16 THE COURT: All right.

17 [Inside the presence of the jury]

18 THE COURT: Thank you. Please be seated.

19 All right. The record will reflect that we are in within the presence of all
20 12 members of the jury and Defendant is present with his counsel, the Deputy
21 District Attorney prosecuting the case, and all officers of the Court are present; will
22 counsel so stipulate?

23 MR. POSIN: Yes, Your Honor.

24 MR. HAMNER: Yes, Your Honor.

25 THE COURT: Mr. Alford, has the jury reached a verdict?

1 THE JURY FOREPERSON: We have reached a verdict on 9 of the 17
2 counts.

3 THE COURT: Okay. And it is your belief that the jury could not, even if it
4 further deliberated, could not reach a verdict on the remaining counts?

5 THE JURY FOREPERSON: Correct.

6 THE COURT: Thank you. If you'll hand the verdict to me.

7 THE MARSHAL: Yes, Your Honor.

8 THE COURT: All right. If the clerk will read the verdict a loud.

9 THE COURT CLERK: District Court, Clark County, Nevada. The State of
10 Nevada, plaintiff, versus Wilburt Hickman aka William Hicks, Defendant; case
11 number C278699-1; Verdict.

12 We, the jury in the above-entitled case, find the Defendant, Wilburt
13 Hickman, as follows:

14 Count one: No decision; count two, no verdict.

15 I'm sorry. Let me read the counts. I'm sorry, Your Honor.

16 Count 1: Attempt murder with use of a deadly weapon, Anneesah Franklin,
17 no verdict.

18 Count 2: Attempt murder with use of a deadly weapon Anyla Hoye, no
19 verdict.

20 Count 3: Attempt murder with use of a deadly weapon Allen Burse, no
21 verdict.

22 Count 4: Attempt murder with use of a deadly weapon Washington
23 Thompson, no verdict.

24 Count 5: Attempt murder with use of a deadly weapon Marquette Jenkins, no
25 verdict.

1 Count 6: Attempt murder with use of a deadly weapon Rahmeka Adams, no
2 verdict.

3 Count 7: Attempt murder with use of a deadly weapon Sharon Powell, no
4 verdict.

5 Count 8: Attempt murder with use of a deadly weapon Tiffany Tross, no
6 verdict.

7 Count 9: Battery with use of a deadly weapon Anneesah Franklin, guilty of
8 battery with use of a deadly weapon.

9 Count 10: Battery with use of a deadly weapon resulting in substantial bodily
10 harm Anyla Hoye, guilty of battery with use of a deadly weapon resulting in
11 substantial bodily harm.

12 Count 11: Assault with a deadly weapon Allen Burse, guilty of assault with
13 use of a deadly weapon.

14 Count 12: Assault with a deadly weapon Washington Thompson, guilty of
15 assault with use of a deadly weapon.

16 Count 13: Assault with a deadly weapon MarquetteJenkins, guilty of assault
17 with use of a deadly weapon.

18 Count 14: Assault with a deadly weapon Rahmeka Adams, guilty of assault
19 with use of a deadly weapon.

20 Count 15: Assault with a deadly weapon Sharon Powell, guilty of assault with
21 use of a deadly weapon.

22 Count 16: Assault with a deadly weapon Tiffany Trass, guilty of assault with
23 use of a deadly weapon.

24 Count 17: Burglary, guilty of burglary.

25 Dated this 9th day of September by the Foreperson -- excuse me -- Mr.

1 William Alford.

2 Ladies and gentlemen of the jury, are these your verdicts as read so
3 say you one so say you all?

4 THE JURY PANEL: Yes.

5 THE COURT: All right. And does either side wish the jury to be polled as to
6 the verdicts that were returned?

7 MR. POSIN: Yes, Your Honor.

8 THE COURT: All right. The Clerk will poll the jury.

9 THE COURT CLERK: Juror Number 1, Mr. William Alford, are these your
10 verdicts as read?

11 JUROR NUMBER ONE: Yes.

12 THE COURT CLERK: Juror Number 2, Ivis Kam-Pamintuan, are these your
13 verdicts as read?

14 JUROR NUMBER TWO: Yes.

15 THE COURT CLERK: Juror Number 3, Dorinda James, are these your
16 verdicts as read?

17 JUROR NUMBER 3: Yes.

18 THE COURT CLERK: Juror Number 4, Terrence Koepke, are these your
19 verdicts as read?

20 JUROR NUMBER 4: Yes.

21 THE COURT CLERK: Juror Number 5, Heather Lawson, are these your
22 verdicts as read?

23 JUROR NUMBER 5: Yes.

24 THE COURT CLERK: Juror Number 6, Katherine Schwendemann, are these
25 your verdicts as read?

1 JUROR NUMBER 6: Yes.

2 THE COURT CLERK: Juror Number 7, Debra Power, are these your verdicts
3 as read?

4 JUROR NUMBER 7: Yes.

5 THE COURT CLERK: Juror Number 8, Robert Soncini, are these your
6 verdicts as read?

7 JUROR NUMBER 8: Yes.

8 THE COURT CLERK: Juror Number 9, Ingrid Fitzgerald, are these your
9 verdicts as read?

10 JUROR NUMBER 9: Yes.

11 THE COURT CLERK: Juror Number 10, William Capron, are these your
12 verdicts as read?

13 JUROR NUMBER 10: Yes.

14 THE COURT CLERK: Juror Number 11, Phoebe Cooper, are these your
15 verdicts as read?

16 JUROR NUMBER 11: Yes.

17 THE COURT CLERK: Juror Number 12, Katarina Tadich, are these your
18 verdicts as read?

19 JUROR NUMBER 12: Yes.

20 THE COURT: Thank you.

21 All right. Ladies and gentlemen, I really appreciate as I know the
22 attorneys do all the hard work that you put in in this case, the time, your patience
23 and attentiveness all through this trial. You are now released from your burden not
24 to discuss the case, however, be mindful that there are still charges that will need to
25 be retried. So, keep your comments regarding that, you know, to yourself as far as

1 your opinions and deliberations on those counts. But as far as the deliberations,
2 counts that you've returned, you know, you're relieved from your liability not to
3 discuss those. What I'm going to have the marshal do is take you back to the jury
4 room and I'm going to come back and thank you personally.

5 Also you may wish to speak with the attorneys and I'll find out from you
6 when I come back if you'd like to speak with them at all because if you do they
7 oftentimes wish to speak with the jury just to find out their thoughts, and I think in
8 this particular circumstance they may want to speak with you as well for a number of
9 reasons. Both sides may wish to. I don't know, but I'll give them that opportunity
10 and you as well. Now you don't have to speak to them. You don't have to speak to
11 anybody about your jury service if you don't wish to and that's completely up to you.
12 Once you leave you'll need to go over to jury commissioner to be processed out and
13 receive your final payment for your service.

14 So, thank you very much and I'll be with you momentarily.

15 [Outside the presence of the jury]

16 THE COURT: All right. Please be seated. The record will reflect the jury
17 has departed the courtroom. Obviously they hung on all of the attempt murder
18 charges. So, I don't know whether the State had contemplated that eventuality and
19 determined whether you wish to proceed or you need some more time to determine
20 that.

21 MR. HAMNER: Yeah, I probably would.

22 THE COURT: All right.

23 MR. HAMNER: We just may set it.

24 THE COURT: What I'd like to do -- how much time do you need because
25 what I'd like to do is before I set it for sentencing --

1 MR. HAMNER: Uh-hm.

2 THE COURT: -- is have you consider that and make the determination so we
3 could set it for a status check as to when sentencing. And then in the meantime
4 refer him, you know, refer it to Parole and Probation. They're taking forever anyway
5 --

6 MR. HAMNER: Yeah.

7 THE COURT: -- to get these done.

8 MR. HAMNER: Can he be remanded on no bail, Your Honor, as we're
9 awaiting sentencing on the counts that are already there?

10 THE COURT: Defense, do you have an objection to that?

11 MR. POSIN: What is his current bail, Your Honor?

12 THE COURT CLERK: It looks like it was modified to \$30,000.

13 THE COURT CLERK: Thirty thousand is his bail. Now that's he's been
14 convicted, I'm inclined to remand him anyway.

15 MR. POSIN: Your Honor, I think it would be appropriate to keep the same
16 amount of bail that he currently has. On the one hand he's been convicted of some
17 charges; on the other hand, the most serious ones have resulted in a hung jury.

18 THE COURT: Well yes that's true. But he's also been convicted of some
19 very serious charges. And so that to me changes the posture and it's not the matter
20 anymore of him, you know, being presumed innocent. He's been found guilty and I
21 think it changes the posture of the matter. So, I'm going to have him remanded to
22 custody. And how much time did the State want to consider whether you're going to
23 file --

24 MR. HAMNER: Two weeks, Your Honor.

25 THE COURT: Two weeks.

1 MR. HAMNER: Yes.

2 THE COURT: All right. We're going to set it for a status check as to setting
3 the hearing date of sentencing, and in two weeks also status check on whether the
4 State is going to proceed on the remaining attempt murder charges. And so it will
5 be also status check for a resetting trial on those charges. In the meantime, he'll be
6 referred to P and P for a Pre-Sentence Investigation Report on sentencing.

7 THE COURT CLERK: September 25th, 9 a.m.

8 THE COURT: Thank you. He's remanded to custody. No bail.

9
10 [Jury Trial, Day 5, concludes at 3:43 p.m.]

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21 ATTEST: Pursuant to Rule 3(c)(d) of the Nevada Rules of Appellate Procedure, I
22 acknowledge that this is a rough draft transcript, expeditiously prepared, not
proofread, corrected, or certified to be an accurate transcript.

23

24

25


PATRICIA SLATTERY

EXHIBIT 12

ORIGINAL

3:34 PM

VER

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

SEP - 9 2013

BY: Andrea H. Davis
ANDREA DAVIS, DEPUTY

THE STATE OF NEVADA,

Plaintiff,

-vs-

WILBURT HICKMAN, aka
William Hicks, #0905481

Defendant.

CASE NO: C-12-278699-1

DEPT NO: V

VERDICT

We, the jury in the above entitled case, find the Defendant WILBURT HICKMAN, as follows:

COUNT 1 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
(ANNEESAH FRANKLIN)

(please check the appropriate box, select only one)

☐ Guilty of Attempt Murder With Use of a Deadly Weapon

☐ Guilty of Attempt Murder

☐ Not Guilty

COUNT 2 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
(ANYLA HOYE)

(please check the appropriate box, select only one)

☐ Guilty of Attempt Murder With Use of a Deadly Weapon

☐ Guilty of Attempt Murder

☐ Not Guilty

COUNT 3 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
(ALLEN BURSE)

(please check the appropriate box, select only one)

- ☐ Guilty of Attempt Murder With Use of a Deadly Weapon
☐ Guilty of Attempt Murder
☐ Not Guilty

COUNT 4 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
(WASHINGTON THOMPSON)

(please check the appropriate box, select only one)

- ☐ Guilty of Attempt Murder With Use of a Deadly Weapon
☐ Guilty of Attempt Murder
☐ Not Guilty

COUNT 5 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
(MARQUETTA JENKINS)

(please check the appropriate box, select only one)

- ☐ Guilty of Attempt Murder With Use of a Deadly Weapon
☐ Guilty of Attempt Murder
☐ Not Guilty

COUNT 6 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
(RAHMEKA ADAMS)

(please check the appropriate box, select only one)

- ☐ Guilty of Attempt Murder With Use of a Deadly Weapon
☐ Guilty of Attempt Murder
☐ Not Guilty

COUNT 7 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
(SHARON POWELL)

(please check the appropriate box, select only one)

- ☐ Guilty of Attempt Murder With Use of a Deadly Weapon
☐ Guilty of Attempt Murder
☐ Not Guilty

COUNT 8 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
(TIFFANY TRASS)

(please check the appropriate box, select only one)

- ☐ Guilty of Attempt Murder With Use of a Deadly Weapon
☐ Guilty of Attempt Murder
☐ Not Guilty

COUNT 9 - BATTERY WITH USE OF A DEADLY WEAPON
(ANNEESAH FRANKLIN)

(please check the appropriate box, select only one)

- ☒ Guilty of Battery With Use of a Deadly Weapon
☐ Guilty of Battery
☐ Not Guilty

COUNT 10 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
SUBSTANTIAL BODILY HARM
(ANYLA HOYE)

(please check the appropriate box, select only one)

- ☒ Guilty of Battery With Use of a Deadly Weapon Resulting in Substantial
Bodily Harm
☐ Guilty of Battery With Use of a Deadly Weapon
☐ Guilty of Battery Resulting in Substantial Bodily Harm
☐ Guilty of Battery
☐ Not Guilty

COUNT 11 - ASSAULT WITH A DEADLY WEAPON
(ALLEN BURSE)

(please check the appropriate box, select only one)

- ☒ Guilty of Assault With Use of a Deadly Weapon
☐ Guilty of Assault
☐ Not Guilty

COUNT 12 – ASSAULT WITH A DEADLY WEAPON
(WASHINGTON THOMPSON)

(please check the appropriate box, select only one)

- ☒ Guilty of Assault With Use of a Deadly Weapon
☐ Guilty of Assault
☐ Not Guilty

COUNT 13 – ASSAULT WITH A DEADLY WEAPON
(MARQUETTA JENKINS)

(please check the appropriate box, select only one)

- ☒ Guilty of Assault With Use of a Deadly Weapon
☐ Guilty of Assault
☐ Not Guilty

COUNT 14 – ASSAULT WITH A DEADLY WEAPON
(RAHMEKA ADAMS)

(please check the appropriate box, select only one)

- ☒ Guilty of Assault With Use of a Deadly Weapon
☐ Guilty of Assault
☐ Not Guilty

COUNT 15 – ASSAULT WITH A DEADLY WEAPON
(SHARON POWELL)

(please check the appropriate box, select only one)

- ☒ Guilty of Assault With Use of a Deadly Weapon
☐ Guilty of Assault
☐ Not Guilty

COUNT 16 – ASSAULT WITH A DEADLY WEAPON
(TIFFANY TRASS)

(please check the appropriate box, select only one)

- ☒ Guilty of Assault With Use of a Deadly Weapon
☐ Guilty of Assault
☐ Not Guilty

1 **COUNT 17 – BURGLARY**

2 *(please check the appropriate box, select only one)*

3 ☒ Guilty of Buglary

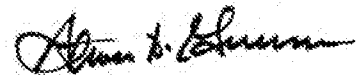
4 ☐ Not Guilty

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7 DATED this 9TH day of September, 2013.

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FOREPERSON

EXHIBIT 13



CLERK OF THE COURT

1 RTRAN

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3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 THE STATE OF NEVADA,

6 Plaintiff,

7 vs.

8 WILBURT HICKMAN, aka, WILLIAM
9 HICKS,

10 Defendant.

CASE NO. C278699

DEPT. NO. V

11 BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

12
13 WEDNESDAY, DECEMBER 18, 2013

14
15 RECORDER'S TRANSCRIPT RE:
16 SENTENCING

17
18
19 APPEARANCES:

20 For the Plaintiff:

CHRISTOPHER S. HAMNER
Deputy District Attorney

21
22 For the Defendant:

MITCHELL L. POSIN, ESQ.

23
24
25 RECORDED BY: LARA CORCORAN, COURT RECORDER

1 LAS VEGAS, NEVADA, WEDNESDAY, DECEMBER 18, 2013, 9:23 A.M.

2 * * * * *

3 THE COURT: Case Number C278699, State of Nevada versus Wilburt
4 Hickman.

5 THE DEFENDANT: Here, Your Honor.

6 THE COURT: I show Mr. Hickman in custody with his counsel, Mr.
7 Posin.

8 THE COURT: Good morning.

9 MR. POSIN: Good morning, Your Honor.

10 THE COURT: This is the time set for sentencing. Is there any legal
11 cause or reason we cannot proceed?

12 MR. POSIN: No, there is not.

13 THE COURT: Thank you. And, of course, Mr. Hickman was found
14 guilty by virtue of a jury verdict as to Counts 9, 10, 11, 12, 13, 14, 15, 16, and 17.
15 And the jury hung on Counts 1 through 8, which – and they were then dismissed by
16 the State with prejudice.

17 So by virtue of the guilty verdicts as to Counts 9 through 17, I hereby
18 adjudge you guilty of those offenses.

19 And State.

20 MR. HAMNER: Thank you, Your Honor.

21 So, Your Honor, today is December 18th, 2013. That's not – the State's
22 position is that it's interesting that it's this date because this is the three-year
23 anniversary of when the defendant took his Cadillac and drove through a church on
24 the Sunday before Christmas. It's the exact same day. So it's fitting that he should
25 be sentenced on this day.

1 This case in a lot of ways encapsulates – actually – and, Your Honor,
2 before I begin I apologize, but I need to approach with just the certified judgments of
3 convictions.

4 THE COURT: All right. Thank you.

5 MR. HAMNER: Can I approach, Your Honor?

6 THE COURT: Yes.

7 MR. HAMNER: Thanks.

8 THE COURT: Thank you.

9 And has defense counsel seen these?

10 MR. POSIN: No, Your Honor, but if they're just certified –

11 THE COURT: Would you like to review them? Make sure that –

12 MR. POSIN: I don't really need to if they're just certified judgments of
13 convictions.

14 THE COURT: I want to make sure that you feel they're in order.

15 MR. POSIN: They seem in order, Your Honor.

16 THE COURT: Thank you.

17 MR. HAMNER: Your Honor, as I was saying, this case in a lot of ways
18 essentially encapsulates his entire criminal history, what he's done. He's 60 years
19 old, but in a lot of ways it reflects kind of a history of the crimes that he has. This
20 defendant in this case, when he is angry and he is upset, he lets his anger and his
21 rage get the best of him, and that's what happened here.

22 If you look at his record, he's got three felony convictions, four gross
23 misdemeanor convictions, 17 misdemeanor convictions. They involve things like
24 violence and anger, which is evidenced by the fact that he has multiple battery
25 domestic violence. He attacks his loved ones. So much so that it rose to a felony

1 offense at one point.

2 He has issues with authority. In this case, as we know, the church very
3 politely, multiple times, told him, sir, you need to leave but he wasn't -- essentially
4 wasn't having that. That's also reflected in the fact that he has been arrested for
5 evading a police officer in the past.

6 He has issues with substance abuse and alcohol. We know that even
7 though it didn't come out at trial it became clear that he had been drinking. He has
8 multiple convictions, felonies and otherwise, for using drugs. I'm sure alcohol's
9 played a part in all this throughout his life.

10 But the bottom line is, Your Honor, when this gentleman is told
11 something he's not happy with it manifests itself in the worst way possible. And you
12 would think at 60 years of age that maybe if he does lash out and commit crimes
13 that it would tail off, but this is essentially the penultimate of what he did. I mean, of
14 all his crimes this is by far the worst.

15 Now I know the jury in this case hung, but there were essentially just a
16 couple of holdouts. And if -- and you listen to the facts in this case, the State is
17 confident, even though we decided not to retry him on the attempt murder counts,
18 there's no question he tried to kill these people on that day, because he deliberately
19 got in his car, he turned his wheels, not just towards one person individually, which
20 is the first person he turned his wheels to, which was Allen Burse, the security
21 guard, who, upon asking him a second time, you need to leave, he cut his wheels at
22 him and he gunned that car, and you heard that from witness after witness after
23 witness.

24 He wanted Allen Burse dead. There's no other reason to take off in a
25 2,000 pound vehicle at an unarmed human being. There's simply no point, other

1 than to severely hurt them and try to kill them, and that's what he wanted to do. But
2 he didn't stop there. There was a crowd of people. Everyone talked about five to
3 seven people standing outside of this church. He then continued to drive through
4 there. He didn't honk, he didn't brake, he didn't swerve to get out of the way.

5 I mean, their testimony, witness after witness after witness was uniform
6 as to the path that he took. Why? Because he was angry at the church. He didn't
7 care who he injured at that point. And he succeeds at hitting a little girl and her
8 mother. He hit the little girl so hard he knocked her out of her shoes, causing a
9 panic. You heard multiple people saying things like they thought the child was stuck
10 underneath the car.

11 He blew open the doors that were made of metal and lodged his
12 Cadillac halfway through the church. And the crazy part about this was is that when
13 he went through the church he didn't stop. He didn't apologize. In fact, everyone
14 heard the wheels were continually being spun as if he's gunning the engine. They
15 had to physically climb in and pry him off the steering wheel of the car as he's
16 saying things like, I'm gonna kill all of you. You remember Washington Thompson,
17 who had never even met the man up to this point, who was one of the security
18 guards, he said you're next.

19 It is unequivocally clear that he wanted to harm these people and harm
20 this church community, and he did it at a time when, frankly, you shouldn't even be
21 thinking of things like that. They were there to worship, they were there for the
22 Christmas season, and he ruined it. He simply ruined it because he didn't want to
23 see – he wanted to see his daughter, who wanted nothing to do with him, was
24 actually so afraid of seeing him show up at her church that she left and told security,
25 I'm afraid I have to leave. And they said no, we'll let her leave, you can go – no, no,

1 I can't even be here. That's how terrified she was of her own father. And his
2 reaction when they just did their job was to torment and try to commit -- kill members
3 of their community. And that's simply unacceptable.

4 He certainly qualifies for habitual criminal treatment. And the State
5 would be asking for that. You can decide, Your Honor, whether you want it
6 adjudicated as the large or the small. I know that essentially he meets the bare
7 minimum for a large habitual criminal treatment.

8 But I think what's more important is that he has a history of violence.
9 He has a history of lashing out at authority. He has problems, obviously, with drugs,
10 apparently alcohol in this case.

11 But the terrifying thing about this is that at 60 years of age this is by far
12 the worst thing he's ever done. And it's simply because he let the -- his anger get
13 the best of him, something that he may have to deal with for the rest of his life.

14
15 There's going to be plenty of times where things -- people tell you things
16 that you don't want to hear or tell you you need to do something you don't like. And
17 this is without question a horrific, horrific way to deal with your anger. You don't
18 take cars, drive them into churches at people trying to kill them just because they
19 didn't let you in to see a daughter who wasn't even on the church premises.

20 And that's why when you look at all of his crimes, and you look at his
21 behavior in this crime, this Court should have no confidence that this anger issue
22 that he has is going to subside. We even saw it through the course of the trial.

23 I've been with this case from the beginning. He lashed out at the preliminary
24 hearing, which came out during trial.

25 When the security guard, Allen Burse, talked about how I was so afraid

1 of the guy that when I asked him to get in his car I walked backwards because I
2 thought something bad was going to happen, he literally yelled out in the middle of
3 court, that's because you almost broke my damn arm, and he was admonished not
4 to. Why? Because his anger was at such a peak at a preliminary hearing he
5 couldn't even contain himself.

6 I think Your Honor probably noticed him during trial constantly fittering –
7 fidgeting, muttering under his breath at different points in time because his anger
8 was getting the best of him. And I think we've even seen post trial his frustrations
9 and his behavior came out here just as recently as the last court appearance.

10 So we have evidence here, Your Honor, that this is not really going to
11 change. This is who Mr. Hickman is. When he is angry and he is upset it manifests
12 itself, and that should give the Court great pause.

13 Now, Parole and Probation here has recommended that only two of the
14 counts be run consecutive to each other. They wanted the count of the little girl,
15 Anyla Hoye, and her mother, Anneesah Franklin, the two people who were hit and
16 sent airborne by the defendant, to be run consecutive.

17 The State would ask that that doesn't really encapsulate all the things
18 that happened here. The defendant didn't just hit one singular group of people or
19 aim at one singular group of people. The testimony is abundantly clear that Allen
20 Burse, the first security guard, was nowhere near Anneesah Franklin and Anyla
21 Hoye, but that was his original target.

22 And with that in mind the State would ask that he be adjudicated under
23 the habitual statute but that be the first sentence that's pronounced and it be run
24 consecutive to Anneesah Franklin, who was actually hit and sent airborne, and
25 Anyla Hoye, who also was hit and had her foot broken. Those should all be run

1 consecutive.

2 But that doesn't even address the other people who were standing
3 outside of the church that fall under these assault statutes, people like Washington
4 Thompson, Marquetta Jenkins. It also doesn't address the people inside the church,
5 like Sharon Powell, Tiffany Trass, Rahmeka Adams. And it also doesn't address all
6 the other people who were there that experienced this.

7 For example, Your Honor, Rahmeka Adams told us that when she sat
8 inside the church and that car blew open those metal doors, she couldn't find her
9 daughter, and when she heard everyone screaming, the child is under there, Ms.
10 Adams actually thought it was her daughter. We didn't charge – we didn't bring her
11 daughter into this case, but certainly she was affected as well. She testified about
12 the fear that her own daughter went through as well.

13 You heard the testimony of Ms. Sharon Powell, who talked about how
14 she was standing in front of that metal door that was blown open, and she heard the
15 Lord say, step out of the way, and she took one step over and that car went through.
16 Ms. Powell, even though she didn't testify to it, and I can't remember, but at least I
17 know from my conversations with her, told me that she was so terrified in the
18 aftermath of all this she didn't go to Christmas services. And this church community
19 is very important to her, but she couldn't bring herself to go because she was afraid
20 he was out there and in the community, because what he did had a lasting effect.

21 So the State also thinks it would be appropriate that all the other people
22 that he assaulted, and we believe tried to kill but somehow succeeded, fortunately,
23 in not hitting them, they should be run consecutive as well, at least to one of the
24 victims.

25 And lastly we haven't even addressed the church. You didn't hear an

1 official church official, but he did a ton of damage monetarily to the church. And I
2 would imagine, even though we don't have a ton of speakers from the church
3 speaking here, I would imagine it did a pretty significant damage to that community
4 as well.

5 I can only imagine what the New Antioch Church had to go through,
6 knowing that their church, in a lot of ways, had been severely damaged and
7 destroyed the Sunday before Christmas. He damaged their ability, this community,
8 to worship the way they wanted to, and that's inexcusable, especially when it's
9 something as trivial over, your daughter's not here, you need to go.

10 Now I know there's been -- there was some evidence of alcohol, Your
11 Honor, and I wanted to at least address that to a certain extent. You know, it didn't
12 come out at trial, but he was twice the legal limit. But being twice the legal limit is
13 not somebody who's fall-down drunk where they don't what they're doing.

14 And I think when you heard the testimony of his behavior it became
15 abundantly clear that alcohol really wasn't an issue here. He was able to go in the
16 church under his own power, talk with no issue, walk out, park, re-park, when he
17 was kicked out the first time move his car closer, walk under his own power, come
18 in, very clearly announce what his intentions were as he reentered the church.

19 The issue here is Mr. Hickman's rage. This is not about drinking. And
20 that shouldn't give him a free pass or lessen his sentence, because the only driving
21 force had nothing to do with the bottle; it had to do with the fact that he was really,
22 really angry because he doesn't like it when he's told things he's not supposed to
23 do.

24 When he wants to do something he's going to do it, and if it doesn't
25 happen and he doesn't get his way, well, then people are going to pay. And a lot of

1 people, for no good reason whatsoever had to suffer because he didn't get his way.

2 So with that, Your Honor, the State would respectfully submit this to
3 your discretion. We'd ask that it be – he be sentenced under the habitual statute,
4 and we'd ask that at least four of the counts be run consecutive. And with that the
5 State would submit.

6 THE COURT: All right. I want to put on the record what these
7 judgments of conviction are that are the basis for your seeking habitual offender
8 treatment.

9 And so the first one is case number C156759, a conviction filed
10 February 19th, 1999, battery with substantial bodily harm, battery constituting
11 domestic violence and invasion of the home, appears. The second – that was the
12 information that was originally filed. And –

13 MR. HAMNER: Your Honor, I can read them out.

14 THE COURT: Okay. Thank you.

15 MR. HAMNER: I have them –

16 THE COURT: The judgment of conviction –

17 MR. HAMNER: – listed.

18 THE COURT: – was July 15th, 1999.

19 MR. HAMNER: That's –

20 THE COURT: Do you have the others? If you'd put them on the
21 record.

22 MR. HAMNER: I – sure, Your Honor.

23 THE COURT: I'd like to have a complete record.

24 MR. HAMNER: In 1985, in California, the defendant was convicted of
25 sale of a controlled substance under case number A772219. In 2000, here in

1 Nevada, the defendant was convicted of stop required on a police officer in case
2 number C159356. And in 1999, in Nevada, the defendant was convicted for battery
3 domestic violence, third offense, in case number C156759.

4 THE COURT: Thank you.

5 And, Mr. Hickman, before Mr. Posin argues on your behalf, would you
6 like to address the Court?

7 THE DEFENDANT: Yes, Your Honor. He really made me look like a
8 bad guy, Your Honor, but it's – I'm really not. Your Honor, I've lost a lot. I lost a car,
9 my home, family, jewelry, clothes, money. I lost my freedom. I even lost my cat,
10 Your Honor. I've been in custody for two years, Your Honor. I think I've paid my
11 debt to society, Your Honor. I'm very sorry about what happened.

12 You read my letters – I hope you read my letters that I've sent you. And
13 it really was a problem, Your Honor. And you read the story. And that's what it is,
14 Your Honor. I'm not a loose cannon going around trying to ruin people's Christmas,
15 like he said. Your Honor, he spoke a lot of things, Your Honor, that were untrue, but
16 he had the floor, and, you know, he painted his picture. You read my story. And I'm
17 throwing myself at the mercy of the Court, Your Honor.

18 THE COURT: All right. Thank you.

19 Mr. Posin.

20 MR. POSIN: Thank you, Your Honor.

21 You know, much of Mr. Hamner's discussions seem to be really
22 addressing the counts that did not result in a conviction and had to do with what he
23 perceives as the defendant's intention to harm and kill these people. The – Your
24 Honor, you heard all the testimony, you heard the evidence, and you saw all the
25 pictures. And this was a car that went, in a relatively short period of time, directly

1 into these double doors of the church.

2 The — Mr. Hickman had gone in, had asked for his daughter. He'd been
3 told to leave. He came back in a second time, was escorted out, this time with his
4 hand behind his back. And he came in a third time, and that third entry into the
5 church is the basis for every count in this case, because he took his car and he went
6 into the church with that car.

7 Now, Mr. Hamner says there is absolutely no point, other than his anger
8 and his attempt to kill these people and harm these people, no point why he would
9 be doing that. Seems to me there's a very obvious and direct point that he was — he
10 had, which is he'd been sent out of the church, the second time with a hand behind
11 his back, and, yes, his anger came — got the better of him. I would agree with Mr.
12 Hamner on that; his anger got the better of him and he wanted to see his daughter.

13 Now, once he's been escorted by security out of the church with an arm
14 behind his back, if he decides he's going to go see his daughter, the only way he's
15 going to get in now is he's going to go in with his vehicle, which he did. And you'll
16 remember the pictures, Your Honor, the pictures of his car wedged right into the
17 entryway of that church. He was trying to get into that church.

18 If his sole aim there had been that I'm trying to hurt people, well, he
19 could have done that without getting his car right so perfectly into the — into the
20 church. What he was aiming for, and what he got into, was the church. Why did he
21 want to get into the church, is because his daughter was there.

22 Now, Mr. Hamner says his daughter wasn't there. Maybe by the time
23 that happened she had left, but she was certainly there. The testimony was that she
24 had been there earlier, that she in fact had discussed with somebody from the
25 church the fact that he was there asking for her. So she was there, he knew that

1 she was there, and he had some very important family matters that he – in his mind,
2 that he wanted to talk to her about.

3 Mr. Hamner says that the alcohol should not lessen his sentence. And I
4 would agree it's not a matter of lessening the sentence. It's not saying, okay, well,
5 he should get this sentence, but, you know, because of the alcohol, well, we'll drop
6 that down. It's that Your Honor has a range of sentences and is that an appropriate
7 factor to consider that, you know, this is from the discovery, that about three hours
8 later he had a .168 blood alcohol level? And remember this all happened early in
9 the morning, so we can presume that most of his alcohol consumption had taken
10 place overnight the night before. So was that a factor that went into his thinking or
11 his lack of thinking? Absolutely it was.

12 And through the trial and again here at sentencing, Mr. Hamner has
13 gone – has stressed again and again and again that he was able to walk on his own,
14 or that he didn't need to be held up, that he was able to get in the car, he was able
15 to drive it. His alcohol consumption was not to the extent that he was unable to do
16 those things, but alcohol does have the very-well-known effect of loosening your
17 inhibitions and getting people to do – not getting people to do, but allowing them to
18 do things that they would think better of if they were sober, things that maybe they
19 want to do but they don't clearly think through the consequences of them.

20 So what does that go to? Does that go – one of the things it goes to is
21 whose story here, Mr. Hamner's or mine, is more consistent with the facts? Is – was
22 he – had he by that time forgotten about the very daughter that he had twice gone in
23 to ask for? And now the State asks you to believe that he's somehow kind of
24 forgotten about the daughter and now his only goal is to hurt people he's never met
25 before. To me that seems like the unlikeliest of unlikely scenarios.

1 What does seem likely is that he was trying to go get his daughter. Did
2 he think through, oh, okay, is that – is that a smart thing to do under any
3 circumstance? What was – what were his thought processes? Does the alcohol
4 affect that? Absolutely it does and it did. It did that day.

5 And so when he went into the church that time did a lot of people get
6 scared? Yes. Did a few of them get hurt? Absolutely. Was the way they got hurt
7 consistent with somebody whose aim was to kill them? The very worst injury that
8 anybody sustained here was one baby toe that got broken, one baby toe.

9 If his goal was actually to kill people would he have gone through the
10 door or he would have, you know, mashed somebody up against the wall, if that's –
11 if that was his goal? That was not his goal. His goal was to see his daughter, Your
12 Honor.

13 He made some poor decisions. And certainly in his letter to you he's
14 talked about the problems that – you know, that he's had some problems and he's
15 made some poor decisions.

16 When we look at his priors, Mr. Hamner says that that was the bare
17 minimum to get into the large habitual criminal. Well, I would submit that there's a
18 lot of bare minimums that you can see throughout his history and including up until
19 this very case that went to trial in this courtroom.

20 Let's take the felonies, the type of felonies there are. The – one of the
21 felonies is failure to – failure – was it – failure to stop for a police officer. It was stop
22 required on signal of a police officer. That's one of the felonies he's convicted on.
23 I'd submit that that – it is a felony. I'm not trying to say I think it should be excused
24 or that he was not guilty of it, he was, but as felonies go I'd say that's a bare-
25 minimum felony.

1 Some of the issues in this case we have bare minimums. Was the –
2 was there substantial bodily harm? The jury found that there was, and so,
3 obviously, Your Honor has to go with what the jury found and you can't overrule the
4 jury. But in terms of what kind of harm might ever constitute substantial bodily harm
5 when you've got potentially somebody who is, you know, in a coma or maimed or in
6 constant pain throughout life, we have a girl who broke her baby toe, who testified
7 that it hurt for a couple of days. That's a bare minimum. What we've got is a bare
8 minimum on a lot of these things here, Your Honor.

9 He's got two prior felony convictions and one of them is this attempt to
10 – or a failure to stop for a police officer. Another is the domestic violence. I'd agree,
11 yes, he has some problems. Those problems have caused him to make bad
12 decisions and lose control.

13 But I'd again submit that as felonies go, in the scheme of things, in the
14 scheme of what might be a felony and what the Court might be looking for and
15 looking at, that can be distinguished from other more serious-type cases where
16 somebody does form some premeditation to either hurt somebody or steal
17 somebody [sic], and where they do that over a period of time with reflection and
18 deliberation. That's not what we have here with Mr. Hickman.

19 With Mr. Hickman's history and this very incident, he does some stupid
20 things, but they're spur-of-the-moment stupid things. Not – and I'm not excusing
21 them, but I'm trying to put them in the context of the range of things that Your Honor
22 could look at.

23 We're not trying to reduce his sentence to something lower than
24 whatever the law calls for. The law calls for various sentences here. But I think it
25 would not be appropriate in this case to give him the habitual criminal, and I would

1 ask Your Honor to run all of these counts concurrently.

2 I think this was one – you know, Mr. Hamner has done an excellent job
3 of going into each of these people, and certainly each of the people that were there
4 that day did experience this individually and separately from every other one of
5 them, but when we're looking at what Mr. Hickman did, he did one thing that
6 happened just almost instantaneously. He drove a couple of yards in a car into the
7 church. This whole thing was over in seconds.

8 And so while each person that was there had their own experience of it,
9 in terms of looking at his culpability, I would submit that it was really more of a
10 singular thing that he did and should be credited with – credited with what is
11 essentially a singular punishment and that the charges should be run concurrently.
12 So I'd submit it at that.

13 THE COURT: Thank you.

14 All right. I believe the reason that the jury hung on the attempt murder
15 is that I think it came across to at least some of those jurors that basically he didn't
16 think about – you know, that he didn't have the intent but he basically didn't really
17 care if he hit somebody or not. He decided that he was going to drive his car
18 through the church doors for whatever reason, whether he thought his daughter was
19 still there and he wanted to get in to see her or whether he was just upset with the
20 people who had ejected him out of the church and wouldn't let him come in. And,
21 frankly, I don't really care which reason it was.

22 I can say to you, Mr. Hickman, you're just lucky that through the grace
23 of God that no one was killed, because certainly it wasn't because it couldn't have
24 happened. The conduct in this, really, there's not any excuse for this kind of
25 behavior at your age. And I've taken into consideration your letters, of course Mr.

1 Posin's arguments, and the fact that your convictions, some of them are quite old,
2 and the nature of them.

3 And so as to Count 9, battery with use of a deadly weapon – well, I'm
4 also assessing the \$25 administrative assessment fee and the \$150 DNA testing
5 fee. As to Count 9, battery with use of deadly weapon, I hereby adjudicate you
6 under the small habitual offender provision and sentence you to a minimum term of
7 60 months, a maximum term of 215 months. Restitution as to that count will be
8 ordered payable to Anneesah Franklin in the amount of \$12,639.83.

9 As to Count 10, battery with use of deadly weapon resulting in
10 substantial bodily harm, I hereby order restitution in that count in the amount of
11 \$3,263.73, payable to Anya – Anyla Hoye –

12 MR. HAMNER: Anyla.

13 THE COURT: – A-N-Y-L-A, H-O-Y-E, and adjudicate you as well under
14 the small habitual, sentencing you to a minimum term of 60 months and a maximum
15 term of 215 months. That will run consecutive to Count 9.

16 As to Count 11, assault with a deadly weapon, I hereby sentence you to
17 a minimum term of 16 months, a maximum term of 72 months. That will run
18 concurrently to Count 10.

19 As to Count 12, assault with a deadly weapon, I hereby sentence you to
20 a minimum term of 16 months, a maximum term of 72 months, concurrent to Count
21 11.

22 As to Count 13, assault with a deadly weapon, I hereby sentence you to
23 a minimum term of 16 months, a maximum term of 72 months. That will run
24 concurrent to Count 12.

25 As to Count 14, assault with a deadly weapon, I hereby sentence you to

1 a minimum term of 16 months, a maximum term of 72 months. That will run
2 concurrent to Count 13.

3 As to Count 15, assault with a deadly weapon, I hereby sentence you to
4 a minimum term of 16 months, a maximum term of 72 months, concurrent with
5 Count 14.

6 Count 16, assault with a deadly weapon, I hereby sentence you to a
7 minimum term of 16 months, a maximum term of 72 months, concurrent to Count
8 15.

9 And as to Count 17, burglary, I hereby sentence you to a minimum term
10 of 22 months, a maximum term of 96 months. And that will be concurrent with
11 Count 16. Restitution is ordered in that count in the amount of \$10,369.04, payable
12 to Antioch Church of Las Vegas, Inc., a Nevada Non-Profit Corporation.

13 Credit for time served – let me see here.

14 THE CLERK: I'm sorry. Was his DNA waived? I didn't have –

15 THE COURT: No.

16 THE CLERK: Okay.

17 THE COURT: It wasn't. He's got the DNA that was ordered.

18 THE CLERK: Okay.

19 THE COURT: All right. And today is the – what date? Today is the
20 18th?

21 THE CLERK: The 18th, yeah.

22 THE COURT: Okay. So 14 days.

23 THE CLERK: And I don't suppose you could spell the church or give
24 me the paper and I'll look it up?

25 THE COURT: Just a minute. And for the clerk, Antioch Church is A-N-

1 T-I-O-C-H.

2 Credit for time served, looks like 731 days. That's the 717 days
3 calculated on the PSI through December 4th, plus an additional 14 days until present
4 day.

5 Thank you.

6 MR. POSIN: Thank you, Your Honor.

7 PROCEEDING CONCLUDED AT 9:57 A.M.

8 * * * * *

9 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-
10 video recording of this proceeding in the above-entitled case.

11 
12 LARA CORCORAN
13 Court Recorder/Transcriber
14
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EXHIBIT 14

FILED

JAN 02 2014

John J. Sullivan
CLERK OF COURT

JOC

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO. C278699

-VS-

DEPT. NO. V

WILBURT HICKMAN
aka WILLIAM HICKS
#0905481

Defendant.

JUDGMENT OF CONVICTION

(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1
– ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Category B Felony in
violation of NRS 200.010, 200.030, 193.330, 193.165; COUNT 2 – ATTEMPT MURDER
WITH USE OF A DEADLY WEAPON Category B Felony in violation of NRS 200.010,
200.030, 193.330, 193.165; COUNT 3 – ATTEMPT MURDER WITH USE OF A
DEADLY WEAPON Category B Felony in violation of NRS 200.010, 200.030, 193.330,
193.165; COUNT 4 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON
Category B Felony in violation of NRS 200.010, 200.030, 193.330, 193.165; COUNT 5 –
~~ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Category B Felony in~~

- ☐ Not Proceed (before trial)
- ☐ Dismissed (after diversion)
- ☐ Dismissed (before trial)
- ☐ Guilty Plea with Sent (before trial)
- ☐ Transferred (before/during trial)
- ☐ Other Manner of Disposition

- ☐ Bench Trial
- ☐ Dismissed
- ☐ Acquittal
- ☐ Guilty Plea with Sent (during trial)
- ☐ Conviction

1471

PA355

1 violation of NRS 200.010, 200.030, 193.330, 193.165, of COUNT 6 – ATTEMPT
2 MURDER WITH USE OF A DEADLY WEAPON Category B Felony in violation of NRS
3 200.010, 200.030, 193.330, 193.165; COUNT 7 – ATTEMPT MURDER WITH USE OF
4 A DEADLY WEAPON Category B Felony in violation of NRS 200.010, 200.030,
5 193.330, 193.165; COUNT 8 – ATTEMPT MURDER WITH USE OF A DEADLY
6 WEAPON Category B Felony in violation of NRS 200.010, 200.030, 193.330, 193.165;
7 COUNT 9 – BATTERY WITH USE OF A DEADLY WEAPON (Category B Felony) in
8 violation of NRS 200.4810; COUNT 10 – BATTERY WITH USE OF A DEADLY
9 WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony) in
10 violation of NRS 200.481.2e, COUNT 11 – ASSAULT WITH A DEADLY WEAPON
11 (Category B Felony) in violation of NRS 200.471, COUNT 12 – ASSAULT WITH A
12 DEADLY WEAPON (Category B Felony) in violation of NRS 200.471, COUNT 13 –
13 ASSAULT WITH A DEADLY WEAPON (Category B Felony) in violation of NRS
14 200.471, COUNT 14 – ASSAULT WITH A DEADLY WEAPON (Category B Felony) in
15 violation of NRS 200.471, COUNT 15 – ASSAULT WITH A DEADLY WEAPON
16 (Category B Felony) in violation of NRS 200.471, COUNT 16 – ASSAULT WITH A
17 DEADLY WEAPON (Category B Felony) in violation of NRS 200.471, and COUNT 17 –
18 BURGLARY (Category B Felony) in violation of NRS 205.060; and the matter having
19 been tried before a jury and the Defendant having been found guilty of the crimes of
20 COUNT 9 – BATTERY WITH USE OF A DEADLY WEAPON (Category B Felony) in
21 violation of NRS 200.4810; COUNT 10 – BATTERY WITH USE OF A DEADLY
22 WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony) in
23 violation of NRS 200.481.2e, COUNT 11 – ASSAULT WITH A DEADLY WEAPON
24 (Category B Felony) in violation of NRS 200.471, COUNT 12 – ASSAULT WITH A

1 DEADLY WEAPON (Category B Felony) in violation of NRS 200.471, COUNT 13 –
2 ASSAULT WITH A DEADLY WEAPON (Category B Felony) in violation of NRS
3 200.471, COUNT 14 – ASSAULT WITH A DEADLY WEAPON (Category B Felony) in
4 violation of NRS 200.471, COUNT 15 – ASSAULT WITH A DEADLY WEAPON
5 (Category B Felony) in violation of NRS 200.471, COUNT 16 – ASSAULT WITH A
6 DEADLY WEAPON (Category B Felony) in violation of NRS 200.471, and COUNT 17 –
7 BURGLARY (Category B Felony) in violation of NRS 205.060; thereafter, on the 18TH
8 day of December, 2013, the Defendant was present in court for sentencing with his
9 counsel, Mitchell Posin, Esq., and good cause appearing,
10

11
12 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in
13 addition to the \$25.00 Administrative Assessment Fee, \$150.00 DNA Analysis Fee
14 including testing to determine genetic markers, \$12,639.93 Restitution payable to
15 Anneesah Franklin, \$3,263.73 Restitution payable to Anyla Hoyer, and \$10,369.04
16 Restitution payable to Antioch Church; the Defendant is SENTENCED to the Nevada
17 Department of Corrections (NDC) as follows: AS TO COUNT 9 – Sentenced under the
18 SMALL HABITUAL STATUTE to a MAXIMUM of TWO HUNDRED – FIFTEEN (215)
19 MONTHS with a MINIMUM Parole Eligibility of SIXTY (60) MONTHS; AS TO COUNT
20 10 - Sentenced under the SMALL HABITUAL STATUTE to a MAXIMUM of TWO
21 HUNDRED – FIFTEEN (215) MONTHS with a MINIMUM Parole Eligibility of SIXTY (60)
22 MONTH, to run CONSECUTIVE to Count 9; AS TO COUNT 11 - TO A MAXIMUM of
23 SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility of SIXTEEN (16)
24 MONTHS, to run CONCURRENT with Count 10; AS TO COUNT 12 – TO A MAXIMUM
25 of SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility of SIXTEEN (16)
26 MONTHS, to run CONCURRENT with Count 11; AS TO COUNT 13 - TO A MAXIMUM
27
28

1 of SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility of SIXTEEN (16)
2 MONTHS, to run CONCURRENT with Count 12; AS TO COUNT 14 - TO A MAXIMUM
3 of SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility of SIXTEEN (16)
4 MONTHS, to run CONCURRENT with Count 13; AS TO COUNT 15 - TO A MAXIMUM
5 of SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility of SIXTEEN (16)
6 MONTHS, to run CONCURRENT with Count 14; AS TO COUNT 16 - TO A MAXIMUM
7 of SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility of SIXTEEN (16)
8 MONTHS, to run CONCURRENT with Count 15; and AS TO COUNT 17 - TO A
9 MAXIMUM of NINETY - SIX (96) MONTHS with a MINIMUM Parole Eligibility of
10 TWENTY-TWO (22) MONTHS, to run CONCURRENT with Count 16; with SEVEN
11 HUNDRED THIRTY-ONE (731) DAYS credit for time served. (COUNTS 1 THROUGH
12 8 were DISMISSED WITH PREJUDICE, on September 25, 2013.)
13
14
15
16

17 DATED this 30th day of December, 2013.

18
19 
20 CAROLYN ELLSWORTH
21 DISTRICT COURT JUDGE
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EXHIBIT 15

FILED

JAN 06 2014

Tracie K. Lindeman
CLERK OF COURT

Electronically Filed

Jan 10 2014 10:30 a.m.

Tracie K. Lindeman

Clerk of Supreme Court

Notice of Appeal (criminal)
3328938



1 NOT

2 Wilburt Hickman JR. # 905481

3 330 S. Casino Center

4 Las Vegas, NV 89101

5 Defendant, In proper person

6

7

8

9

10 THE STATE OF NEVADA

11 Plaintiff,

12 - VS -

13 Wilburt HICKMAN JR.

14 # 905481

Case No: C-12-278699-1

Dept No: 5

15

16

NOTICE OF DIRECT APPEAL

17 NOTICE is hereby given that, Wilburt Hickman Jr., the
18 Defendant, hereby gives proper Notice that the Defendant
19 is appealing his Judgment of Conviction, enter in this action
20 on December 18, 2013, in District Court Department 5.

21 Dated this 30 day of December 2013.

22

23

24

25

RECEIVED

JAN - 6 2014

CLERK OF THE COURT

an arch

Wilburt Hickman

330 S. Casino Center

Las Vegas, NV 89101

Certificate of Service

I hereby certify that I place in the U.S. mail,
first class, postage prepaid, a "Notice of Direct appeal"
to the following on the following date; 30 December, 2013.

5

6 c/o
7 Clerk of Courts

By: am 9
Wilburt Hickman

8 200 Lewis Ave
9 Las Vegas, NV 89155

10

11

12 District Court Judge C. Ellsworth

13 200 Lewis Ave

14 LV, NV 89155

15

16 District Attorney

17 200 Lewis Ave

18 LV, NV 89155

19

20

21

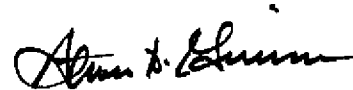
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CLERK OF THE COURT

ASTA

**DISTRICT COURT
CLARK COUNTY, NEVADA**

STATE OF NEVADA,

Plaintiff(s),

vs.

WILBURT HICKMAN aka WILLIAM HICKS,

Defendant(s),

Case No: C-12-278699-1

Dept No: V

CASE APPEAL STATEMENT

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

2. Judge: Carolyn Ellsworth

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

Counsel:

Wilburt Hickman, Jr. #905481
330 S. Casino Center Blvd.
Las Vegas, NV 89101

4. Respondent: The State of Nevada

Counsel:

Steven B. Wolfson, District Attorney
200 Lewis Ave.
Las Vegas, NV 89101
(702) 671-2700

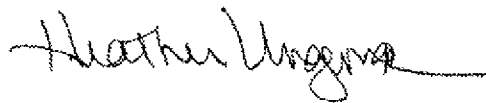
5. Respondent's Attorney Licensed in Nevada: Yes

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

- 1 7. Appellant Represented by Appointed Counsel On Appeal: N/A
2 8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A
3 9. Date Commenced in District Court: January 10, 2012
4 10. Brief Description of the Nature of the Action: Criminal
5 Type of Judgment or Order Being Appealed: Judgment of Conviction
6 11. Previous Appeal: No
7 Supreme Court Docket Number(s): N/A
8 12. Child Custody or Visitation: N/A
9

10 Dated This 8 day of January 2014.

11 Steven D. Grierson, Clerk of the Court

12 
13

14 Heather Ungermann, Deputy Clerk
15 200 Lewis Ave
16 PO Box 551601
17 Las Vegas, Nevada 89155-1601
18 (702) 671-0512
19
20
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27
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FILED

JAN 06 2014

CLERK OF COURT

1 Direct Appeal

2 Wilburt Hickman JR. # 905481

3 330 S. Casino Center

4 Las Vegas, NV 89101

5 IN Proper Person

6
7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9
10 THE STATE OF NEVADA

11 Plaintiff,

12 -VS-

13 Wilburt Hickman JR.
14 # 905481

CASE NO: C-12-278699-1

DEPT NO: 5

C-12-278699-1
DOC
Document Filed
3333201



15
16 DIRECT APPEAL
17

18 COMES NOW, the Defendant, Wilburt HICKMAN JR.,
19 IN Proper Person, to humbly and respectfully request that
20 this Honorable Court, Set aside the Defendant's Conviction
21 based upon the reasons Set for in this Appeal.

22
23 This Appeal is made and based on all papers, doc-
24 uments, and pleadings on file for this Case, the
25 attached Memorandum of Points and authorities and the
26
27

RECEIVED
JAN 06 2014
CLERK OF THE COURT

1 exhibits attached hereto, and any Supplemental
2 motion or oral argument deemed needed by this Court.
3 Dated this 30 day of December, 2013.

4
5 Willburt Hickman

6 Willburt Hickman, Pro Per
7 330 S. Casino Center
8 Las Vegas, NV 89101

9 NOTICE OF APPEAL

10 TO: All Parties of Interest

11 You, and each of you, take notice that the Defendant's
12 "Direct Appeal" will come on for hearing on the 29 day of
13 JAN., 2014, in District Court Department V at 9:00
14 a.m..

15 Willburt Hickman

16 Willburt Hickman, Pro Per
17 330 S. Casino Center
18 Las Vegas, NV 89101

Declaration

Wilburt Hickman Jr. makes the following declaration:

1. I am the Declarant of this Declaration.

2. That I have read the foregoing "Direct Appeal", know the contents thereof, and hereby endorse the contents herein.

I declare under the penalty of Perjury that the foregoing is true and correct (NRS 53.045).

Executed on 12/30/13

Wilburt Hickman Jr.
Wilburt Hickman Jr.

Affidavit

STATE OF NEVADA } ss:

COUNTY OF CLARK }

Wilburt Hickman being first duly sworn and says:

That I, Wilburt Hickman Jr. ("Affiant") supports the foregoing "Direct Appeal" and knows the contents thereof.

That the Affiant affirms the above facts to be true and accurate under the Penalty of Perjury (53.045 NRS)

Wilburt Hickman Jr.
Wilburt Hickman Jr.

Certificate of Service

I, Wilburt Hickman Jr., hereby certify that I
Placed a true and correct copy of the foregoing
"Direct Appeal" in the U.S. mail, first class, postage
prepaid to the following:

Dated 12/30/13



Wilburt Hickman Jr.
330 S. Casino Center
Las Vegas, NV 89101

C/o
Clerk of Courts
200 Lewis Ave
Las Vegas, NV 89155

District Attorney
200 Lewis Ave
Las Vegas, NV 89155

Memorandum of Points And Authorities

I.

STATEMENT OF THE CASE

On December 18, 2011, the Defendant drove to his daughter's Church, to speak to her about some issues that they were having, the Defendant went also to pray and to attend the services that day. The Defendant's daughter did not want him at her church drunk, she had Security called. Security became aggressive and they wrestled the defendant to the ground and broke the Defendant's arm. The defendant was in so much pain, but he knew that he needed to get medical attention, so the Defendant got in his car to drive himself to the hospital, but ended up running (drove) into the side of the Church. A little girl suffered a broken toe as she was getting out of the way of the scuffle. An ambulance was called for the Defendant. From the time the Defendant left his home to go to speak to his daughter, he was on the phone with his sister, Beatrice Hickman, in Philadelphia.

II.

STATEMENTS OF FACTS

On January 11, 2012, the Defendant had his Preliminary Hearing and was bounded up to district Court.

On January 12, 2012, the Defendant was arraigned in lower-level district Court. The Defendant plead not

1 guilt and invoked his right to a Speedy trial. A trial
2 Date was set for March 5, 2013.

3 On February 28, 2012, a Petition for Writ of Habeas
4 Corpus was filed on the defendant's behalf. Due to
5 the Writ of Habeas being filed the Defendant's trial
6 was reset for April 9, 2013. The Habeas Corpus was
7 granted and denied in part.

8 On April 17, 2013, the Public Defender's office was
9 allowed to Withdraw and MR. Mitchell Posin ("MR. Posin")
10 was Confirmed as Counsel of Record. Please note: MR.
11 Posin accept \$1500⁰⁰ from the Defendant on 10/10/12, but
12 didnot Confirm as Counsel until 6 months later.

13 on August 26, 2013, the Defendant's Calendar Call
14 hearing was conducted both sides announced "ready for
15 trial".

16 On September 9, 2013 the Defendant was ~~founded~~ guilty
17 of multiple Charges.

18 On December 4 Mr. Posin was discharged as
19 Counsel of Record, by Judge Hardcastle.

20 On December 9, 2013, Judge C. Ellsworth reappointed
21 Mr. Posin, to represent the Defendant, against the Defend-
22 ant's protest.

23 On December 18, 2013 the Defendant was
24 Sentenced.

25 ///

26

III. ARGUMENT

A. Conflict of Interest AND ineffective assistance of Counsel

Since, Mr. Posin has been the Defendant's Counsel, the Defendant has been prejudiced and suffered manifest injustice based on Mr. Posin's ineffectiveness, refusal and/or failure to:

1. Notify the Court that the Defendant wish to represent himself, due to Counsel-Client Conflict.

2. Subpoena my witnesses for trial. He never even contacted the witnesses or interview them

3. Conduct any Pre-trial investigation into any of the facts pertinent to my case.

4. Never sought an expert to discuss or explain what the theory of "Diminished Capacity" consisted of.

5. Communicated with the Defendant about any the evidence for or against him.

6. File a motion for a new trial, like he promised the Defendant he would do

7. Provide the Defendant with any discovery (Brady material).

8. file any Subpoenas, motions, or writs

9. Inform the Defendant of the gist of the numerous Side-bars

10. file a motion to Compel Discovery.

1 11. Discuss any possible defenses, or trial strategies.

2 12. Due Diligently prepare for trial and relied solely
3 on the prosecution's files for trial.

4 13. Admit into evidence report, bills, documents, and
5 receipts, which could have proved my innocence or mitigated
6 my sentence.

7 14. Sufficiently inquire into the toxicology reports,
8 the time that lapse before my blood was
9 drawn (3 hours) (over the two hour mark).

10 15. Seek exculpatory or impeachment material
11 on all state witnesses, especially officers.

12 16. Seek any medical records/reports of the defendants.

13 A Defendant has a unqualified right to legal
14 assistance that is Constitutionally effective. Since Mr.
15 Posin was retained, he has utterly failed to provide
16 the Defendant with a level of effective legal
17 representation.

18 The Defendant contends that Mr. Posin
19 representation was deficient and failed his Duty as a
20 Lawyer. Mr. Posin Did not exercise his Knowledge or Skill
21 in this instant matter.

22 Mr. Posin willfully and deliberately failed to provide
23 the defendant with reasonable representation, due to
24 money issues. And Mr. Posin Knew or Should have known
25 that there was exculpatory evidence that only the

1 Defendant knew, but Mr. Posin failed to
2 confer with his client.

3 Mr. Posin also was told by his client
4 to investigate the State's witness fees and other
5 compensation.

6 The Defendant has consistently failed to notify
7 this court of the ineffectiveness of Mr. Posin and the
8 conflict between he and the Defendant. "When the
9 Defendant raises a seemingly substantial complaint
10 about counsel, the Judge has an obligation to inquire
11 thoroughly into the factual basis of the defendant's
12 dissatisfaction." Smith v Lockhart, 923 F.2d 1314, 1320
13 (8th Cir. 1991) (emphasis added) An inquiry into the
14 reasons for a defendant's dissatisfaction with his or
15 her lawyer is necessary for the trial court to determine
16 whether good cause for substitution of counsel exists.
17 U.S. v. Welty, 674 F.2d 185, 188 (3d Cir. 1982).

18 Once an actual conflict is shown, the Defendant
19 need demonstrate only "that some effect on counsel's
20 handling of particular aspects... was likely." U.S. v.
21 Miskinis, 966 F.2d 1263, 1268 (9th Cir. 1992). Mr. Posin
22 could not properly cross-examine witnesses because he
23 failed to file a motion to compel exculpatory
24 evidence. The Court has held that the Confrontational
25 Clause provides "the opportunity for effective
26

1 Cross-examination. "Delaware V. Fensterer, 474
2 U.S. 15 (1985). Full Pre-trial disclosure of Discovery
3 in a Criminal Case also implicates a Defendant's
4 Right to effective assistance of Counsel Under
5 the Sixth Amendment.

6 The Defendant was denied his Constitutional
7 right to a fair trial, Due to ineffective assistance
8 of Counsel, Prosecutorial Misconduct and erroneous
9 Jury instruction. Mr. Pasin's representation was
10 deficient "before, during, and after" trial. "To satisfy
11 the Constitution, Counsel must function as an advocate
12 for the Defendant, as opposed to a friend of the Court."
13 Jones Vs. Barnes, 463 U.S. 745, 758, 103 S.Ct. 3308,
14 3316, 77 L.Ed.2d 987 (1983). Thus the appropriate
15 inquiry focuses on the adversary process. Similarly,
16 if Counsel entirely fails to subject the Prosecution's case
17 to meaningful adversarial testing, then there has been a
18 denial of the Sixth amendment right that makes that
19 adversarial process itself presumptively Unreliable."
20 Cronis, 466 U.S. 648, 104 S.Ct. at 2047.

21 The Proper Measure of an attorney's Performance
22 remains Simply reasonable under Prevailing Professional
23 norms. Strickland V. Washington, 466 U.S. at 688, 104
24 S.Ct. 2052. Mr. Pasin failed to Secure the Defendant's
25 Phone records by Subpoena.

1 Also, the Defendant would like to emphasize these other
2 issues;

3 1. Mr. Posin Promised the Defendant that he had 30
4 days to file a motion for a new trial, and he would file the
5 motion for a new trial once the Defendant paid him more money.

6 2. Allow a witness by the Name of Mr. Thompson to
7 Commit perjury.

8 3. Did not have the transcript from my ~~pretrial~~ Preliminary
9 hearing, Mr. Posin had to get the transcript from my sister.

10 4. Mr. Posin would not disclose any of the Sidebar and
11 Chamber meeting that he, the Judge and the State had.

12 5. Mr. Posin did not Consult with the Defendant for any
13 Strategic decision about trial or Jury instructions.

14 6. Mr. Never showed me the toxicology report before or during
15 trial and the Defendant only received the Document once
16 Mr. Posin was allowed to withdraw as Counsel By Judge Hardcastle.

17 7. Counsel never thoroughly or aggressively question any witness
18 during trial.

19 8. Mr. Posin only Signed on the for a Plea Agreement but
20 was told by Judge that he had to represent the Defendant
21 which Created a Conflict.

22 9. Allowed the State to give the wrong Jury instruction
23 on 8 felony counts and did not object.

24 10. Never Prepared a Affirmative Defense based on
25 Voluntary intoxication.

- 1 11. Never introduce the toxicology report into evidence
- 2 12. Allowed the D.A. to allow State witnesses to
- 3 fabricate statements, that were in contradiction to their
- 4 Preliminary hearing statements.
- 5 13. Mr. Posin never introduced intrinsic evidence, that
- 6 Defendant spent thousands of dollars on vehicle and
- 7 that the victims were paid over \$30,000 & \$20,000
- 8 respectively.
- 9 14. Never allowed me to help at trial, any time that I
- 10 would try to inform of inconsistent statements by witnesses
- 11 Mr. Posin would tell me to be quiet.
- 12 15. Never required the State to disclose whether any
- 13 of the officers testifying had any misconduct/disciplinary
- 14 actions against, as *Milke v. Ryan* (9th Cir. 2013) required.
- 15 17. There was no trust or confidence between Mr. Posin
- 16 and the Defendant.
- 17 18. Mr. Posin proceeded to trial with no discovery
- 18 material and never petitioned the Court to make the
- 19 State handover Brady material.
- 20 19. Mr. Posin only visited the Defendant 4 times in 2 years.
- 21 20. Never hired an expert to testify to the Defendant's
- 22 Diminished Capacity.
- 23 In fact a Defendant who shows a conflict of interest need
- 24 not demonstrate prejudice in order to obtain relief. Mr. Posin
- 25 had no loyalty to his client, at all.

1 The Defendant had to file over 8 motions on his
2 own because Mr. Posin refused to do his duty
3 as an attorney. The defendant filed the following
4 motion but has not received in responses to them:

5 1. Faretta Motion

6 2. Motion to Compel Discovery

7 3. Reconsideration of ineffective assistance of Counsel
8 and motion for a new trial based on new evidence.

9 4. Motion for a New trial

10 5. Disqualification Of Judge C. Ellsworth.

11 The Defendant also has not received any
12 Discovery material except 3 pages. One of which
13 the Officer lied and said that my blood was drawn
14 within 2 hours (See exhibit 1) but the toxicology
15 report says that my blood was drawn after 3 hours.

16 Also, See exhibit 2 for witness fees. Mr. Posin
17 never requested such info on the witnesses testifying
18 for the State, thereby, he could not effectively
19 cross-examine the witnesses.

20 Conclusion

21 There is no doubt that there was a Conflict of Inter-
22 est between Mr. Posin and the Defendant. Also,
23 Mr. Posin was ineffective, He did not provide his
24 Client with reasonable representation. Therefore,
25 the defendant, Prays that this Honorable Court

1 will grant the Defendant a new trial and appoint
2 the Defendant a new Lawyer. Also, the Court
3 asked Mr. Posin had he filed a appeal for the
4 Defendant he Stated, "No." The Defendant
5 requested that he file one but he said pay
6 me up front first. He is totally ineffective.

7
8 

9 Wilburt Hickman
10 330 S. Casino Center
11 Las Vegas, NV 89101
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EXHIBIT A

4-19-14

LAS VEGAS METROPOLITAN POLICE DEPARTMENT

DECLARATION FOR THE WITHDRAWAL OF WHOLE BLOOD SAMPLE

EVENT #: 111218-1478

STATE OF NEVADA)

HICKMAN WILBERT

(Name of Person Blood Drawn From)

COUNTY OF CLARK)

Jenny Grant
(Print name of declarant drawing blood.)

being first duly sworn, deposes

and says THAT I AM A:

Registered Nurse

Nurse Practitioner

Licensed Practical Nurse

Medical Doctor

☒ Laboratory Technician/Assistant

Other (Specify)

Emergency Medical Technician

Physician Assistant

employed by:

Quest Diagnostics

That a regular part of my duties is the withdrawing of blood samples from persons and I am authorized to do so by:

Nevada State Board of Nursing.

Nevada Department of Human Resources / Health Division / Bureau of Licensure & Certification.

Nevada Board of Medical Examiners (Doctors Only).

3 hrs 1 day

That on

12.18.11
(Date Drawn)

at

1149
(Time Drawn)

AM/PM

I withdrew a sample of blood in a medically
accepted manner (including using no alcohol solutions or alcohol-based swabs) from a person known to me

0.168

as

Hickman Wilbert
(Print name of person blood drawn from.)

That I kept the sample of blood in my sole custody or control and it remained in substantially the same condition

as when I first obtained it, until I delivered the sample to Officer D. Corbin, P# 7941.

of the Las Vegas Metropolitan Police Department. I, Jenny Grant, do hereby
(Print Declarant Name)

declare under penalty of perjury that the foregoing is true and correct.

Declarant Signature

Declarant Title

Witness Signature

Date

12-18-11

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
IMPAIRED DRIVING REPORT

Event # 111218-1478

ID # 905481

DOCUMENT PRESENTATION

- ☐ Difficulty Recognizing Paperwork ☐ Presented Wrong Paperwork ☐ Not in Possession of Documents (Identify what below)
☐ Not Responsive to Request ☐ No Problem Presenting Documents ☒ Other WAS IN CARE OF CORD

Details

When I arrived I got vehicle info

VEHICLE EXIT

- ☐ Refused to Exit Vehicle ☐ Trouble Opening Door ☐ Leaned on Vehicle ☐ Stumbling/Staggering
☐ Falling Down ☐ No Problem with Exit ☒ Other

Details

was escorted by CORD

PHYSICAL OBSERVATIONS OF DRIVER

Breath Odor: ☒ Alcoholic Beverage ☐ No Odor ☐ Other Odor ☐ Slight ☐ Mod ☐ Strong

Eyes: ☐ Normal ☒ Bloodshot ☐ Watery ☒ Glassy ☐ Fixed Focus Stare ☐ Other

Pupil Size: ☐ Apparently Normal ☒ Dilated ☐ Constricted

Speech: ☐ Normal ☐ Stuttering ☐ Incoherent ☒ Slurred ☐ Confused ☐ Other

Attitude: ☐ Polite ☐ Cooperative ☐ Talkative ☐ Insulting ☐ Excited ☐ Indifferent

☒ Argumentative ☐ Aggressive ☐ Combative ☐ Unresponsive ☐ Other

Balance: ☐ Sure ☐ Wobbling ☐ Falling ☐ Swaying ☐ Leaned on Object for Support

Clothing: ☐ Unkempt ☐ Urinated On ☐ Unfastened ☐ Other

Details

TALK WITH SUSPECT IN BACK OF AMBULANCE VERY STRONG ODOR OF ALCOHOL

INITIAL FIELD INTERVIEW

Are you currently under the care of a Doctor or Dentist? _____

Why did you see the Doctor or Dentist? _____

When did you last see the Doctor or Dentist? _____

What is the name of your Doctor or Dentist? _____

Do you have any physical and/or mental handicaps? _____

Do you have Epilepsy and/or Diabetes? _____

Describe any physical and/or mental handicaps? _____

What medications are you taking, when and how much? _____

When was your last dose (date & time)? _____

When did the collision occur? _____

What road were you on? _____

Were you driving? YES

Who owns the vehicle? _____

What was your destination? _____

Where did you start? _____

What time did you leave? _____

What time is it now? _____

What is today's date? _____

Have you been drinking? YES

How much? 10

What have you been drinking? B.D

When was your last drink? _____

Where was your last drink? Alcohol 0.168

Details

0

EXHIBIT B

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THIS PAGE ADDED BY IMAGING SERVICES

SOME PAGES IN THIS DOCUMENT ARE LIGHT OR UNREADABLE
IN ORIGINAL FORM AND HAVE BEEN DARKENED AS MUCH AS POSSIBLE.

CRIME

DA defends paying witnesses

By BETHANY BARNES

A version of this story was
posted on lasvegassun.com
at 2 a.m. Sunday

A controversial practice by the District Attorney's Office that first came to light in 2009 — paying witnesses to attend pre-trial meetings with prosecutors — resurfaced last week in Clark County District Court and could have ramifications in future criminal cases.

Defense attorneys first discovered the practice after a witness admitted she'd lied under oath because she wanted her \$50 payment.

Where did she go after she met with prosecutors? To buy crack cocaine, according to news accounts.

A judge ordered a new trial, the defendant was acquitted and the Nevada American Civil Liberties Union and Public Defender Phil Kohn questioned the legality of the payments. The District Attorney's Office said it was a practice that had been in place for more than 20 years in Clark County.

Newspaper articles about the practice were published. Nothing changed.

Fast forward to 2013 and the attorneys whose case revealed the practice once again threw a fit over witness payments — and a judge and jury took heed.

At issue isn't the legality of payments, but the District Attorney's Office's handwritten records of receipts for the vouchers, which witnesses redeem for cash.

It's tough to cross-examine witnesses about what they may have received when the District Attorney's Office burns the receipts, defense attorneys Dayvid Figler and Daniel Bunin argued during a two-week trial that wrapped last week.

Clark County District Judge Elissa Cadish agreed.

Cadish instructed jurors they could view the witnesses as less credible because the District Attorney's Office destroyed evidence that would have showed the amount witnesses had been paid.

The county budgets about \$1.2 million for witness fees and mileage, said county spokesman Erik Pappa. Last year, the county spent about \$860,000 of the budgeted amount.

Figler had called Felicia Hernandez, a victim's advocate in the office, to the stand after the District Attorney's Office said there was no way see how much witnesses had been paid because the handwritten records had been destroyed.

The District Attorney's Office regularly burns witness vouchers. [See Witnesses, Page 5]

DESTROYING EVIDENCE

COVERING-UP PAYMENTS

REHEARSAL (TESTIMONY)

CONT. 2 of 2

RECEIPTS ARE REDEEMED FOR CASH, LATER BURNED

er receipts every three years, regardless of their pertinence to an ongoing case, Hernandez testified.

"It's not digital. It's not because we are trying to thwart Mr. Figler and his efforts," argued prosecutor Mary Kay Hollins.

"It's because we're, the county and, we're the government and this is how we work."

But according to the Pappas tabular how it works.

These records officially belong to the County, controlled by the County's central coordinating financial agency. The retention schedule calls for imaging and scanning the records so they can be stored electronically and retained for six years.

Burnin said he didn't understand why the District Attorney's Office couldn't produce the records. Particularly when the defense filed a motion asking for records of the payments in 2009.

"I don't know if they take these types of requests very seriously."

over at the DA or if they just think this is the normal way of operating business," Burnin said.

"If they are doing everything on paper, I don't know why they are. They can scan it," Burnin said.

Prosecutors viewed raising questions about the payments, as pointless shenanigans in an unwinable case for the defense.

The jury saw the case differently.

On Oct. 7, a jury acquitted Gary Miller of 24 counts, which included charges of first-degree kidnapping and sexual assault with a minor under 14.

The case had issues beyond the payments.

"If I bought the testimony, don't you think it would have bought better testimony than that?" prosecutor Parker Brooks joked in the courtroom during a break.

While the destroyed records don't appear to have been a deciding factor for jurors, it's the

first time the pretrial payment controversy has been stirred up since 2009.

Kohn said he'd assumed the District Attorney's Office had stopped compensating witnesses after pretrial conferences after the 2009 controversy.

Kohn knows the practice is still happening, he'll be telling his attorneys to ask about payments.

Clark County District Attorney Steve Wolfson said he was concerned about the instruction to the jury and said that he would look into it.

He noted she was unfamiliar with the judge's ruling without a monetary sum.

"Hindsight is 20/20. If you knew that it would be an issue in a particular case, then you would go to the extra effort to retain those records," Wolfson said.

But when he handled literally thousands and thousands of cases every year, I don't know that it would be the smart expenditure of monies.

He added he didn't know enough about the issue, Wolfson maintained.

Nevada law says witnesses are entitled to \$25 for attending the courts of the State.

Meetings with prosecutors, court, court, business, Wolfson said, suggesting defense attorneys also could pay their witnesses for pretrial meetings.

Burnin said that might be how Wolfson was reading the law.

But if the defense were to pay a witness to meet before a trial, Burnin said he'd expect the attorney would be indicted.

Sentiment among other defense attorneys has been that they'd get in trouble for trying to pay any witness other than an expert witness.

In court, Hollins scoffed at the idea the payment could be viewed as a benefit, saying it would be better characterized as inadequate.

compensation, because testimony often requires the witness put everything on hold.

Defense attorneys, however, say they have a right to know what the payments are.

Kohn said witness payments were relevant to every case.

"They have a system that is broken and they have a policy in place to cover up that system," Figler told the judge at trial.

When the only people who are controlling their own records destroy them, there's not much more to be said.

Burnin hopes to be able to raise the pretrial payment issue with the Nevada Supreme Court.

The problem is, he and Figler keep winning cases in which they've raised the issue, so they can't appeal.

It's a matter of waiting for the right case to come along, Burnin said.

betthanybarnes@lasvegassun.com/990-7714/@betshbarnes

EXHIBIT C

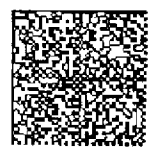
Willburt Hickman Jr. # 905481

Name/ID
Clark County Detention Center
330 S. Casino Center Blvd.
Las Vegas, NV 89101

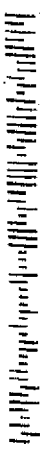
LEGAL
MAIL

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c/o
Clerk of Courts
200 Lewis Ave.
Las Vegas, NV 89155



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LEGAL
MAIL

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-12-278699-1

State of Nevada
vs
Wilburt Hickman

§
§
§
§
§
§
§

Location: **Department 5**
Judicial Officer: **Ellsworth, Carolyn**
Filed on: **01/10/2012**
Cross-Reference Case Number: **C278699**
Defendant's Scope ID #: **0905481**
Lower Court Case Number: **11F21695**

CASE INFORMATION

Offense	Deg	Date	Case Type: Felony/Gross Misdemeanor
1. ATT. MURDER WITH A DEADLY WEAPON	F	12/18/2011	Case Flags: Appealed to Supreme Court Bail Modified Custody Status - Remanded Without Bail Charge Description Updated
2. ATT. MURDER WITH A DEADLY WEAPON	F	12/18/2011	
3. ATT. MURDER WITH A DEADLY WEAPON	F	12/18/2011	
4. ATT. MURDER WITH A DEADLY WEAPON	F	12/18/2011	
5. ATT. MURDER WITH A DEADLY WEAPON	F	12/18/2011	
6. ATT. MURDER WITH A DEADLY WEAPON	F	12/18/2011	
7. ATT. MURDER WITH A DEADLY WEAPON	F	12/18/2011	
8. ATT. MURDER WITH A DEADLY WEAPON	F	12/18/2011	
9. BATTERY WITH A DEADLY WEAPON	F	12/18/2011	
10. BATTERY WDW W/SUBSTANTIAL BODILY HARM	F	12/18/2011	
11. ASSAULT WITH A DEADLY WEAPON	F	12/18/2011	
12. ASSAULT WITH A DEADLY WEAPON	F	12/18/2011	
13. ASSAULT WITH A DEADLY WEAPON	F	12/18/2011	
14. ASSAULT WITH A DEADLY WEAPON	F	12/18/2011	
15. ASSAULT WITH A DEADLY WEAPON	F	12/18/2011	
16. ASSAULT WITH A DEADLY WEAPON	F	12/18/2011	
17. BURGLARY	F	12/18/2011	
18. MALICIOUS DESTRUCTION PRIVATE PROPERTY	F	12/18/2011	

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	C-12-278699-1
Court	Department 5
Date Assigned	01/10/2012
Judicial Officer	Ellsworth, Carolyn

PARTY INFORMATION

Lead Attorneys





DEPARTMENT 5
CASE SUMMARY
CASE NO. C-12-278699-1

Defendant **Hickman, Wilburt**

Posin, Mitchell L
Retained
702-382-2222(W)

Plaintiff **State of Nevada**

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

DATE	EVENTS & ORDERS OF THE COURT	INDEX
01/10/2012	 Criminal Bindover	
01/10/2012	Bail Set \$100,000	
01/11/2012	 Information <i>Information</i>	
01/12/2012	 Initial Arraignment (9:00 AM) (Judicial Officer: De La Garza, Melisa) Events: 01/10/2012 Criminal Bindover	
01/12/2012	Plea (Judicial Officer: Ellsworth, Carolyn) 1. ATT. MURDER WITH A DEADLY WEAPON Not Guilty 2. ATT. MURDER WITH A DEADLY WEAPON Not Guilty 3. ATT. MURDER WITH A DEADLY WEAPON Not Guilty 4. ATT. MURDER WITH A DEADLY WEAPON Not Guilty 5. ATT. MURDER WITH A DEADLY WEAPON Not Guilty 6. ATT. MURDER WITH A DEADLY WEAPON Not Guilty 7. ATT. MURDER WITH A DEADLY WEAPON Not Guilty 8. ATT. MURDER WITH A DEADLY WEAPON Not Guilty 9. BATTERY WITH A DEADLY WEAPON Not Guilty 10. BATTERY WDW W/SUBSTANTIAL BODILY HARM Not Guilty 11. ASSAULT WITH A DEADLY WEAPON Not Guilty 12. ASSAULT WITH A DEADLY WEAPON Not Guilty 13. ASSAULT WITH A DEADLY WEAPON Not Guilty 14. ASSAULT WITH A DEADLY WEAPON Not Guilty 15. ASSAULT WITH A DEADLY WEAPON Not Guilty 16. ASSAULT WITH A DEADLY WEAPON Not Guilty 17. BURGLARY Not Guilty 18. MALICIOUS DESTRUCTION PRIVATE PROPERTY Not Guilty	
01/30/2012	 Notice of Witnesses and/or Expert Witnesses <i>Notice of Witnesses</i>	













DEPARTMENT 5
CASE SUMMARY
CASE NO. C-12-278699-1

02/01/2012	 Notice of Hearing
02/09/2012	 Reporters Transcript Filed By: Plaintiff State of Nevada <i>Reporter's Transcript Of Preliminary Hearing - Heard 1/4/2012</i>
02/16/2012	 Motion to Continue Trial Filed By: Defendant Hickman, Wilburt <i>Motion to Continue Trial Date</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>
02/22/2012	Bail Modified <i>RESET \$30,000.00</i>
02/27/2012	CANCELED Calendar Call (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Vacated</i>
02/28/2012	 Petition <i>Petition for Writ of Habeas Corpus</i>
03/05/2012	CANCELED Jury Trial (1:30 PM) (Judicial Officer: Ellsworth, Carolyn) <i>Vacated - per Judge</i>
03/07/2012	 Order
03/08/2012	 Writ of Habeas Corpus
03/14/2012	 Return <i>Return to Writ of Habeas Corpus</i>
03/28/2012	 Petition for Writ of Habeas Corpus (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) Events: 02/28/2012 Petition
04/03/2012	 Amended Information <i>Amended Information</i>
04/09/2012	 Order Denying Filed By: Plaintiff State of Nevada <i>Order Denying Defendant's Writ of Habeas Corpus in Part and Granting in Part</i>
04/30/2012	 Notice of Entry of Order
06/29/2012	 Motion for Discovery Filed By: Defendant Hickman, Wilburt
08/31/2012	 Supplemental <i>Supplemental Notice of Witnesses</i>
09/05/2012	 Supplemental <i>Second Supplemental Notice of Witnesses</i>

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-12-278699-1










09/05/2012	 Notice of Witnesses and/or Expert Witnesses <i>Notice of Expert Witnesses</i>
09/10/2012	 Notice of Witnesses and/or Expert Witnesses <i>Supplemental Notice of Expert Witnesses</i>
09/24/2012	Calendar Call (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)
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>
09/24/2012	 All Pending Motions (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)
09/24/2012	 Motion to Continue Trial <i>Motion to Continue Trial Date</i>
10/01/2012	CANCELED Jury Trial (1:30 PM) (Judicial Officer: Ellsworth, Carolyn) <i>Vacated - per Judge</i>
10/03/2012	 Response <i>State's Response to Defendant's Motion for Discovery</i>
10/18/2012	 Order Filed By: Defendant Hickman, Wilburt
03/13/2013	 Request (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Def't's request for new trial setting</i>
04/08/2013	CANCELED Calendar Call (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Vacated - per Judge</i>
04/15/2013	CANCELED Jury Trial (1:30 PM) (Judicial Officer: Ellsworth, Carolyn) <i>Vacated - per Judge</i>
04/17/2013	 Status Check: Trial Setting (9:00 AM) (Judicial Officer: Ellsworth, Carolyn)
04/17/2013	 Substitution of Attorney Filed by: Defendant Hickman, Wilburt <i>Mitchell Posin Esq Substituted as Attorney</i>
05/06/2013	CANCELED Calendar Call (9:00 AM) (Judicial Officer: Thompson, Charles) <i>Vacated - per Judge</i>
05/13/2013	CANCELED Jury Trial (1:00 PM) (Judicial Officer: Ellsworth, Carolyn) <i>Vacated - per Judge</i>
06/20/2013	 Supplemental <i>Third Supplemental Notice of Witnesses</i>
06/20/2013	 Supplemental <i>Second Supplemental Notice of Expert Witnesses</i>

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-12-278699-1



06/21/2013	 Supplemental <i>Amended Supplemental Notice of Witnesses</i>
06/21/2013	 Supplemental <i>Amended Second Supplemental Notice of Expert Witnesses</i>
08/23/2013	 Notice <i>Notice of Habitual Criminality</i>
08/23/2013	 Notice of Witnesses and/or Expert Witnesses <i>Fourth Supplemental Notice of Witnesses</i>
08/26/2013	 Calendar Call (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) 08/26/2013, 08/28/2013
08/30/2013	 Amended Information <i>Second Amended Information</i>
08/30/2013	Disposition (Judicial Officer: Ellsworth, Carolyn) 18. MALICIOUS DESTRUCTION PRIVATE PROPERTY Charges Amended/Dropped
09/03/2013	 Jury Trial (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) 09/03/2013-09/06/2013, 09/09/2013
09/03/2013	 Jury List
09/06/2013	 Proposed Jury Instructions Not Used At Trial <i>Defendant's</i>
09/09/2013	 Amended Jury List
09/09/2013	 Instructions to the Jury
09/09/2013	 Verdict
09/09/2013	Disposition (Judicial Officer: Ellsworth, Carolyn) 9. BATTERY WITH A DEADLY WEAPON Guilty 10. BATTERY WDW W/SUBSTANTIAL BODILY HARM Guilty 11. ASSAULT WITH A DEADLY WEAPON Guilty 12. ASSAULT WITH A DEADLY WEAPON Guilty 13. ASSAULT WITH A DEADLY WEAPON Guilty 14. ASSAULT WITH A DEADLY WEAPON Guilty 15. ASSAULT WITH A DEADLY WEAPON Guilty 16. ASSAULT WITH A DEADLY WEAPON Guilty 17. BURGLARY

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-12-278699-1

Guilty

09/25/2013	 Status Check (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Status Check: Set Sentencing Date...State's Decision on Retrying on remaining counts/Reset trial date</i>
09/25/2013	Disposition (Judicial Officer: Ellsworth, Carolyn) <i>Hung Jury</i> 1. ATT. MURDER WITH A DEADLY WEAPON Dismissed 2. ATT. MURDER WITH A DEADLY WEAPON Dismissed 3. ATT. MURDER WITH A DEADLY WEAPON Dismissed 4. ATT. MURDER WITH A DEADLY WEAPON Dismissed 5. ATT. MURDER WITH A DEADLY WEAPON Dismissed 6. ATT. MURDER WITH A DEADLY WEAPON Dismissed 7. ATT. MURDER WITH A DEADLY WEAPON Dismissed 8. ATT. MURDER WITH A DEADLY WEAPON Dismissed
10/17/2013	 Notice of Motion Filed By: Defendant Hickman, Wilburt <i>Notice of Motion and Motion for Ineffective Assistance of Counsel and Motion for New Trial</i>
10/17/2013	 Notice <i>Notice of Change of Hearing</i>
10/30/2013	 Opposition <i>State's Opposition to Defendant's Notice of Motion and Motion for Ineffective Assistance of Counsel and Motion for New Trial</i>
11/04/2013	 Motion to Withdraw as Counsel (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Defendant's Notice of Motion and Motion for Ineffective Assistance of Counsel and Motion for New Trial</i>
11/14/2013	 PSI
11/26/2013	Motion <i>Motion For Continuance On Grounds of Absences Of Witnesses and Discovery Evidence, Requesting New counsel and new Trial to Submit new Evidence</i>
11/26/2013	 Affidavit in Support <i>Affidavit in Support of Motion of Support For Motion For Continuance on Grounds of Absences of Witness Testimonies and Discovery Evidence</i>
11/26/2013	 Notice of Motion <i>Notice of Motion</i>
12/03/2013	 Receipt of Copy <i>Receipt of Copy</i>

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-12-278699-1

12/04/2013	 Sentencing (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) 12/04/2013, 12/09/2013, 12/18/2013 <i>Sentencing - CTS 9 - 17</i>
12/09/2013	Motion to Continue (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Motion for Continuance on Grounds of Absences of Witnesses and Discover Evidence Requesting New Counsel and New Trial to Submit New Evidence</i>
12/09/2013	Confirmation of Counsel (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>Confirmation of Counsel (PD)</i>
12/09/2013	 All Pending Motions (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) <i>All Pending Motions 12/9/13</i>
12/18/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 9. BATTERY WITH A DEADLY WEAPON Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:60 Months, Maximum:215 Months Other Fees 1. , \$26,272.50 Payable to Anneesah Franklin
12/18/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 10. BATTERY WDW W/SUBSTANTIAL BODILY HARM Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:60 Months, Maximum:215 Months Consecutive: Charge 9 Other Fees 1. , \$3,263.73 Anyla Hoyo
12/18/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 11. ASSAULT WITH A DEADLY WEAPON Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:16 Months, Maximum:72 Months Concurrent: Charge 10
12/18/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 12. ASSAULT WITH A DEADLY WEAPON Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:16 Months, Maximum:72 Months Concurrent: Charge 11
12/18/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 13. ASSAULT WITH A DEADLY WEAPON Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:16 Months, Maximum:72 Months Concurrent: Charge 12
12/18/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 14. ASSAULT WITH A DEADLY WEAPON Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum:16 Months, Maximum:72 Months Concurrent: Charge 13
12/18/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 15. ASSAULT WITH A DEADLY WEAPON

DEPARTMENT 5
CASE SUMMARY
CASE NO. C-12-278699-

	Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum: 16 Months, Maximum: 72 Months Concurrent: Charge 14	
12/18/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 16. ASSAULT WITH A DEADLY WEAPON Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum: 16 Months, Maximum: 72 Months Concurrent: Charge 15	
12/18/2013	Sentence (Judicial Officer: Ellsworth, Carolyn) 17. BURGLARY Adult Adjudication Sentenced to Nevada Dept. of Corrections Term: Minimum: 22 Months, Maximum: 96 Months Concurrent: Charge 16 Credit for Time Served: 731 Days Fee Totals: ADMINISTRATIV ASSESSMENT 25.00 FEE --- Crim fee sch DNA ANALYSIS FEE --- Crim fee 150.00 sch - \$150 Fee Totals \$ 175.00	
01/02/2014	Judgment of Conviction <i>JUDGMENT OF CONVICTION (JURY TRIAL)</i>	
01/06/2014	Notice of Appeal (criminal) Party: Defendant Hickman, Wilburt	
01/06/2014	Document Filed Filed by: Defendant Hickman, Wilburt <i>Direct Appeal</i>	
01/08/2014	Case Appeal Statement <i>Case Appeal Statement</i>	
01/29/2014	Hearing (9:00 AM) (Judicial Officer: Ellsworth, Carolyn) Events: 01/06/2014 Document Filed <i>Defendant - Direct Appeal</i>	
DATE	FINANCIAL INFORMATION	

Defendant Hickman, Wilburt	
Total Charges	175.00
Total Payments and Credits	0.00
Balance Due as of 1/8/2014	175.00

FILED

JAN 02 2014

John L. Johnson
CLERK OF COURT

JOC

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO. C278699

-vs-

DEPT. NO. V

WILBURT HICKMAN
aka WILLIAM HICKS
#0905481

Defendant.

JUDGMENT OF CONVICTION

(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Category B Felony in violation of NRS 200.010, 200.030, 193.330, 193.165; COUNT 2 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Category B Felony in violation of NRS 200.010, 200.030, 193.330, 193.165; COUNT 3 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Category B Felony in violation of NRS 200.010, 200.030, 193.330, 193.165; COUNT 4 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Category B Felony in violation of NRS 200.010, 200.030, 193.330, 193.165; COUNT 5 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON Category B Felony in

- ☐ None Prosecuted (before trial)
- ☐ Dismissed (after diversion)
- ☐ Dismissed (before trial)
- ☐ Guilty Plea with Sent (before trial)
- ☐ Transferred (before/during trial)
- ☐ Other Manner of Disposition

- ☐ Bench Trial
- ☐ Dismissed
- ☐ Acquittal
- ☐ Guilty Plea with Sent (during trial)
- ☐ Conviction

1512

PA395

1 violation of NRS 200.010, 200.030, 193.330, 193.165, of COUNT 6 – ATTEMPT
2 MURDER WITH USE OF A DEADLY WEAPON Category B Felony in violation of NRS
3 200.010, 200.030, 193.330, 193.165; COUNT 7 – ATTEMPT MURDER WITH USE OF
4 A DEADLY WEAPON Category B Felony in violation of NRS 200.010, 200.030,
5 193.330, 193.165; COUNT 8 – ATTEMPT MURDER WITH USE OF A DEADLY
6 WEAPON Category B Felony in violation of NRS 200.010, 200.030, 193.330, 193.165;
7 COUNT 9 – BATTERY WITH USE OF A DEADLY WEAPON (Category B Felony) in
8 violation of NRS 200.4810; COUNT 10 – BATTERY WITH USE OF A DEADLY
9 WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony) in
10 violation of NRS 200.481.2e, COUNT 11 – ASSAULT WITH A DEADLY WEAPON
11 (Category B Felony) in violation of NRS 200.471, COUNT 12 – ASSAULT WITH A
12 DEADLY WEAPON (Category B Felony) in violation of NRS 200.471, COUNT 13 –
13 ASSAULT WITH A DEADLY WEAPON (Category B Felony) in violation of NRS
14 200.471, COUNT 14 – ASSAULT WITH A DEADLY WEAPON (Category B Felony) in
15 violation of NRS 200.471, COUNT 15 – ASSAULT WITH A DEADLY WEAPON
16 (Category B Felony) in violation of NRS 200.471, COUNT 16 – ASSAULT WITH A
17 DEADLY WEAPON (Category B Felony) in violation of NRS 200.471, and COUNT 17 –
18 BURGLARY (Category B Felony) in violation of NRS 205.060; and the matter having
19 been tried before a jury and the Defendant having been found guilty of the crimes of
20 COUNT 9 – BATTERY WITH USE OF A DEADLY WEAPON (Category B Felony) in
21 violation of NRS 200.4810; COUNT 10 – BATTERY WITH USE OF A DEADLY
22 WEAPON RESULTING IN SUBSTANTIAL BODILY HARM (Category B Felony) in
23 violation of NRS 200.481.2e, COUNT 11 – ASSAULT WITH A DEADLY WEAPON
24 (Category B Felony) in violation of NRS 200.471, COUNT 12 – ASSAULT WITH A

1 DEADLY WEAPON (Category B Felony) in violation of NRS 200.471, COUNT 13 –
2 ASSAULT WITH A DEADLY WEAPON (Category B Felony) in violation of NRS
3 200.471, COUNT 14 – ASSAULT WITH A DEADLY WEAPON (Category B Felony) in
4 violation of NRS 200.471, COUNT 15 – ASSAULT WITH A DEADLY WEAPON
5 (Category B Felony) in violation of NRS 200.471, COUNT 16 – ASSAULT WITH A
6 DEADLY WEAPON (Category B Felony) in violation of NRS 200.471, and COUNT 17 –
7 BURGLARY (Category B Felony) in violation of NRS 205.060; thereafter, on the 18TH
8 day of December, 2013, the Defendant was present in court for sentencing with his
9 counsel, Mitchell Posin, Esq., and good cause appearing,
10
11

12 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in
13 addition to the \$25.00 Administrative Assessment Fee, \$150.00 DNA Analysis Fee
14 including testing to determine genetic markers, \$12,639.93 Restitution payable to
15 Anneesah Franklin, \$3,263.73 Restitution payable to Anyla Hoyer, and \$10,369.04
16 Restitution payable to Antioch Church; the Defendant is SENTENCED to the Nevada
17 Department of Corrections (NDC) as follows: AS TO COUNT 9 – Sentenced under the
18 SMALL HABITUAL STATUTE to a MAXIMUM of TWO HUNDRED – FIFTEEN (215)
19 MONTHS with a MINIMUM Parole Eligibility of SIXTY (60) MONTHS; AS TO COUNT
20 10 - Sentenced under the SMALL HABITUAL STATUTE to a MAXIMUM of TWO
21 HUNDRED – FIFTEEN (215) MONTHS with a MINIMUM Parole Eligibility of SIXTY (60)
22 MONTH, to run CONSECUTIVE to Count 9; AS TO COUNT 11 - TO A MAXIMUM of
23 SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility of SIXTEEN (16)
24 MONTHS, to run CONCURRENT with Count 10; AS TO COUNT 12 – TO A MAXIMUM
25 of SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility of SIXTEEN (16)
26 MONTHS, to run CONCURRENT with Count 11; AS TO COUNT 13 - TO A MAXIMUM
27
28

1 of SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility of SIXTEEN (16)
2 MONTHS, to run CONCURRENT with Count 12; AS TO COUNT 14 - TO A MAXIMUM
3 of SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility of SIXTEEN (16)
4 MONTHS, to run CONCURRENT with Count 13; AS TO COUNT 15 - TO A MAXIMUM
5 of SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility of SIXTEEN (16)
6 MONTHS, to run CONCURRENT with Count 14; AS TO COUNT 16 - TO A MAXIMUM
7 of SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility of SIXTEEN (16)
8 MONTHS, to run CONCURRENT with Count 15; and AS TO COUNT 17 - TO A
9 MAXIMUM of NINETY - SIX (96) MONTHS with a MINIMUM Parole Eligibility of
10 TWENTY-TWO (22) MONTHS, to run CONCURRENT with Count 16; with SEVEN
11 HUNDRED THIRTY-ONE (731) DAYS credit for time served. (COUNTS 1 THROUGH
12 8 were DISMISSED WITH PREJUDICE, on September 25, 2013.)
13
14
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17 DATED this 30th day of December, 2013.

18
19 
20 CAROLYN ELLSWORTH
21 DISTRICT COURT JUDGE
22
23
24
25
26
27
28

**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.
Hickman, Wilburt
Scow, Richard H.
State of Nevada

Attorney
Defendant
Attorney
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

PRINT DATE: 01/08/2014

Page 4 of 29

Minutes Date:

January 12, 2012

C-12-278699-1

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.

CUSTODY

PRINT DATE: 01/08/2014

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Minutes Date:

January 12, 2012

**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.

CUSTODY

5/6/2013 9:00 AM CALENDAR CALL

5/13/2013 1:30 PM JURY TRIAL

PRINT DATE: 01/08/2014

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Minutes Date:

January 12, 2012

**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.
Hickman, Wilburt
Posin, Mitchell L
Scow, Richard H.
State of Nevada

Attorney
Defendant
Attorney
Attorney
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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 04, 2013

C-12-278699-1

State of Nevada

vs

Wilburt Hickman

September 04, 2013 1:30 PM

Jury Trial

HEARD BY: Ellsworth, Carolyn

COURTROOM: RJC Courtroom 03E

COURT CLERK: Denise Trujillo

RECORDER: Lara Corcoran

REPORTER:

PARTIES

PRESENT:

Hamner, Christopher S.
Hickman, Wilburt
Posin, Mitchell L
Scow, Richard H.
State of Nevada

Attorney
Defendant
Attorney
Attorney
Plaintiff

JOURNAL ENTRIES

- JURY TRIAL

IN THE PRESENCE OF THE JURY. Testimony and exhibits per worksheets.

EVENING RECESS

CONTINUED TO: 9/4/13 9 AM

**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 Davis

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

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C-12-278699-1

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 Davis

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.

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Minutes Date:

January 12, 2012

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 Davis

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.

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Minutes Date:

January 12, 2012

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

Hickman, Wilburt

Posin, Mitchell L

State of Nevada

Attorney

Defendant

Attorney

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**

HEARD BY: Ellsworth, Carolyn**COURTROOM:** RJC Courtroom 03E**COURT CLERK:** Denise Trujillo; Andrea Davis**RECORDER:** Lara Corcoran**REPORTER:****PARTIES****PRESENT:**

Graham, Elana L.
Hickman, Wilburt
State of Nevada

Attorney
Defendant
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.

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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)

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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, sentencing CONTINUED. Upon request of Mr. Posin, COURT ORDERED, Deft. determined to be

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Minutes Date:

January 12, 2012

C-12-278699-1

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 payable to ANNEESA FRANKLIN;

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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

Exhibit List

Case: C-12-278699-1 Party: Sort Order: Status Defendant Name: Hickman, Wilburt DOB

Exhibit ID	On Behalf Of	Status/Date	Return/Destroy Date	Type and Description	Exhibit Flag	Source	In Custody Of	Location
JC	Plaintiff	Admitted 01/10/2012	Destroy 01/11/2014	Document Justice court exhibits		Roger, David J		
1	Plaintiff	Admitted 09/03/2013	Destroy 09/10/2015	Photograph Photo overhead of chruch		Wolfson, Steven B		
Comment: for complete list see events exhibit list 9/3/13								
-1	Plaintiff	Admitted 02/18/2013	Destroy 01/08/2016	Document Prior JOC packet		Wolfson, Steven B		

VAULT EXHIBIT FORM

JURY FEES: \$

COUNSEL FOR PLAINTIFF
Chris Hamner
COUNSEL FOR DEFENDANT
Mitchell Posin

[illegible]

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	↓	↓	↓
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)	" tire marks from car	↓	↓	↓
14)	" "	↓	↓	↓
15)	" "	9-5-13	NONE	9-5-13
16)	" firemark from 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

DEPARTMENT 5

JUDGE: CAROLYN ELLSWORTH

REPORTER: Lara Corcoran

JURY FEES: \$

STATE OF NEVADA

DEFENDANT

WILBURT HICKMAN

R. Scow & C. Hamner

COUNSEL FOR DEFENDANT

M. Posin

PA432

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 DIRECT APPEAL; CASE APPEAL STATEMENT; DIRECT APPEAL; DISTRICT COURT DOCKET ENTRIES; JUDGMENT OF CONVICTION (JURY TRIAL); DISTRICT COURT MINUTES; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

vs.

WILBURT HICKMAN aka WILLIAM HICKS,

Defendant(s).

Case No: C278699

Dept No: V

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 8 day of January 2014.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

EXHIBIT 16

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILBURT HICKMAN, JR. A/K/A
WILLIAM HICKS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 64776

FILED

AUG 05 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Malone*
DEPUTY CLERK

*ORDER REJECTING FAST TRACK STATEMENT, IMPOSING
ADDITIONAL SANCTION, REFERRING COUNSEL TO STATE BAR
FOR INVESTIGATION, REMOVING COUNSEL, AND REMANDING TO
SECURE APPELLATE COUNSEL*

This is an appeal from a judgment of conviction. Because the rough draft transcript request form was not filed with the notice of appeal, see NRAP 3C(d)(3)(A)(ii), on January 10, 2014, we directed appellant's counsel, Mitchell L. Posin, to file the rough draft transcript request form within 10 days or face sanctions. See NRAP 3C(n). Mr. Posin did not comply and on February 13, 2014, we imposed a conditional sanction against him and directed him to file the required document within 11 days. We also reminded Mr. Posin that the fast track statement and appendix were due to be filed by February 19, 2014. Mr. Posin filed the rough draft transcript request form and the conditional sanction was automatically vacated. However, he failed to file the fast track statement and appendix as directed. Therefore, on March 14, 2014, we entered a second conditional sanction order against Mr. Posin and directed him to file the fast track statement and appendix within 10 days or pay a \$1000 sanction within 15 days. Because Mr. Posin did not comply with our

order, on May 5, 2014, we ordered him to appear before this court on June 12, 2014, and show cause why additional sanctions should not be imposed.

Approximately one-half hour before the time scheduled for his appearance, Mr. Posin submitted a cover page via E-Flex. During his appearance, he represented to the court that he filed the fast track statement and it complied with the Nevada Rules of Appellate Procedure to the best of his knowledge. The day after his appearance, Mr. Posin submitted the fast track statement. Although the fast track statement was more than two months overdue, Mr. Posin did not file a motion for an extension of time. Significantly, he failed to file an appendix. *See* NRAP 3C(e)(2) (requiring the filing of a joint appendix, or in the absence of an agreement regarding a joint appendix, an appellant's appendix). And the submitted fast track statement is deficient because it does not have 1-inch margins on all four sides as required by NRAP 32(a)(4), *see* NRAP 3C(h)(1) (requiring fast track filings to comply with the formatting requirements of NRAP 32(a)(4)-(6)), or citations to the appendix supporting each assertion regarding matters in the transcripts or other documents as required by NRAP 3C(e)(1)(C). Due to these deficiencies, we direct the clerk of this court to reject the cover page and fast track statement received via E-Flex on June 12 and 13, 2014. *See* NRAP 32(e) ("If a brief . . . is not prepared in accordance with this Rule, the clerk will not file the document . . .").

We have repeatedly stated that we expect all appeals to be "pursued in a manner meeting high standards of diligence, professionalism, and competence." *Cuzdey v. State*, 103 Nev. 575, 578, 747 P.2d 233, 235 (1987); *accord Polk v. State*, 126 Nev. 180, 184, 233 P.3d 357, 359 (2010); *Barry v. Lindner*, 119 Nev. 661, 671, 81 P.3d 537, 543 (2003); *State, Nev. Emp't Sec. Dep't v. Weber*, 100 Nev. 121, 123, 676 P.2d

1318, 1319 (1984). It is incumbent upon Mr. Posin, as part of his professional obligations of competence and diligence to his clients, to know and comply with all applicable court rules. See RPC 1.1; RPC 1.3. These rules have been implemented to promote cost-effective, timely access to the courts; it is “imperative” that he follow these rules and timely comply with our directives. *Weddell v. Stewart*, 127 Nev. ___, ___, 261 P.3d 1080, 1084 (2011). The obligation is on Mr. Posin, not this court, to calendar and comply with filing deadlines consistent with the applicable rules. And he is “not at liberty to disobey notices, orders, or any other directives issued by this court.” *Id.* at ___, 261 P.3d at 1085.

Mr. Posin’s failure to comply with our rules and orders has forced this court to divert our limited resources to ensure his compliance and needlessly delayed the processing of this appeal. Therefore, we impose an additional \$1000 sanction. See NRAP 3C(n). Mr. Posin shall have 15 days from the date of this order to pay the sum of \$2000 to the Supreme Court Law Library and file proof of such payment with this court.¹ Moreover, we refer Mr. Posin to the State Bar of Nevada for investigation pursuant to SCR 104-105. Bar counsel shall, within 90 days of the date of this order, inform this court of the status or results of the investigation and any disciplinary proceedings in this matter. Finally, we remove Mr. Posin as counsel in this appeal.

We remand this appeal to the district court for the limited purpose of securing appellate counsel for appellant. If appellant is indigent, the district court shall have 30 days to appoint appellate counsel.

¹This sum includes the \$1000 sanction imposed in the March 14, 2014, order.

Otherwise, the district court shall order that, within 30 days, appellant must retain appellate counsel and have counsel enter a notice of appearance in the district court. Upon the appointment or appearance of appellate counsel, the district court clerk shall immediately transmit to the clerk of this court a copy of the district court's written or minute order or counsel's notice of appearance.

The briefing of this appeal shall be suspended pending further order of this court.

It is so ORDERED.

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

cc: Hon. Carolyn Ellsworth, District Judge
Law Offices of Mitchell Posin, Chtd.
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk
Supreme Court Law Librarian
Bar Counsel
Wilburt Hickman, Jr.

EXHIBIT 17

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILBURT HICKMAN, JR. A/K/A WILLIAM
HICKS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 64776
District Court Case No. C278699

FILED

OCT 27 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk ✓

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.
Receipt for Remittitur.

DATE: October 12, 2015

Tracie Lindeman, Clerk of Court

By: Sally Williams
Deputy Clerk

cc (without enclosures):

Hon. Carolyn Ellsworth, District Judge
Clark County District Attorney
Attorney General/Carson City
Law Office of Kristina Wildeveld

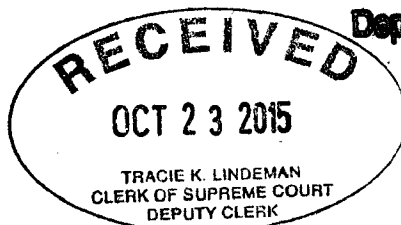
RECEIPT FOR REMITTITUR

Received of Tracie Lindeman, Clerk of the Supreme Court of the State of Nevada, the
REMITTITUR issued in the above-entitled cause, on OCT 16 2015

Heather Lengua
Deputy District Court Clerk

RECEIVED

OCT 16 2015



CLERK OF THE COURT

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILBURT HICKMAN, JR. A/K/A WILLIAM
HICKS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 64776
District Court Case No. C278699

CLERK'S CERTIFICATE

STATE OF NEVADA, ss.

I, Tracie Lindeman, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"ORDER the judgment of conviction AFFIRMED."

Judgment, as quoted above, entered this 16th day of September, 2015.

IN WITNESS WHEREOF, I have subscribed
my name and affixed the seal of the Supreme
Court at my Office in Carson City, Nevada this
October 12, 2015.

Tracie Lindeman, Supreme Court Clerk

By: Sally Williams
Deputy Clerk

EXHIBIT 18

Wilburt Hickman #62150

Petitioner/In Propria Persona
Post Office Box 208, SDCC
Indian Springs, Nevada 89070

Alvin D. Shuman

CLERK OF THE COURT

PPOW
MC
DA
PP

IN THE EIGHTH JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF CLARK

Wilburt Hickman

Petitioner,

vs.

Brign E. Williams
Warden

Respondent(s).

Case No. C-12-278699-1

Dept. No. IV

Docket _____

* EVIDENTIARY HEARING *
REQUESTED

PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION)

INSTRUCTIONS:

- (1) This petition must be legibly handwritten or typewritten signed by the petitioner and verified.
- (2) Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) If you want an attorney appointed, you must complete the Affidavit in Support of Request to Proceed in Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
- (4) You must name as respondent the person by whom you are confined or restrained. If you are in a specific institution of the department of corrections, name the warden or head of the institution. If you are not in a specific institution of the department within its custody, name the director of the department of corrections.
- (5) You must include all grounds or claims for relief which you may have regarding your conviction and sentence.

CLERK OF THE COURT

MAR 25 2016

RECEIVED

CLERK OF THE COURT

MAR 24 2016

RECEIVED

1 Failure to raise all grounds in this petition may preclude you from filing future petitions
2 challenging your conviction and sentence.

3 (6) You must allege specific facts supporting the claims in the petition you file seeking relief
4 from any conviction or sentence. Failure to allege specific facts rather than just conclusions may
5 cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of
6 counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which
7 you claim your counsel was ineffective.

8 (7) If your petition challenges the validity of your conviction or sentence, the original and one
9 copy must be filed with the clerk of the district court for the county in which the conviction
10 occurred. Petitions raising any other claim must be filed with the clerk of the district court for the
11 county in which you are incarcerated. One copy must be mailed to the respondent, one copy to the
12 attorney general's office, and one copy to the district attorney of the county in which you were
13 convicted or to the original prosecutor if you are challenging your original conviction or sentence.
14 Copies must conform in all particulars to the original submitted for filing.

15 PETITION

16 1. Name of institution and county in which you are presently imprisoned or where and who you
17 are presently restrained of your liberty: Southern Desert Correctional Center
18 Clark County Nevada

19 2. Name the location of court which entered the judgment of conviction under attack: Eighth
20 Judicial District Court, 200 Lewis Ave Las Vegas NV 89155

21 3. Date of judgment of conviction: January 2, 2014

22 4. Case number: C-13-278699-1

23 5. (a) Length of sentence: 60 to 215 months plus additional sentences

24 (b) If sentence is death, state any date upon which execution is scheduled: N/A

25 6. Are you presently serving a sentence for a conviction other than the conviction under attack in
26 this motion: No

27 Yes N/A No ✓ If "Yes", list crime, case number and sentence being served at this time: N/A

28 7. Nature of offense involved in conviction being challenged: ASSAULT

With A Deadly Weapon; Battery With Deadly Weapon, With
Substantial Bodily Harm; Malicious Destruction of Private
Property.

1 8. What was your plea? (Check one)

2 (a) Not guilty XX

3 (b) Guilty N/A

4 (c) Nolo contendere N/A

5 9. If you entered a guilty plea to one count of an indictment or information, and a not guilty plea
6 to another count of an indictment or information, or if a guilty plea was negotiated, give details: _____
7 N/A
8 A

9 10. If you were found guilty after a plea of not guilty, was the finding made by: (check one)

10 (a) Jury XXX

11 (b) Judge without a jury N/A

12 11. Did you testify at trial? Yes N/A No XX

13 12. Did you appeal from the judgment of conviction?

14 Yes N No N/A

15 13. If you did appeal, answer the following:

16 (a) Name of court: Supreme Court of Nevada

17 (b) Case number or citation: 64776

18 (c) Result: Affirmed

19 (d) Date of appeal: January 6th, 2014

20 (Attach copy of order or decision, if available).

21 14.) If you did not appeal, explain briefly why you did not: N/A
22 A
23

24 15. Other than a direct appeal from the judgment of conviction and sentence, have you previously
25 filed any petitions, applications or motions with respect to this judgment in any court, state or
26 federal? Yes N/A No XXX
27
28

1 16. If your answer to No 15 was "Yes", give the following information:

2 (a) (1) Name of court: _____

3 (2) Nature of proceedings: _____

4
5 (3) Grounds raised: _____

6
7
8 (4) Did you receive an evidentiary hearing on your petition, application or motion?

9 Yes _____ No _____

10 (5) Result: _____

11 (6) Date of result: _____

12 (7) If known, citations of any written opinion or date of orders entered pursuant to each
13 result: _____

14 (b) As to any second petition, application or motion, give the same information:

15 (1) Name of Court: _____

16 (2) Nature of proceeding: _____

17 (3) Grounds raised: _____

18 (4) Did you receive an evidentiary hearing on your petition, application or motion?

19 Yes _____ No _____

20 (5) Result: _____

21 (6) Date of result: _____

22 (7) If known, citations or any written opinion or date of orders entered pursuant to each
23 result: _____

24 (c) As to any third or subsequent additional application or motions, give the same
25 information as above, list them on a separate sheet and attach.

26

27

28

1 (d) Did you appeal to the highest state or federal court having jurisdiction, the result or action
2 taken on any petition, application or motion?

3 (1) First petition, application or motion?

4 Yes ____ No ____

5 Citation or date of decision: _____

6 (2) Second petition, application or motion?

7 Yes ____ No ____

8 Citation or date of decision: _____

9 (e) If you did not appeal from the adverse action on any petition, application or motion,
10 explain briefly why you did not. (You may relate specific facts in response to this question. Your
11 response may be included on paper which is 8 1/2 x 11 inches attached to the petition. Your response
12 may not exceed five handwritten or typewritten pages in length) _____

13 _____
14 _____
15 17. Has any ground being raised in this petition been previously presented to this or any other
16 court by way of petition for habeas corpus, motion or application or any other post-conviction
17 proceeding? If so, identify:

18 (a) Which of the grounds is the same: _____

19 _____
20 (b) The proceedings in which these grounds were raised: _____

21 _____
22 (c) Briefly explain why you are again raising these grounds. (You must relate specific facts
23 in response to this question. Your response may be included on paper which is 8 1/2 x 11 inches
24 attached to the petition. Your response may not exceed five handwritten or typewritten pages in
25 length). _____

1 18. If any of the grounds listed in Nos. 23(a), (b), (c), and (d), or listed on any additional pages
2 you have attached, were not previously presented in any other court, state or federal, list briefly what
3 grounds were not so presented, and give your reasons for not presenting them. (You must relate
4 specific facts in response to this question. Your response may be included on paper which is 8 1/2 x
5 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten
6 pages in length). N/A

7
8 19. Are you filing this petition more than one (1) year following the filing of the judgment of
9 conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay.
10 (You must relate specific facts in response to this question. Your response may be included on
11 paper which is 8 1/2 x 11 inches attached to the petition. Your response may not exceed five
12 handwritten or typewritten pages in length). No, this petition is timely

13
14
15 20. Do you have any petition or appeal now pending in any court, either state or federal, as to the
16 judgment under attack?

17 Yes N/A No XXX

18 If "Yes", state what court and the case number: N/A

19
20 21. Give the name of each attorney who represented you in the proceeding resulting in your
21 conviction and on direct appeal: Mitchell L. Posin (Retained), Kristina
22 Wildenfeld (Appointed by the District Court, and also
23 the Clark County Public Defender's Office.

24 22. Do you have any future sentences to serve after you complete the sentence imposed by the
25 judgment under attack?

26 Yes N/A No XXX If "Yes", specify where and when it is to be served, if you know: N/A

Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

23. (a) **GROUND ONE:** Counsel for Petitioner was ineffective and violated Petitioner's Fifth (5th), Sixth (6th), and Fourteenth (14th) United States Constitutional Amendment rights, the right to Due Process, the effective assistance of counsel; and Due Process and Equal Protection of law when Counsel failed to be knowledgeable of the laws pertaining to the Constitution of the State of Nevada Article 3, §1, and Article 6, §11, and/or to challenge that the Nevada Revised Statutes to which Petitioner has been subjected to for purpose of prosecution are unconstitutional, etc., as more fully set forth in the Supporting Facts below.

23. (a) **SUPPORTING FACTS** (Tell your story briefly without citing cases or law): Petitioner alleges that the separation of Departments, separation of powers as to Article (Art.) 3, §1, of the Constitution of the State of Nevada (Const. of Nev.), was violated, whereby, Petitioner does present the foregoing constitutional question, issue, also for the determination as to an ineffective assistance of counsel claim: Whether The Duties, Functions, The Work Performed By The Three Justices Of The Supreme Court Of Nevada, Mandated To Be On The Statute Revision Commission (commission), Can Logically and Legitimately Trace Their Duties, Efforts, Functions, Powers, Back To, Showing Its Derived From Their Basic Source Of Power, i.e. Art. 6, §4, of the Constitution of the State of Nevada? Section 1 of Senate Bill No. 182 - Committee on Finance CHAPTER 304 reads as follows: There is hereby created a commission of the State of Nevada, to be known as the "commission for revision and compilation of Nevada laws," hereinafter referred to as the commission. Such commission shall be composed of three members, and said members shall be the three justices of the supreme court. The members of such commission shall have the powers and duties prescribed by this act, and shall receive such salary for their services as shall be prescribed by this act, and subsequent enactments.

(Emphasis added to original) (See attached Exhibit "1" Senate Bill (S.B.), No. 182-Committee on Finance CHAPTER 304 [Approved March 22, 1951]).

Petitioner contends, states that, the duties, functions, powers, work performed by the three justices of the Supreme Court of Nevada, as mandated by S.B. 182-Committee on Finance CHAPTER 304 of March 22, 1951, openly violated the plain and unambiguous language of the Const. of Nev. Art. 3, § 1, as well as Art. 6, § 11. That, the violation of Art. 3, § 1; and Art. 6, § 11; of the Const. of Nev. mandates that the provisions of Chapter 304, Statutes of 1951 see Exhibit "1", is, were unconstitutional from their "inception!!" Thus, the Act i.e. S.B. No. 182-Committee on Finance CHAPTER 304 of March 22, 1951, its self which mandated via Section 1 "There is hereby created a commission of the State of Nevada, to be known as the 'commission for revision and compilation of Nevada laws,' hereinafter referred to as the commission. Such commission shall be composed of three members, and said members shall be the three justices of the supreme court. The members of such commission shall have the powers and duties prescribed by this act," is unconstitutional and therefore void, as this Act S.B. No. 182-Committee on Finance CHAPTER 304 of March 22, 1951, specifically contravenes the clear, plain, and unambiguous language of Art. 3, § 1, and Art. 6, § 11; of the Const. of Nev., rendering any and all authority of the commission null and void; as this Act S.B. No. 182-Committee on Finance CHAPTER 304 of March 22, 1951, has no severable constitutional provision in the Act its self, and

1 ering the Act S.B. No. 182-Committee on Finance CHAPTER 304 of
2 March 22, 1951, as a whole unconstitutional, and again null
3 and void. That, Petitioner has been subjected to arrest, prosecu-
4 tion, and conviction via provisions of S.B. No. 182-Committee
5 on Finance CHAPTER 304 of March 22, 1951. That, said Act S.B.
6 No. 182-Committee on Finance CHAPTER 304 of March 22, 1951, be-
7 ing unconstitutional, null and void, for the reasons set forth
8 herein this Ground, Petitioner has been subjected to an uncon-
9 stitutional arrest, prosecution, and conviction. Thus, Petitioner's
10 Counsel's representation fell below an objective standard of
11 reasonableness, when Petitioner's counsel failed to be know-
12 ledgeable to the discoverable facts as to the unconstitution-
13 ality of S.B. No. 182-Committee on Finance CHAPTER 304 of March
14 22, 1951. The same violating the clear, plain, and unambiguous
15 language of the Const. of Nev. Art. 3, § 1, and Art. 6, § 11. That, counsel's
16 deficient performance falls well below an objective standard of
17 reasonableness, and Petitioner has been extremely prejudiced
18 by counsel's deficient performance. That, except for counsel's
19 deficient performance the outcome of the proceedings would
20 have been different, in that Petitioner could have challenged the
21 arrest, prosecution to which Petitioner was subject to as being un-
22 constitutional as the unconstitutionality of S.B. No. 182-Com-
23 mittee on Finance CHAPTER 304 of March 22, 1951, and the imp-
24 act the provisions of S.B. No. 182-Committee on Finance CHAP-
25 TER 304 of March 22, 1951, has on whether Petitioner's arrest,
26 prosecution, and or conviction is constitutionally lawful?
27 In addition, should the district court have sustained, up-

1 held the arrest, prosecution, etc., as lawful etc., Petitioner
2 could have challenged the decision, ruling of the district
3 court on Direct Appeal to the Sup. Ct. of Nev., raising a sub-
4 stantial Constitutional question, question of law.

5 That, as to the specific constitutional articles of the Const. of Nev.
6 in question, Art. 3, §1, reads as follows: Section 1. Three separate
7 departments; separation of powers. "The powers of the Govern-
8 ment of the State of Nevada shall be divided into three separate
9 departments, - the legislative, - the Executive and the Judicial;
10 and no persons charged with the exercise of powers properly
11 belonging to one of these departments shall exercise any func-
12 tions, appertaining to the others, except in the cases herein
13 expressly directed or permitted."

14 That, Art. 6, §11, reads as follows: Justices and judges ineligible
15 for other offices. "The justices of the supreme court and the
16 district judges shall be ineligible to any office, other than a
17 judicial office, during the term for which they shall have been
18 elected or appointed; and all elections or appointments of any
19 such judges by the people, legislature, or otherwise during
20 said period, to any office other than judicial, shall be void."

21 Wherefore, based upon the above and foregoing, Petitioner does re-
22 spectfully request that this court will grant Petitioner relief, from
23 the unconstitutional, unlawful conviction.

24 That, should this Court not grant Petitioner relief, Petitioner does
25 respectfully request that this Court will conduct an evidentiary
26 hearing, that a fact record can be made developing Petitioner's
27 factual claim(s) in support of this Ground.

23. (b) GROUND TWO: Counsel for Petitioner was ineffective, and said representation fell below an objectionable standard of reasonableness in violation of the Fifth (5th) Amendment Due Process, the Sixth (6th) Amendment right to the effective assistance of counsel, the Fourteenth (14th) Amendment right to Due Process and Equal Protection of law, as more fully set forth in the Supporting Facts below.

23. (b) SUPPORTING FACTS (Tell your story briefly without citing cases or law): That, Petitioner needs the assistance of counsel to raise additional Grounds of ineffective assistance of counsel. That, Petitioner seeks to challenge that the Habitual Criminal enhancement penalty violates the Due Process Clause, in that sentencing under the habitual criminal enhancement penalty is a specific sentencing procedure subject to the Due Process Clause of the Fourteenth (14th) Amendment of the United States Constitution; as well as additional Grounds for relief.

That, Petitioner does have the ability to prepare and submit a meaningful petition for writ of Habeas corpus (post-conviction).

That, Petitioner has been hindered in obtaining the assistance from another inmate sufficiently knowledgeable in the law, to submit a meaningful petition for writ of habeas corpus.

1 WHEREFORE, Petitioner, prays that the court grant Petitioner
2 relief to which he may be entitled in this proceeding.

3 EXECUTED at Southern Desert Correctional Center
4 on the ____ day of _____, 20____

6 Willert Hickman
7 Signature of Petitioner

8 VERIFICATION

9 Under penalty of perjury, pursuant to N.R.S. 208.165 et seq., the undersigned declares that he is
10 the Petitioner named in the foregoing petition and knows the contents thereof; that the pleading is
11 true and correct of his own personal knowledge, except as to those matters based on information and
12 belief, and to those matters, he believes them to be true.

14 Willert Hickman
15 Signature of Petitioner

17 N/A
18 Attorney for Petitioner

CERTIFICATE OF SERVICE BY MAILING

I, Wilburt Hickman, hereby certify, pursuant to NRCP 5(b), that on this 21st
day of March, 2016, I mailed a true and correct copy of the foregoing, "Habeas Corpus
Petition"

by placing document in a sealed pre-postage paid envelope and deposited said envelope in the
United State Mail addressed to the following:

District Attorney
Clark County, Nevada
200 Lewis Ave
PO Box 552212
Las Vegas NV 89155-2212

CC:FILE

DATED: this 21 day of March, 2016.

Wilburt Hickman
WILBURT HICKMAN #62150
Petitioner /In Propria Personam
Post Office Box 208, S.D.C.C.
Indian Springs, Nevada 89018
IN FORMA PAUPERIS:

Sec. 8. **Qualifications of voters on adoption or rejection of constitution.** All persons qualified by law to vote for representatives to the General Assembly of the Territory of Nevada, on the twenty first day of March A.D. Eighteen hundred and sixty four and all other persons who may be lawful voters in said Territory on the first Wednesday of September next following, shall be entitled to vote directly upon the question of adopting or rejecting this Constitution.

Sec. 9. **Recall of public officers: Procedure and limitations.** Every public officer in the State of Nevada is subject, as herein provided, to recall from office by the registered voters of the state, or of the county, district, or municipality which he represents. For this purpose, not less than twenty-five percent (25%) of the number who actually voted in the state or in the county, district, or municipality which he represents, at the election in which he was elected, shall file their petition, in the manner herein provided, demanding his recall by the people. They shall set forth in said petition, in not exceeding two hundred (200) words, the reasons why said recall is demanded. If he shall offer his resignation, it shall be accepted and take effect on the day it is offered, and the vacancy thereby caused shall be filled in the manner provided by law. If he shall not resign within five (5) days after the petition is filed, a special election shall be ordered to be held within thirty (30) days after the issuance of the call therefor, in the state, or county, district, or municipality electing said officer, to determine whether the people will recall said officer. On the ballot at said election shall be printed verbatim as set forth in the recall petition, the reasons for demanding the recall of said officer, and in not more than two hundred (200) words, the officer's justification of his course in office. He shall continue to perform the duties of his office until the result of said election shall be finally declared. Other candidates for the office may be nominated to be voted for at said special election. The candidate who shall receive highest number of votes at said special election shall be deemed elected for the remainder of the term, whether it be the person against whom the recall petition was filed, or another. The recall petition shall be filed with the officer with whom the petition for nomination to such office shall be filed, and the same officer shall order the special election when it is required. No such petition shall be circulated or filed against any officer until he has actually held his office six (6) months, save and except that it may be filed against a senator or assemblyman in the legislature at any time after ten (10) days from the beginning of the first session after his election. After one such petition and special election, no further recall petition shall be filed against the same officer during the term for which he was elected, unless such further petitioners shall pay into the public treasury from which the expenses of said special election have been paid, the whole amount paid out of said public treasury as expenses for the preceding special election. Such additional legislation as may aid the operation of this section shall be provided by law.

[Added in 1912, amended in 1970 and 1996. The addition was proposed and passed by the 1909 legislature; agreed to and passed by the 1911 legislature; and approved and ratified by the people at the 1912 general election. See: Statutes of Nevada 1909, p. 345; Statutes of Nevada 1911, p. 448. The first amendment was proposed and passed by the 1967 legislature; agreed to and passed by the 1969 legislature; and approved and ratified by the people at the 1970 general election. See: Statutes of Nevada 1967, p. 1732; Statutes of Nevada 1969, p. 1663. The second amendment was proposed and passed by the 1993 legislature; agreed to and passed by the 1995 legislature; and approved and ratified by the people at the 1996 general election. See: Statutes of Nevada 1993, p. 3135; Statutes of Nevada 1995, p. 2887.]

Sec. 10. **Limitation on contributions to campaign.**

1. As used in this Section, "contribution" includes the value of services provided in kind for which money would otherwise be paid, such as paid polling and resulting data, paid direct mail, paid solicitation by telephone, any paid campaign paraphernalia printed or, otherwise produced, and the use of paid personnel to assist in a campaign.

2. The Legislature shall provide by law for the limitation of the total contribution by any natural or artificial person to the campaign of any person for election to any office, except a federal office, to \$5,000 for the primary and \$5,000 for the general election, and to the approval or rejection of any question by the registered voters to \$5,000, whether the office sought or the question submitted is local or for the State as a whole. The Legislature shall further provide for the punishment of the contributor, the candidate, and any other knowing party to a violation of the limit, as a felony.

[Added in 1996. Proposed by initiative petition and approved and ratified by the people at the 1994 and 1996 General Elections.]

ARTICLE. 3. - Distribution of Powers.

SEC. 1. Three separate departments; separation of powers; legislative review of administrative regulations.

Section 1. **Three separate departments; separation of powers; legislative review of administrative regulations.**

1. The powers of the Government of the State of Nevada shall be divided into three separate departments,—the Legislative,—the Executive and the Judicial; and no persons charged with the exercise of powers properly belonging to one of these departments shall exercise any functions, appertaining to either of the others, except in the cases expressly directed or permitted in this constitution.

2. If the legislature authorizes the adoption of regulations by an executive agency which bind persons outside the agency, the legislature may provide by law for:

(a) The review of these regulations by a legislative agency before their effective date to determine initially whether each is within the statutory authority for its adoption;

(b) The suspension by a legislative agency of any such regulation which appears to exceed that authority, until it is reviewed by a legislative body composed of members of the Senate and Assembly which is authorized to act on behalf of both houses of the legislature; and

(c) The nullification of any such regulation by a majority vote of that legislative body, whether or not the regulation was suspended.

[Amended in 1996. Proposed and passed by the 1993 legislature; agreed to and passed by the 1995 legislature; and approved and ratified by the people at the 1996 general election. See: Statutes of Nevada 1993, p. 3082; Statutes of Nevada 1995, p. 2972.]

ARTICLE. 4. - Legislative Department

- EC. 1. Legislative power vested in senate and assembly.
2. Biennial sessions of Legislature: Commencement: limitation on duration: void actions; submission of proposed executive budget. [Effective through November 26, 2012, and after that date unless the proposed amendment is agreed to and passed by the 2011 Legislature and approved and ratified by the voters at the 2012 General Election.]
2. Biennial sessions of Legislature: Commencement: limitation on duration: void actions; submission of proposed executive budget. [Effective November 27, 2012, if the proposed amendment is agreed to and passed by the 2011 Legislature and approved and ratified by the voters at the 2012 General Election.]
- 2A. Special sessions of Legislature: Procedure for convening; precedence; limitations on business and duration: void actions. [Effective November 27, 2012, if the proposed addition is agreed to and passed by the 2011 Legislature and approved and ratified by the voters at the 2012 General Election.]

respective counties unless the Legislature otherwise provides by law.

[Amended twice in 1976 and in 1998. The first and second amendments were proposed and passed by the 1973 Legislature; agreed to and passed by the 1975 Legislature; and approved and ratified by the people at the 1976 General Election. See: Statutes of Nevada 1973, pp. 1940 and 1953; Statutes of Nevada 1975, pp. 1870 and 1981. The first and second amendments were combined pursuant to Nev. Art. 16, § 1. The third amendment was proposed and passed by the 1995 Legislature; agreed to and passed by the 1997 Legislature; and approved and ratified by the people at the 1998 General Election. See: Statutes of Nevada 1995, p. 2964; Statutes of Nevada 1997, p. 3598.]

Sec. 7. Terms of courts. [Effective November 23, 2010, if the proposed amendment is approved and ratified by the voters at the 2010 General Election.] The times of holding the Supreme Court, the court of appeals, if established by the Legislature, and the district courts must be as fixed by law. The terms of the Supreme Court must be held at the seat of government unless the Legislature otherwise provides by law, except that the Supreme Court may hear oral argument at other places in the State. The terms of the court of appeals, if established by the Legislature, must be held at the place provided by law. The terms of the district courts must be held at the county seats of their respective counties unless the Legislature otherwise provides by law.

[Amended twice in 1976 and in 1998. The first and second amendments were proposed and passed by the 1973 Legislature; agreed to and passed by the 1975 Legislature; and approved and ratified by the people at the 1976 General Election. See: Statutes of Nevada 1973, pp. 1940 and 1953; Statutes of Nevada 1975, pp. 1870 and 1981. The first and second amendments were combined pursuant to Nev. Art. 16, § 1. The third amendment was proposed and passed by the 1995 Legislature; agreed to and passed by the 1997 Legislature; and approved and ratified by the people at the 1998 General Election. See: Statutes of Nevada 1995, p. 2964; Statutes of Nevada 1997, p. 3598.]—(Proposed amendment passed by the 2007 Legislature; agreed to and passed by the 2009 Legislature; effective November 23, 2010, if approved and ratified by the voters at the 2010 General Election. See Statutes of Nevada 2007, p. 3556; Statutes of Nevada 2009, p. 3225.)

Sec. 8. Number, qualifications, terms of office and jurisdiction of justices of the peace; appeals; courts of record. [Effective through November 22, 2010, and after that date unless the proposed amendment is approved and ratified by the voters at the 2010 General Election.] The Legislature shall determine the number of justices of the peace to be elected in each city and township of the State, and shall fix by law their qualifications, their terms of office and the limits of their civil and criminal jurisdiction, according to the amount in controversy, the nature of the case, the penalty provided, or any combination of these.

The provisions of this section affecting the number, qualifications, terms of office and jurisdiction of justices of the peace become effective on the first Monday of January, 1979.

The Legislature shall also prescribe by law the manner, and determine the cases in which appeals may be taken from justices and other courts. The Supreme Court, the district courts, and such other courts, as the Legislature shall designate, shall be courts of record.

[Amended in 1978. Proposed and passed by the 1975 Legislature; agreed to and passed by the 1977 Legislature; and approved and ratified by the people at the 1978 General Election. See: Statutes of Nevada 1975, p. 1952; Statutes of Nevada 1977, p. 1691.]

Sec. 8. Number, qualifications, terms of office and jurisdiction of justices of the peace; appeals; courts of record. [Effective November 23, 2010, if the proposed amendment is approved and ratified by the voters at the 2010 General Election.]

1. The Legislature shall determine the number of justices of the peace to be elected in each city and township of the State and shall fix by law their qualifications, their terms of office and the limits of their civil and criminal jurisdiction, according to the amount in controversy, the nature of the case, the penalty provided or any combination of these.

2. The provisions of this section affecting the number, qualifications, terms of office and jurisdiction of justices of the peace become effective on the first Monday of January, 1979.

3. The Legislature shall also prescribe by law the manner, and determine the cases, in which appeals may be taken from justices and other courts. The Supreme Court, the court of appeals, if established by the Legislature, the district courts and such other courts as the Legislature shall designate are courts of record.

[Amended in 1978. Proposed and passed by the 1975 Legislature; agreed to and passed by the 1977 Legislature; and approved and ratified by the people at the 1978 General Election. See: Statutes of Nevada 1975, p. 1952; Statutes of Nevada 1977, p. 1691.]—(Proposed amendment passed by the 2007 Legislature; agreed to and passed by the 2009 Legislature; effective November 23, 2010, if approved and ratified by the voters at the 2010 General Election. See Statutes of Nevada 2007, p. 3556; Statutes of Nevada 2009, p. 3225.)

Sec. 9. Municipal courts. Provision shall be made by law prescribing the powers[,] duties and responsibilities of any Municipal Court that may be established in pursuance of Section One, of this Article; and also fixing by law the jurisdiction of said Court so as not to conflict with that of the several courts of Record.

Sec. 10. Fees or perquisites of judicial officers. No Judicial Officer, except Justices of the Peace and City Recorders shall receive to his own use any fees or perquisites of Office[.]

Sec. 11. Justices and judges ineligible for other offices. [Effective through November 22, 2010, and after that date unless the proposed amendment is approved and ratified by the voters at the 2010 General Election.] The justices of the Supreme Court and the district judges shall be ineligible to any office, other than a judicial office, during the term for which they shall have been elected or appointed; and all elections or appointments of any such judges by the people, Legislature, or otherwise, during said period, to any office other than judicial, shall be void.

[Amended in 1950. Proposed and passed by the 1947 Legislature; agreed to and passed by the 1949 Legislature; and approved and ratified by the people at the 1950 General Election. See: Statutes of Nevada 1947, p. 878; Statutes of Nevada 1949, p. 684.]

Sec. 11. Justices and judges ineligible for other offices. [Effective November 23, 2010, if the proposed amendment is approved and ratified by the voters at the 2010 General Election.] The justices of the Supreme Court, the judges of the court of appeals, if established by the Legislature, and the district judges are ineligible to any office, other than a judicial office, during the term for which they have been elected or appointed. All elections or appointments of any such judges by the people, Legislature or otherwise during said period to any office other than a judicial are void.

[Amended in 1950. Proposed and passed by the 1947 Legislature; agreed to and passed by the 1949 Legislature; and approved and ratified by the people at the 1950 General Election. See: Statutes of Nevada 1947, p. 878; Statutes of Nevada 1949, p. 684.]—(Proposed amendment passed by the 2007 Legislature; agreed to and passed by the 2009 Legislature; effective November 23, 2010, if approved and ratified by the voters at the 2010 General Election. See Statutes of Nevada 2007, p. 3557; Statutes of Nevada 2009, p. 26.)

Sec. 12. Judge not to charge jury respecting matters of fact; statement of testimony and declaration of law. Judges shall not charge juries in respect to matters of fact, but may state the testimony and declare the law.

other than carrying out the legitimate functions of the Nevada Children's Foundation, Inc., the same shall be taxed.

~~Eleventh—Notwithstanding any other provisions of this act or any section or subsection thereof, all claims for tax exemptions on real property shall be filed on or before the second Monday of July of the year for which the exemption is claimed.~~

Sec. 2. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Sec. 3. This act shall be in effect immediately upon its passage and approval.

Senate Bill No. 182—Committee on Finance

CHAPTER 304

AN ACT establishing a permanent commission for the revision, compilation, annotation, and publishing of the laws of the State of Nevada and certain laws of the United States; prescribing certain duties of a temporary nature; prescribing certain duties of a permanent nature; making an appropriation therefor, and other matters properly connected therewith.

[Approved March 22, 1951]

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. There is hereby created a commission of the State of Nevada, to be known as the "commission for revision and compilation of Nevada laws," hereinafter referred to as the commission. Such commission shall be composed of three members, and said members shall be the three justices of the supreme court. The members of such commission shall have the powers and duties prescribed by this act, and shall each receive such salary for their services as shall be prescribed by this act, and subsequent enactments.

Sec. 2. As soon as practicable after the effective date hereof the commission shall commence the preparation of a complete revision and compilation of the constitution and the laws of the State of Nevada of general application, together with brief annotations and marginal notes to sections thereof. Such compilation when completed shall be known as "Revised Laws of Nevada," and the year of first publication shall be filled in the blank space of such title, for brevity such title may be cited as "Rev. Laws."

Sec. 3. In preparing such compilation the commission is hereby authorized to adopt such system of numbering as it deems practical, to cause said compilation to be published in such number of volumes, but such volumes shall not exceed 750 pages, as shall be deemed convenient, and to cause such volumes to be bound in loose-leaf binders of good, and so far as possible, permanent quality. The pages of such compilation shall conform in size and printing style to the pages of the Statutes of Nevada, except that if necessary for marginal notes, the same may be of greater width, and roman style type only, shall

be used. In general, it is re compilation should follow the compilation heretofore made and 1912," as authorized by chap

Sec. 4. Upon completion the commission is authorized at the state printing office printing the separate volume and forwarded to the secretary as set forth hereinafter. Suff so that there shall be bound "Revised Laws." A master "....." shall be kept in the copy shall not be removed if a member of the commission

Sec. 5. In complying with the limitation of available a ized to employ such clerical compensated at the same rate position, and such assistants i sary, and shall be familiar w of laws. The terms of the assistants shall be fixed by t

Sec. 6. The commission at appropriation hereby made required by this act.

Sec. 7. From and after the ".....," and the delivery of said secretary of state shall of each elected or appointed s said officer therefor, thirty s exclusive use of the legislat county of the state for the us ney of that county, one set s state maintained by public f necessary, not to exceed 50 s librarian for reciprocal tradit federal territories. The rem of state at a price of \$10 pe shall be deposited in the gen

Sec. 8. The compilation l accompanied by as complete pare, which index shall be p and style as the "Revised L

Sec. 9. The secretary of s sion all records of his office w sion, and any books or statu shall likewise be made availa

Sec. 10. Upon request of

EXHIBIT "1" pg 1

be used. In general, it is recommended, but not required, that such compilation should follow the plan of organization used in the compilation heretofore made and known as the "Revised Laws of Nevada, 1912," as authorized by chapter CCXXXVI, Statutes of 1909.

Sec. 4. Upon completion of each portion of said "Revised Laws," the commission is authorized and directed to have the same printed at the state printing office, and upon completion of the final printing the separate volumes shall be bound as heretofore required and forwarded to the secretary of state for safekeeping and disposition as set forth hereinafter. Sufficient copies of each page shall be printed so that there shall be bound 2,500 copies of each volume of said "Revised Laws." A master copy of said "Revised Laws of Nevada," shall be kept in the office of the commission, and such master copy shall not be removed from said office except in the custody of a member of the commission.

Sec. 5. In complying with the provisions of this act, and within the limitation of available appropriations, the commission is authorized to employ such clerical assistance as it deems necessary, to be compensated at the same rate as other state employees of comparable position, and such assistants in drafting and research as may be necessary, and shall be familiar with methods of compilation and drafting of laws. The terms of the employment and compensation of such assistants shall be fixed by the commission.

Sec. 6. The commission shall reimburse the state printer from the appropriation hereby made for the cost of printing and binding required by this act.

Sec. 7. From and after the completion of "Revised Laws of Nevada," and the delivery of the same to the secretary of state, the said secretary of state shall forward one set of the same to the office of each elected or appointed state officer, and take the official receipt of said officer therefor, thirty sets shall be reserved at all times for the exclusive use of the legislature, one set shall be furnished to each county of the state for the use of the district judge and district attorney of that county, one set shall be furnished to each library in the state maintained by public funds, and such number of sets as may be necessary, not to exceed 50 sets, shall be made available to the state librarian for reciprocal trading with state libraries of sister states and federal territories. The remaining sets shall be sold by the secretary of state at a price of \$10 per volume, and all proceeds of such sales shall be deposited in the general fund.

Sec. 8. The compilation herein authorized to be made, shall be accompanied by as complete an index as it shall be practical to prepare, which index shall be printed and bound in the same manner and style as the "Revised Laws."

Sec. 9. The secretary of state shall make available to the commission all records of his office which are or may be of use to the commission, and any books or statutes in the custody of the said secretary shall likewise be made available to said commission.

Sec. 10. Upon request of the commission, the superintendent of

EXHIBIT "1" pg. 2

buildings and grounds shall assign and make available to the commission suitable and convenient rooms or space for the use of the commission and its employees.

Sec. 11. The commission is authorized to purchase or otherwise secure, necessary supplies and equipment.

Sec. 12. Upon the completion of "Revised Laws of Nevada,", the commission is authorized and directed to prepare and have printed such replacement and supplementary pages for such laws, as may from time to time be necessary. In any event, said commission shall prepare the replacement and supplementary pages made necessary by the sessions of the legislature, as soon as possible after each such session. The intent of this section is that such "Revised Laws" shall be kept current insofar as may be possible. Distribution of the same is to be made as for the original volumes, and prices shall be set by the commission as near as possible to the cost of preparing and printing, provided, that where distribution of the original volumes was without charge, no charge shall be made for replacement.

Sec. 13. Upon completion, "Revised Laws of Nevada," may be cited as prima-facie evidence of the law in all of the courts of this state. Such evidence may be rebutted by proof that the same differ from the official Statutes of Nevada.

Sec. 14. The commission shall, from time to time, make recommendations for clarification of specific statutes, for elimination of obsolete statutes, and calling the attention of the legislature to conflicting statutes, and such other matter as it deems necessary.

Sec. 15. The members of the commission shall each receive a salary of one hundred twenty-five dollars (\$125) per month, paid as are the salaries of other state officers, and out of the appropriation hereby made, for the period commencing on the effective date hereof, and expiring June 30, 1963.

Sec. 16. There is hereby appropriated from the general fund, for the purposes of this act, the sum of seventy-five thousand dollars (\$75,000). Claims against this appropriation shall be allowed and paid in the same manner as are other claims against the state.

Sec. 17. This act shall be effective from and after May 1, 1951.

AN ACT to amend an act entitled for acquisition, construction, municipalities and counties or without the state, and (ing eminent domain process airports and income therefrom services in airport operation extra territorial jurisdiction municipal ordinances and ing of taxes, issuance of validating prior acquisition action by municipalities and aid between municipalities to public municipal airports

[ADP]

The People of the State of Nevada do

SECTION 1. Section 24 of Statutes of Nevada 1947, p. 1949 Supp., is hereby amended.

Section 24. The acquisition, construction, improvement, regulation, protection, and facilities, including the acquisition and the exercise of any other and other public agencies, hereby declared to be public for a public purpose, and in case of any county, are deposited as well as public and municipality other than a county and purposes as well as other property and privileges of any municipality or other the purposes enumerated in to be acquired and used for as a matter of public necessity, for county or municipality, or suit shall be brought or liability, or its officers, agents, from tort occurring in or abolition, superintendence, or management, at such times as such otherwise under the control of corporation operating or managed, that nothing in this section shall be a ground of liability for such damages by the county or municipality.

EXHIBIT "1" pg. 3

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Petition For

Writ of Habeas Corpus (Post-Conviction)
(Title of Document)

filed in District Court Case number C-12-278699-1

☒ Does not contain the social security number of any person.

-OR-

☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

(State specific law)

-or-

B. For the administration of a public program or for an application
for a federal or state grant.

Wilbur Hickman
Signature

3/23/2016
Date

Wilbur Hickman
Print Name
PETITIONER PRO SE
Title

Wilburt Hickman # 02150

Clerk of THE Court

STEVEN D. GRIERSON
200 LEWIS AVE. 3RD FLOOR
LAS VEGAS, NV. 89155-1160

2175104

43. 42
11. 202.
3 of 3



03/22/2016
US POSTAGE

\$03.40

Zip 88101
01301260748

PA459

EXHIBIT 19

EXHIBIT 20

~~~~~

Supreme Court No.: 64776

## 702-671-2700(W)

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EVENTS & ORDERS OF THE COURT

Not Guilty



|            |                                                                                                                                                                                                                       |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|            | 9. BATTERY WITH A DEADLY WEAPON<br>Not Guilty                                                                                                                                                                         |
|            | 10. BATTERY WDW W/SUBSTANTIAL BODILY HARM<br>Not Guilty                                                                                                                                                               |
|            | 11. ASSAULT WITH A DEADLY WEAPON<br>Not Guilty                                                                                                                                                                        |
|            | 12. ASSAULT WITH A DEADLY WEAPON<br>Not Guilty                                                                                                                                                                        |
|            | 13. ASSAULT WITH A DEADLY WEAPON<br>Not Guilty                                                                                                                                                                        |
|            | 14. ASSAULT WITH A DEADLY WEAPON<br>Not Guilty                                                                                                                                                                        |
|            | 15. ASSAULT WITH A DEADLY WEAPON<br>Not Guilty                                                                                                                                                                        |
|            | 16. ASSAULT WITH A DEADLY WEAPON<br>Not Guilty                                                                                                                                                                        |
|            | 17. BURGLARY<br>Not Guilty                                                                                                                                                                                            |
|            | 18. MALICIOUS DESTRUCTION PRIVATE PROPERTY<br>Not Guilty                                                                                                                                                              |
| 08/30/2013 | (Judicial Officer: Ellsworth, Carolyn)<br>18. MALICIOUS DESTRUCTION PRIVATE PROPERTY<br>Charges Amended/Dropped                                                                                                       |
| 09/09/2013 | (Judicial Officer: Ellsworth, Carolyn)<br>9. BATTERY WITH A DEADLY WEAPON<br>Guilty                                                                                                                                   |
|            | 10. BATTERY WDW W/SUBSTANTIAL BODILY HARM<br>Guilty                                                                                                                                                                   |
|            | 11. ASSAULT WITH A DEADLY WEAPON<br>Guilty                                                                                                                                                                            |
|            | 12. ASSAULT WITH A DEADLY WEAPON<br>Guilty                                                                                                                                                                            |
|            | 13. ASSAULT WITH A DEADLY WEAPON<br>Guilty                                                                                                                                                                            |
|            | 14. ASSAULT WITH A DEADLY WEAPON<br>Guilty                                                                                                                                                                            |
|            | 15. ASSAULT WITH A DEADLY WEAPON<br>Guilty                                                                                                                                                                            |
|            | 16. ASSAULT WITH A DEADLY WEAPON<br>Guilty                                                                                                                                                                            |
|            | 17. BURGLARY<br>Guilty                                                                                                                                                                                                |
| 09/25/2013 | (Judicial Officer: Ellsworth, Carolyn)<br>1. ATT. MURDER WITH A DEADLY WEAPON<br>Dismissed                                                                                                                            |
|            | 2. ATT. MURDER WITH A DEADLY WEAPON<br>Dismissed                                                                                                                                                                      |
|            | 3. ATT. MURDER WITH A DEADLY WEAPON<br>Dismissed                                                                                                                                                                      |
|            | 4. ATT. MURDER WITH A DEADLY WEAPON<br>Dismissed                                                                                                                                                                      |
|            | 5. ATT. MURDER WITH A DEADLY WEAPON<br>Dismissed                                                                                                                                                                      |
|            | 6. ATT. MURDER WITH A DEADLY WEAPON<br>Dismissed                                                                                                                                                                      |
|            | 7. ATT. MURDER WITH A DEADLY WEAPON<br>Dismissed                                                                                                                                                                      |
|            | 8. ATT. MURDER WITH A DEADLY WEAPON<br>Dismissed                                                                                                                                                                      |
| 12/18/2013 | (Judicial Officer: Ellsworth, Carolyn)<br>9. BATTERY WITH A DEADLY WEAPON<br>Sentenced to Nevada Dept. of Corrections<br>Term: Minimum:60 Months, Maximum:215 Months<br>Other Fees                                    |
| 12/18/2013 | (Judicial Officer: Ellsworth, Carolyn)<br>10. BATTERY WDW W/SUBSTANTIAL BODILY HARM<br>Sentenced to Nevada Dept. of Corrections<br>Term: Minimum:60 Months, Maximum:215 Months<br>Consecutive: Charge 9<br>Other Fees |
| 12/18/2013 | (Judicial Officer: Ellsworth, Carolyn)<br>11. ASSAULT WITH A DEADLY WEAPON<br>Sentenced to Nevada Dept. of Corrections<br>Term: Minimum:16 Months, Maximum:72 Months<br>Concurrent: Charge 10                         |
| 12/18/2013 | (Judicial Officer: Ellsworth, Carolyn)<br>12. ASSAULT WITH A DEADLY WEAPON<br>Sentenced to Nevada Dept. of Corrections                                                                                                |

|            |                                                                                                                                                                                                                                                                                                                                                    |
|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|            | Term: Minimum:16 Months, Maximum:72 Months<br>Concurrent: Charge 11                                                                                                                                                                                                                                                                                |
| 12/18/2013 | (Judicial Officer: Ellsworth, Carolyn)<br>13. ASSAULT WITH A DEADLY WEAPON<br>Sentenced to Nevada Dept. of Corrections<br>Term: Minimum:16 Months, Maximum:72 Months<br>Concurrent: Charge 12                                                                                                                                                      |
| 12/18/2013 | (Judicial Officer: Ellsworth, Carolyn)<br>14. ASSAULT WITH A DEADLY WEAPON<br>Sentenced to Nevada Dept. of Corrections<br>Term: Minimum:16 Months, Maximum:72 Months<br>Concurrent: Charge 13                                                                                                                                                      |
| 12/18/2013 | (Judicial Officer: Ellsworth, Carolyn)<br>15. ASSAULT WITH A DEADLY WEAPON<br>Sentenced to Nevada Dept. of Corrections<br>Term: Minimum:16 Months, Maximum:72 Months<br>Concurrent: Charge 14                                                                                                                                                      |
| 12/18/2013 | (Judicial Officer: Ellsworth, Carolyn)<br>16. ASSAULT WITH A DEADLY WEAPON<br>Sentenced to Nevada Dept. of Corrections<br>Term: Minimum:16 Months, Maximum:72 Months<br>Concurrent: Charge 15                                                                                                                                                      |
| 12/18/2013 | (Judicial Officer: Ellsworth, Carolyn)<br>17. BURGLARY<br>Sentenced to Nevada Dept. of Corrections<br>Term: Minimum:22 Months, Maximum:96 Months<br>Concurrent: Charge 16<br>Credit for Time Served: 731 Days<br>Fee Totals:<br>Administrative \$25.00<br>Assessment Fee \$25 \$25.00<br>DNA Analysis Fee \$150 \$150.00<br>Fee Totals \$ \$175.00 |
|            | OTHER EVENTS AND HEARINGS                                                                                                                                                                                                                                                                                                                          |
| 01/10/2012 | Criminal Bindover                                                                                                                                                                                                                                                                                                                                  |
| 01/10/2012 | Bail Set<br>\$100,000                                                                                                                                                                                                                                                                                                                              |
| 01/11/2012 | Information                                                                                                                                                                                                                                                                                                                                        |
| 01/12/2012 | Initial Arraignment (9:00 AM) (Judicial Officer De La Garza, Melisa)<br><u>Parties Present</u><br><u>Minutes</u><br>Result: Plea Entered                                                                                                                                                                                                           |
| 01/30/2012 | Notice of Witnesses and/or Expert Witnesses<br>Notice of Witnesses                                                                                                                                                                                                                                                                                 |
| 02/01/2012 | Notice of Hearing                                                                                                                                                                                                                                                                                                                                  |
| 02/09/2012 | Reporters Transcript<br>Reporter's Transcript Of Preliminary Hearing - Heard 1/4/2012                                                                                                                                                                                                                                                              |
| 02/16/2012 | Motion to Continue Trial<br>Motion to Continue Trial Date                                                                                                                                                                                                                                                                                          |
| 02/22/2012 | Motion (9:00 AM) (Judicial Officer Ellsworth, Carolyn)<br>Motion to Continue Trial Date<br><u>Parties Present</u><br><u>Minutes</u><br>Result: Granted                                                                                                                                                                                             |
| 02/22/2012 | Bail Modified<br>RESET \$30,000.00                                                                                                                                                                                                                                                                                                                 |
| 02/27/2012 | CANCELED Calendar Call (9:00 AM) (Judicial Officer Ellsworth, Carolyn)<br>Vacated<br>02/29/2012 Reset by Court to 02/27/2012                                                                                                                                                                                                                       |
| 02/28/2012 | Petition<br>Petition for Writ of Habeas Corpus                                                                                                                                                                                                                                                                                                     |
| 03/05/2012 | CANCELED Jury Trial (1:30 PM) (Judicial Officer Ellsworth, Carolyn)<br>Vacated - per Judge                                                                                                                                                                                                                                                         |
| 03/07/2012 | Order                                                                                                                                                                                                                                                                                                                                              |
| 03/08/2012 | Writ of Habeas Corpus                                                                                                                                                                                                                                                                                                                              |
| 03/14/2012 | Return<br>Return to Writ of Habeas Corpus                                                                                                                                                                                                                                                                                                          |
| 03/28/2012 | Petition for Writ of Habeas Corpus (9:00 AM) (Judicial Officer Ellsworth, Carolyn)<br><u>Parties Present</u><br><u>Minutes</u><br>03/21/2012 Reset by Court to 03/26/2012<br>03/26/2012 Reset by Court to 03/28/2012                                                                                                                               |

04/03/2012 Result: Granted in Part  
 Amended Information  
 Amended Information  
 04/09/2012 Order Denying  
 Order Denying Defendant's Writ of Habeas Corpus in Part and Granting in Part  
 04/30/2012 Notice of Entry of Order  
 06/29/2012 Motion for Discovery  
 08/31/2012 Supplemental  
 Supplemental Notice of Witnesses  
 09/05/2012 Supplemental  
 Second Supplemental Notice of Witnesses  
 09/05/2012 Notice of Witnesses and/or Expert Witnesses  
 Notice of Expert Witnesses  
 09/10/2012 Notice of Witnesses and/or Expert Witnesses  
 Supplemental Notice of Expert Witnesses  
 09/24/2012 Calendar Call (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
 Result: Matter Heard  
 09/24/2012 Motion for Discovery (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
 09/24/2012, 10/10/2012, 10/15/2012  
 Defendant's Motion for Discovery  
Parties Present  
Minutes  
 Result: Continued  
 09/24/2012 All Pending Motions (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
Parties Present  
Minutes  
 Result: Matter Heard  
 09/24/2012 Motion to Continue Trial  
 Motion to Continue Trial Date  
 10/01/2012 CANCELED Jury Trial (1:30 PM) (Judicial Officer Ellsworth, Carolyn)  
 Vacated - per Judge  
 10/03/2012 Response  
 State's Response to Defendant's Motion for Discovery  
 10/18/2012 Order  
 03/13/2013 Request (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
 Deft's request for new trial setting  
Parties Present  
Minutes  
 Result: Vacated and Reset  
 04/08/2013 CANCELED Calendar Call (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
 Vacated - per Judge  
 04/15/2013 CANCELED Jury Trial (1:30 PM) (Judicial Officer Ellsworth, Carolyn)  
 Vacated - per Judge  
 04/17/2013 Status Check: Trial Setting (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
Parties Present  
Minutes  
 Result: Vacated and Reset  
 04/17/2013 Substitution of Attorney  
 Mitchell Posin Esq Substituted as Attorney  
 05/06/2013 CANCELED Calendar Call (9:00 AM) (Judicial Officer Thompson, Charles)  
 Vacated - per Judge  
 05/13/2013 CANCELED Jury Trial (1:00 PM) (Judicial Officer Ellsworth, Carolyn)  
 Vacated - per Judge  
 06/20/2013 Supplemental  
 Second Supplemental Notice of Expert Witnesses  
 06/20/2013 Supplemental  
 Third Supplemental Notice of Witnesses  
 06/21/2013 Supplemental  
 Amended Second Supplemental Notice of Expert Witnesses  
 06/21/2013 Supplemental  
 Amended Supplemental Notice of Witnesses  
 08/23/2013 Notice of Witnesses and/or Expert Witnesses  
 Fourth Supplemental Notice of Witnesses  
 08/23/2013 Notice  
 Notice of Habitual Criminality  
 08/26/2013 Calendar Call (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
 08/26/2013, 08/28/2013  
Parties Present  
Minutes  
 Result: Matter Continued  
 08/30/2013 Amended Information  
 Second Amended Information  
 09/03/2013 Jury Trial (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
 09/03/2013, 09/04/2013, 09/05/2013, 09/06/2013, 09/09/2013  
Parties Present  
Minutes  
 09/03/2013 Reset by Court to 09/03/2013

09/03/2013 Result: Trial Continues  
 09/03/2013 Jury List  
 09/06/2013 Proposed Jury Instructions Not Used At Trial  
 Defendant's  
 09/09/2013 Amended Jury List  
 09/09/2013 Instructions to the Jury  
 09/09/2013 Verdict  
 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  
Parties Present  
Minutes  
 10/17/2013 Result: Continued  
 Notice of Motion  
 Notice of Motion and Motion for Ineffective Assistance of Counsel and Motion for New Trial  
 10/17/2013 Notice  
 Notice of Change of Hearing  
 10/30/2013 Opposition  
 State's Opposition to Defendant's Notice of Motion and Motion for Ineffective Assistance of Counsel and Motion for New Trial  
 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  
Parties Present  
Minutes  
 11/14/2013 Result: Motion Denied  
 PSI  
 11/26/2013 Notice of Motion  
 Notice of Motion  
 11/26/2013 Motion  
 Motion For Continuance On Grounds of Absences Of Witnesses and Discovery Evidence, Requesting New counsel and new Trial to Submit new Evidence  
 11/26/2013 Affidavit in Support  
 Affidavit in Support of Motion of Support For Motion For Continuance on Grounds of Absences of Witness Testimonies and Discovery Evidence  
 12/03/2013 Receipt of Copy  
 Receipt of Copy  
 12/04/2013 Sentencing (9:00 AM) (Judicial Officer Hardcastle, Kathy)  
 12/04/2013, 12/09/2013, 12/18/2013  
 Sentencing - CTS 9 - 17  
Parties Present  
Minutes  
 12/09/2013 Result: Continued  
 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  
Parties Present  
Minutes  
 01/02/2014 Result: Matter Heard  
 Judgment of Conviction  
 JUDGMENT OF CONVICTION (JURY TRIAL)  
 01/06/2014 Notice of Appeal (criminal)  
 01/06/2014 Document Filed  
 Direct Appeal  
 01/08/2014 Case Appeal Statement  
 Case Appeal Statement  
 01/22/2014 Notice of Motion  
 Notice of Motion and Motion for Reconsideration of Motion for a New Trial Due to Ineffective Assistance of Counsel and Conflict of Interest  
 01/24/2014 Opposition  
 State's Opposition to Defendant's Pro Per Direct Appeal  
 01/29/2014 Hearing (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
 Defendant - Direct Appeal  
Parties Present  
Minutes  
 02/07/2014 Result: Appeal Dismissed  
 Response  
 State's Response to Defendant's Notice of Motion and Motion for Reconsideration of Motion for New Trial  
 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  
Parties Present  
Minutes  
 02/24/2014 Result: Denied  
 Order  
 Order Denying Defendant's Notice of Motion and Motion for Reconsideration of Motion for New Trial  
 03/13/2014 Criminal Order to Statistically Close Case  
 Criminal Order to Statistically Close Case  
 03/18/2014 Recorders Transcript of Hearing

Recorder's Partial Rough Draft Transcript Jury Trial, Day 1 - 9/3/2013

03/18/2014 Recorders Transcript of Hearing  
Recorder's Rough Draft Transcript of Proceedings Jury Trial, Day 2 - 9/2/2013

03/18/2014 Recorders Transcript of Hearing  
Recorder's Transcript of Proceedings Jury Trial, Day 3 - 9/5/2013

03/18/2014 Recorders Transcript of Hearing  
September 6, 2013 Recorder's Partial Rough Draft Transcript of Proceedings Jury Trial, Day 4

03/18/2014 Recorders Transcript of Hearing  
Recorder's Rough Draft Transcript of Proceedings Jury Trial, Day 5 - 9/9/2013

03/24/2014 Recorders Transcript of Hearing  
Recorder's Transcript Re: Sentencing -- 12-18-13

08/18/2014 Appointment of Counsel (9:00 AM) (Judicial Officer Ellsworth, Carolyn)

Parties Present

Minutes

Result: Granted

08/19/2014 Order  
Ex-Parte Order to Appoint Counsel and to Waive District Court Filing Fees

11/26/2014 Request  
Request for Recorder's Transcripts

01/09/2015 Recorders Transcript of Hearing  
Tuesday, September 3, 2013 Recorder's Partial Rough Draft Transcript of Proceedings Jury Trial - Day 1

01/09/2015 Recorders Transcript of Hearing  
Recorder's Partial Rough Draft Transcript: Jury Trial - Day 4 - Closing Arguments -- 9-16-13

10/16/2015 NV Supreme Court Clerks Certificate/Judgment - Affirmed  
Nevada Supreme Court Clerk's Certificate Judgment - Affirmed

01/07/2016 Motion  
Motion to Withdraw Counsel

01/07/2016 Motion  
Motion for Production of Documents, Papers, Pleadings, and Tangible Property of Defendant

02/01/2016 Motion (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
Defendant's Pro Per Motion to Withdraw Counsel

02/01/2016 Motion (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
Defendant's Pro Per Motion for Production of Documents, Papers, Pleadings, and Tangible Property of Defendant

02/01/2016 All Pending Motions (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
All Pending Motions: 2/1/16

Parties Present

Minutes

Result: Matter Heard

02/18/2016 Order  
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

02/22/2016 Motion to Compel  
Motion to Compel

03/14/2016 Motion to Compel (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
Defendant's Motion to Compel

Parties Present

Minutes

Result: Denied

03/24/2016 Application to Proceed in Forma Pauperis

03/25/2016 Petition  
Petition for Writ of Habeas Corpus (Post-Conviction)

03/25/2016 Motion for Appointment of Attorney  
Motion for Appointment of Counsel

03/25/2016 Notice of Motion  
Notice of Motion

04/06/2016 Notice of Hearing  
Notice of Hearing

04/06/2016 Order for Petition for Writ of Habeas Corpus

05/04/2016 Motion  
Petitioner's Motion to Disqualification of Judge Carolyn Ellsworth Dept. No. 5

05/17/2016 Response  
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

05/25/2016 Order  
Order Denying Defendant's Pro Per Motion to Compel

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)  
Petitioner's Pro Per Motion for Appointment of Counsel

06/15/2016 All Pending Motions (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
All Pending Motions: C278699

Parties Present

Minutes

Result: Matter Heard

06/20/2016 Confirmation of Counsel (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
Confirmation of Counsel / Reset Writ

Parties Present

Minutes

Result: Confirmed

07/01/2016 Notice

Notice of Change of Hearing  
 07/20/2016 Status Check (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
 Status Check: Receipt of File...Set Briefing Schedule  
Parties Present  
Minutes  
 Result: Continued  
 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  
Minutes  
 Result: Off Calendar  
 08/08/2016 Motion  
 Motion for Order for Production of Records from Prior Counsel  
 08/16/2016 Supplement  
 Supplement to Motion for Order for Production of Records from Prior Counsel  
 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  
Parties Present  
Minutes  
 Result: Matter Heard  
 09/02/2016 Motion  
 Motion for Paralegal Fees  
 09/07/2016 Opposition  
 State's Opposition to Defendant's Motion for Paralegal Fees  
 09/12/2016 Reply  
 Reply to State's Opposition to Motion for Paralegal Fees  
 09/19/2016 Motion (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
 Defendant's Motion for Paralegal Fees  
Parties Present  
Minutes  
 Result: Granted  
 09/28/2016 Status Check (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
 Status Check: Records  
Parties Present  
Minutes  
 Result: Off Calendar  
 10/04/2016 Order  
 Order Granting Defendant's Motion for Paralegal Fees  
 10/04/2016 Notice of Entry of Order  
 Notice of Entry of Order  
 10/11/2016 Request  
 Request for Recorder's Transcripts  
 10/20/2016 Motion  
 Motion and Notice of Motion for Supplemental Fees  
 10/25/2016 Opposition  
 State's Opposition to Defendant's Motion for Supplemental Fees  
 10/27/2016 Declaration  
 Declaration of Alina M. Shell in Support of Petitioner's Motion for Supplemental Fees  
 11/07/2016 Motion (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
 Defendant's Motion for Supplemental Fees  
Parties Present  
Minutes  
 Result: Denied  
 12/27/2016 Stipulation and Order  
 Stipulated Extension of Habeas Petition Dates and [Proposed] Order  
 12/27/2016 Notice of Entry of Order  
 Notice of Entry of Order  
 12/28/2016 Order  
 Order Denying Defendant's Motion for Supplemental Fees  
 03/16/2017 Stipulation and Order  
 Stipulated Extension of Habeas Petition Dates and [Proposed] Order  
 03/20/2017 Notice of Entry of Order  
 Notice of Entry of Order  
 03/28/2017 Stipulation and Order  
 Stipulated Extension of Habeas Petition Dates and Order  
 03/28/2017 Notice of Entry of Order  
 Notice of Entry of Order  
 07/31/2017 Hearing (9:00 AM) (Judicial Officer Ellsworth, Carolyn)  
 06/19/2017 Reset by Court to 06/26/2017  
 06/26/2017 Reset by Court to 07/31/2017

## FINANCIAL INFORMATION

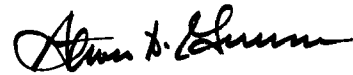
Defendant Hickman, Wilburt  
 Total Financial Assessment  
 Total Payments and Credits

175.00

175.00

PA467

|            |                                                                                                                                                                   |                            |                  |  |          |
|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|------------------|--|----------|
| 4/27/2017  | <a href="https://www.clarkcountycourts.us/Anonymous/CaseDetail.aspx?CaseID=9153300">https://www.clarkcountycourts.us/Anonymous/CaseDetail.aspx?CaseID=9153300</a> |                            |                  |  |          |
|            | Balance Due as of 04/27/2017                                                                                                                                      |                            |                  |  | 0.00     |
| 01/02/2014 | Transaction Assessment                                                                                                                                            |                            |                  |  | 175.00   |
| 06/25/2014 | Wire Transfer                                                                                                                                                     | Receipt # 2014-73436-CCCLK | Hickman, Wilburt |  | (175.00) |



CLERK OF THE COURT

**ORDR**

Alina M. Shell, Nevada Bar No. 11711  
MCLETCHE SHELL LLC  
701 East Bridger Avenue, Suite. 520  
Las Vegas, NV 89101  
Telephone: (702)-728-5300  
Email: alina@nvlitigation.com  
*Attorney for Petitioner*

**EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA**

WILBURT HICKMAN,  
  
Petitioner,

Case No.: C-12-278699-1

Dept. No.: V

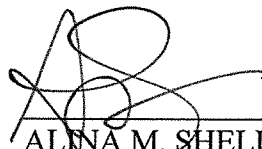
vs.

**MOTION AND [PROPOSED]  
ORDER TO FILE UNDER SEAL**

THE STATE OF NEVADA,  
  
Respondent.

COMES NOW the petitioner, WILBURT HICKMAN, by and through his counsel of record, Alina M. Shell, and hereby moves this Court to enter an order permitting Mr. Hickman to file the exhibits attached to his Supplemental Petition for Post-Conviction Writ of Habeas Corpus under seal. This Motion is made and based upon the papers and pleadings on file herein, the memorandum submitted in support hereof.

DATED this 28<sup>th</sup> day of April, 2017.



ALINA M. SHELL, Nevada Bar No. 11711  
MCLETCHE SHELL LLC  
701 East Bridger Ave., Suite 520  
Las Vegas, Nevada 89101  
Telephone: (702) 728-5300  
*Attorney for Petitioner*



## MEMORANDUM OF POINTS AND AUTHORITIES

The undersigned has been appointed by the Court to represent Wilburt Hickman in his post-conviction proceedings. Mr. Hickman was convicted of Battery With the Use of a Deadly Weapon in violation of NRS 200.481, Battery With Use of a Deadly Weapon Resulting in Substantial Bodily Harm in violation of NRS 200.481(2)(e), six counts Assault With a Deadly Weapon in violation of NRS 200.471, and Burglary in violation of NRS 205.060. Mr. Hickman filed a Supplemental Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus (Post-Conviction) ("Supplement") on April 28, 2017.

During investigation of Mr. Hickman's claims, undersigned counsel obtained treatment records from Southern Nevada Adult Mental Health Services ("SNAMHS") related to treatment Mr. Hickman received for mental health issues. Good cause exists to seal these records. In addition to containing sensitive medical information about Mr. Hickman's treatment, the records contain Mr. Hickman's personal identifying information. Undersigned counsel also obtained a copy of Mr. Hickman's Presentencing Investigation Report (PSI). Those documents are attached to Mr. Hickman's Supplement as Sealed Exhibits 1 and 2. Mr. Hickman hereby moves this Court for an order permitting him to file these exhibits under seal.

Sealing is appropriate for two reasons. First, with regard to Mr. Hickman's PSI, Nevada law mandates that "a report of a presentence investigation or general investigation and the sources of information for such a report are confidential and must not be made a part of any public record." Nev. Rev. Stat. § 176.156(5) (2013). Thus, the PSI must be submitted to this Court under seal.

Second, with regard to Mr. Hickman's records from SNAMHS, sealing is appropriate given the sensitive nature of the medical and mental health information contained in the records. As a federal district court has explained, "the need to protect medical privacy qualifies as a compelling reason that overcomes the presumption of public access to judicial records. *See G. v. Hawaii*, Civ. No. 08-00551, 2010 WL 2607483, at \*1 (D. Haw. 2010); *see*

also *Lombardi v. TriWest Healthcare Alliance Corp.*, CV 08-02381, 2009 WL 1212170, at \*1 (D. Ariz. 2009) (allowing defendant to file under seal exhibits containing “sensitive personal and medical information”) (citation omitted). Additional, the Nevada Supreme Court Rules Government Sealing and Redacting Records recognize that good cause exists to seal records that contain “medical, mental health, or tax records.” *See* NSCR Part VII, Rule 4(f). Although those rules pertain to civil matters, the logic of the rules apply with equal force here: the records pertain to treatment Mr. Hickman received for mental health issues, and protecting Mr. Hickman’s medical privacy outweighs any interest in public access to the records. Accordingly, Mr. Hickman respectfully requests this Court enter an order to file these records under seal,

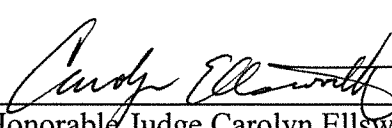
Respectfully submitted this 28<sup>th</sup> day of April, 2017.



ALINA M. SHELL, Nevada Bar No. 11711  
**MCLETCHIE SHELL LLC**  
701 East Bridger Ave., Suite 520  
Las Vegas, Nevada 89101  
Telephone: (702) 728-5300  
*Attorney for Petitioner*

**ORDER**

**IT IS SO ORDERED**, Defendant/Petitioner’s Sealed Appendix in Support of Petitioner’s Supplemental Petition for Post-Conviction Writ of Habeas Corpus (Post-Conviction) shall be filed under seal.

  
\_\_\_\_\_  
The Honorable Judge Carolyn Ellsworth  
VG

4-28-17  
\_\_\_\_\_  
Date


**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b)(2)(A)(i) I hereby certify that on the 28<sup>th</sup> day of April, 2017,  
I hand-delivered a true and correct copy of the foregoing MOTION AND [PROPOSED]  
ORDER TO FILE UNDER SEAL to the following addresses:

STEVEN B. WOLFSON, District Attorney  
Office of the District Attorney  
200 Lewis Avenue  
P.O. Box 552212  
Las Vegas, Nevada 89155

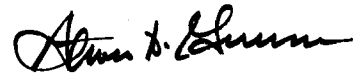
JONTHAN VANBOSKERCK, Chief Deputy District Attorney  
Office of the District Attorney  
301 E. Clark Avenue # 100  
Las Vegas, NV 89155

*Attorneys for Respondent, STATE OF NEVADA*

Certified by:   
An Employee of McLatchie Shell LLC

**MCLEATCHIE SHELL**

ATTORNEYS AT LAW  
701 EAST BRIDGER AVE., SUITE 520  
LAS VEGAS, NV 89101  
(702)728-5300 (T) / (702)425-8220 (F)  
WWW.NVLITIGATION.COM



CLERK OF THE COURT

1 **NEOJ**  
2 Alina M. Shell, Nevada Bar No. 11711  
3 **MCLETCHE SHELL LLC**  
4 701 East Bridger Avenue, Suite. 520  
5 Las Vegas, NV 89101  
6 Telephone: (702)-728-5300  
7 Email: alina@nvlitigation.com  
8 *Attorney for Petitioner*

9  
10 **EIGHTH JUDICIAL DISTRICT COURT**  
11 **CLARK COUNTY, NEVADA**

12 **WILBURT HICKMAN,**  
13  
14 **Petitioner,**

Case No.: C-12-278699-1

Dept. No.: V

15 **vs.**

**NOTICE OF ENTRY OF ORDER**

16 **THE STATE OF NEVADA,**  
17  
18 **Respondent.**

19  
20 **TO: THE PARTIES HERETO AND THEIR RESPECTIVE COUNSEL OF RECORD:**  
21  
22 **PLEASE TAKE NOTICE** that on the 11<sup>th</sup> of May, 2017, the Motion and Order to  
23 **File Under Seal** was entered in the above-captioned action.

24 A copy of the Order is attached hereto as Exhibit 1.

25  
26 **DATED** this 11<sup>th</sup> day of May, 2017.

27 /s/ Alina M. Shell

28 ALINA M. SHELL, Nevada Bar No. 11711  
**MCLETCHE SHELL LLC**  
701 East Bridger Ave., Suite 520  
Las Vegas, Nevada 89101  
Telephone: (702) 728-5300  
*Attorney for Petitioner*

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b)(2)(B) I hereby certify that on the 11<sup>th</sup> day of May, 2017, I mailed a true and correct copy of the foregoing NOTICE OF ENTRY OF ORDER by depositing the same in the United States mail, first-class postage pre-paid, to the following address:

STEVEN B. WOLFSON, District Attorney  
Office of the District Attorney  
200 Lewis Avenue  
P.O. Box 552212  
Las Vegas, Nevada 89155

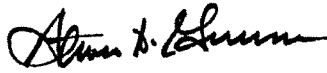
JONTHAN VANBOSKERCK, Chief Deputy District Attorney  
Office of the District Attorney  
301 E. Clark Avenue # 100  
Las Vegas, NV 89155

*Attorneys for Respondent, STATE OF NEVADA*

WILBURT HICKMAN, ID #62150  
Southern Desert Correctional Center  
P.O. Box 208  
Indian Springs, Nevada 89070-0208  
*Petitioner*

Certified by: /s/ Pharan Burchfield  
An Employee of McLetchie Shell LLC

# EXHIBIT 1

  
CLERK OF THE COURT

1 **ORDR**

2 Alina M. Shell, Nevada Bar No. 11711  
3 MCLETCHE SHELL LLC  
4 701 East Bridger Avenue, Suite. 520  
5 Las Vegas, NV 89101  
6 Telephone: (702)-728-5300  
7 Email: alina@nvlitigation.com  
8 *Attorney for Petitioner*

9 **EIGHTH JUDICIAL DISTRICT COURT**  
10 **CLARK COUNTY, NEVADA**

11 WILBURT HICKMAN,

Case No.: C-12-278699-1

12 Petitioner,

Dept. No.: V

13 vs.

**MOTION AND [PROPOSED]**  
**ORDER TO FILE UNDER SEAL**

14 THE STATE OF NEVADA,

15 Respondent.

16 COMES NOW the petitioner, WILBURT HICKMAN, by and through his counsel  
17 of record, Alina M. Shell, and hereby moves this Court to enter an order permitting Mr.  
18 Hickman to file the exhibits attached to his Supplemental Petition for Post-Conviction Writ  
19 of Habeas Corpus under seal. This Motion is made and based upon the papers and pleadings  
20 on file herein, the memorandum submitted in support hereof.

21 DATED this 28<sup>th</sup> day of April, 2017.

22 

23 ALINA M. SHELL, Nevada Bar No. 11711  
24 MCLETCHE SHELL LLC  
25 701 East Bridger Ave., Suite 520  
26 Las Vegas, Nevada 89101  
27 Telephone: (702) 728-5300  
28 *Attorney for Petitioner*

**MCLEITCHSHELL**  
ATTORNEYS AT LAW  
701 EAST BRIDGER AVE., SUITE 520  
LAS VEGAS, NV 89101  
(702)728-5100 (T) / (702)425-8220 (F)  
WWW.MCLITCHESHELL.COM

**MEMORANDUM OF POINTS AND AUTHORITIES**

The undersigned has been appointed by the Court to represent Wilburt Hickman in his post-conviction proceedings. Mr. Hickman was convicted of Battery With the Use of a Deadly Weapon in violation of NRS 200.481, Battery With Use of a Deadly Weapon Resulting in Substantial Bodily Harm in violation of NRS 200.481(2)(e), six counts Assault With a Deadly Weapon in violation of NRS 200.471, and Burglary in violation of NRS 205.060. Mr. Hickman filed a Supplemental Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus (Post-Conviction) ("Supplement") on April 28, 2017.

During investigation of Mr. Hickman's claims, undersigned counsel obtained treatment records from Southern Nevada Adult Mental Health Services ("SNAMHS") related to treatment Mr. Hickman received for mental health issues. Good cause exists to seal these records. In addition to containing sensitive medical information about Mr. Hickman's treatment, the records contain Mr. Hickman's personal identifying information. Undersigned counsel also obtained a copy of Mr. Hickman's Presentencing Investigation Report (PSI). Those documents are attached to Mr. Hickman's Supplement as Sealed Exhibits 1 and 2. Mr. Hickman hereby moves this Court for an order permitting him to file these exhibits under seal.

Sealing is appropriate for two reasons. First, with regard to Mr. Hickman's PSI, Nevada law mandates that "a report of a presentence investigation or general investigation and the sources of information for such a report are confidential and must not be made a part of any public record." Nev. Rev. Stat. § 176.156(5) (2013). Thus, the PSI must be submitted to this Court under seal.

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also *Lombardi v. TriWest Healthcare Alliance Corp.*, CV 08-02381, 2009 WL 1212170, at \*1 (D. Ariz. 2009) (allowing defendant to file under seal exhibits containing “sensitive personal and medical information”) (citation omitted). Additionally, the Nevada Supreme Court Rules Government Sealing and Redacting Records recognize that good cause exists to seal records that contain “medical, mental health, or tax records.” *See* NSCR Part VII, Rule 4(f). Although those rules pertain to civil matters, the logic of the rules apply with equal force here: the records pertain to treatment Mr. Hickman received for mental health issues, and protecting Mr. Hickman’s medical privacy outweighs any interest in public access to the records. Accordingly, Mr. Hickman respectfully requests this Court enter an order to file these records under seal,

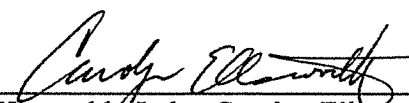
Respectfully submitted this 28<sup>th</sup> day of April, 2017.



ALINA M. SHELL, Nevada Bar No. 11711  
**MCLEITCHIE SHELL LLC**  
701 East Bridger Ave., Suite 520  
Las Vegas, Nevada 89101  
Telephone: (702) 728-5300  
*Attorney for Petitioner*

### ORDER

**IT IS SO ORDERED**, Defendant/Petitioner’s Sealed Appendix in Support of Petitioner’s Supplemental Petition for Post-Conviction Writ of Habeas Corpus (Post-Conviction) shall be filed under seal.

  
\_\_\_\_\_  
The Honorable Judge Carolyn Ellsworth

4-28-17  
\_\_\_\_\_  
Date

V6

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**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b)(2)(A)(i) I hereby certify that on the 28<sup>th</sup> day of April, 2017,  
I hand-delivered a true and correct copy of the foregoing MOTION AND [PROPOSED]  
ORDER TO FILE UNDER SEAL to the following addresses:

STEVEN B. WOLFSON, District Attorney  
Office of the District Attorney  
200 Lewis Avenue  
P.O. Box 552212  
Las Vegas, Nevada 89155

JONTHAN VANBOSKERCK, Chief Deputy District Attorney  
Office of the District Attorney  
301 E. Clark Avenue # 100  
Las Vegas, NV 89155

*Attorneys for Respondent, STATE OF NEVADA*

Certified by:   
An Employee of McLetchie Shell LLC

**THIS SEALED  
DOCUMENT,  
NUMBERED PAGE(S)  
1602 - 0  
WILL FOLLOW VIA  
U.S. MAIL**

**PLEADING  
CONTINUES  
IN NEXT  
VOLUME**