

Electronically Filed
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Elizabeth A. Brown
Clerk of Supreme Court

NOASC
C. BENJAMIN SCROGGINS, ESQ.
Nevada Bar No. 7902
THE LAW FIRM OF
C. BENJAMIN SCROGGINS, CHTD.
629 South Casino Center Boulevard
Las Vegas, Nevada 89101
Tel.: (702) 328-5550
Fax: (702) 442-8660
info@cbscrogginslaw.com

Attorney for Petitioner,
JAVAR KETCHUM

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

JAVAR KETCHUM,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent.

Case No.: A-20-821316-W

Dept. No.: VI

NOTICE OF APPEAL

TO: THE EIGHTH JUDICIAL DISTRICT COURT, CLARK COUNTY, NEVADA;

TO: THE STATE OF NEVADA, Respondent; and

TO: THE CLARK COUNTY DISTRICT ATTORNEY'S OFFICE, attorneys for Respondent,
STATE OF NEVADA.

Notice is hereby given that JAVAR KETCHUM, petitioner above named, hereby appeals

///

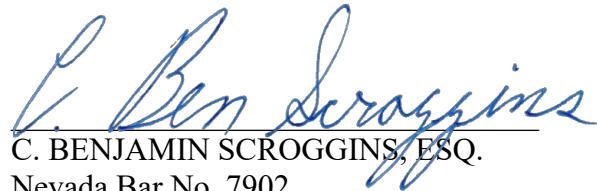
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1 to the Supreme Court of Nevada from the Findings of Fact, Conclusions of Law and Order,
2 served upon him by United States mail on the 20th day of June, 2023.

3 GIVEN this 19th day of July, 2023.

4 **THE LAW FIRM OF**
5 **C. BENJAMIN SCROGGINS, CHTD.**

6 
7 C. BENJAMIN SCROGGINS, ESQ.

8 Nevada Bar No. 7902

629 South Casino Center Boulevard

Las Vegas, Nevada 89101

9 Tel.: (702) 328-5550

10 Fax: (702) 442-8660

info@cbscrogginlaw.com

11 *Attorney for Petitioner,*
12 *JAVAR KETCHUM*

13 ///

14 ///

15 ///

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I served the foregoing **NOTICE OF APPEAL** through electronic
3 means via the Court's Electronic Filing System to the registered E-Service address(es) associated
4 with this case for:

5 Clark County District Attorney's Office
6 Criminal Division
7 200 South Lewis Avenue, Third Floor
8 Las Vegas, Nevada 89101
9 motions@clarkcountyda.com

10 *Attorneys for Respondent,*
11 *STATE OF NEVADA*

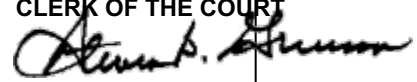
12 I further certify that, pursuant to NRAP 3(d)(2), I served the same on the petitioner,
13 JAVAR KETCHUM, by depositing a copy in the United States mail, First-Class postage prepaid,
14 addressed to:

15 Javar Ketchum
16 Inmate ID: 1192727
17 Northern Nevada Correctional Center
18 1721 Snyder Avenue
19 Carson City, NV 89701

20 CERTIFIED this 19th day of July, 2023.

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24

KELLY JARVI, *Legal Assistant,*
The Law Firm of C. Benjamin Scroggins, Chtd.



ASTA
C. BENJAMIN SCROGGINS, ESQ.
Nevada Bar No. 7902
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Attorney for Petitioner,
JAVAR KETCHUM

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

JAVAR KETCHUM,

Petitioner,

vs.

THE STATE OF NEVADA,

Respondent.

Case No.: A-20-821316-W

Dept. No.: VI

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement: **Javar Ketchum**
2. Identify the judge issuing the decision, judgment, or order appealed from: **Hon. Jacqueline Bluth.**
3. Identify each appellant and the name and address of counsel for each appellant:
Javar Ketchum; Counsel for Appellant: C. Benjamin Scroggins, Esq., 629 S. Casino Center Blvd., Las Vegas, NV 89101
4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent: **The State of Nevada; Counsel for Respondent: The Clark County District Attorney's Office, 200 Lewis Ave., 3rd Fl., Las Vegas, NV 89101**
5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission): **N/A**

1 6. Indicate whether appellant was represented by appointed or retained counsel in
the district court: **Appellant was represented by appointed counsel in the district court**

2 7. Indicate whether appellant is represented by appointed or retained counsel on
3 appeal: **Appellant is represented by appointed counsel**

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

5 9. Indicate the date the proceedings commenced in the district court (e.g., date
6 complaint, indictment, information, or petition was filed): **Petition, filed September 11, 2020.**

7 10. Provide a brief description of the nature of the action and result in the district
8 court, including the type of judgment or order being appealed and the relief granted by the
district court:

9 **This case was a Petition for Writ of Habeas Corpus. The district court denied the
Petition.**

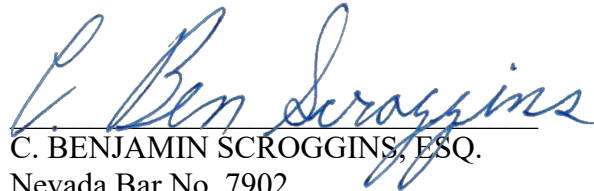
10 11. Indicate whether the case has previously been the subject of an appeal to or
original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket
11 number of the prior proceeding: **The case was the subject of an appeal in the Supreme Court
under caption: JAVAR ERIS KETCHUM, Appellant vs. THE STATE OF NEVADA,
12 Respondent, Docket No. 82863.**

13 12. Indicate whether this appeal involves child custody or visitation: **N/A**

14 13. If this is a civil case, indicate whether this appeal involves the possibility of
15 settlement: **N/A**

16 DATED this 19th day of July, 2023.

17 **THE LAW FIRM OF
C. BENJAMIN SCROGGINS, CHTD.**

18 
C. BENJAMIN SCROGGINS, ESQ.

19 Nevada Bar No. 7902
20 629 South Casino Center Boulevard
21 Las Vegas, Nevada 89101
22 Tel.: (702) 328-5550
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24 info@cbscrogginslaw.com

*Attorney for Petitioner,
JAVAR KETCHUM*

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Clark County District Attorney's Office
Criminal Division
200 South Lewis Avenue, Third Floor
Las Vegas, Nevada 89101
motions@clarkcountynv.com

I further certify that, pursuant to NRAP 3(d)(2), I served the same on the defendant, JAVAR KETCHUM, by depositing a copy in the United States mail, First-Class postage prepaid, addressed to:

CERTIFIED this 19th day of July, 2023.

KELLY JARVI, *Legal Assistant,*
The Law Firm of C. Benjamin Scroggins, Chtd.

CASE SUMMARY

CASE NO. A-20-821316-W

Javar Ketchum, Plaintiff(s)
vs.
Nevada State of, Defendant(s)

§
§
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§
§
§
§

Location: **Department 6**
 Judicial Officer: **Bluth, Jacqueline M.**
 Filed on: **09/11/2020**
 Case Number History:
 Cross-Reference Case Number: **A821316**
 Defendant's Scope ID #: **1836597**
 Supreme Court No.: **82863**

CASE INFORMATION

Related Cases

C-16-319714-1 (Writ Related Case)

Case Type: **Writ of Habeas Corpus**

Statistical Closures

05/12/2021 Other Manner of Disposition
 03/31/2021 Other Manner of Disposition

Case Status: **05/12/2021 Closed**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-20-821316-W
 Court Department 6
 Date Assigned 09/07/2021
 Judicial Officer Bluth, Jacqueline M.

PARTY INFORMATION






Plaintiff	Ketchum, Javar	Scroggins, C. Benjamin <i>Retained</i> 702-328-5550(W)
Defendant	Nevada State of	Wolfson, Steven B <i>Retained</i> 702-671-2700(W)

DATE











EVENTS & ORDERS OF THE COURT

INDEX














EVENTS

09/11/2020	 Petition for Writ of Habeas Corpus Filed by: Plaintiff Ketchum, Javar <i>[2] Petition for Post-Conviction Writ of Habeas Corpus</i>
09/16/2020	 Notice of Change <i>[1] Notice of Change of Case Number</i>
12/16/2020	 Response Filed by: Defendant Nevada State of <i>[3] State's Response to Petitioner's Petition for Writ of Habeas Corpus (Post-Conviction)</i>
01/11/2021	 Notice of Motion Filed By: Plaintiff Ketchum, Javar <i>[4] Notice of Motion and Motion to Continue Reply Brief Deadline and Hearing Date</i>
01/13/2021	 Clerk's Notice of Hearing <i>[5] Notice of Hearing</i>















CASE SUMMARY
CASE NO. A-20-821316-W

02/09/2021	 Reply Filed by: Plaintiff Ketchum, Javar <i>[6] Reply to State's Response to Petitioner's Petition for Writ of Habeas Corpus (Post-Conviction)</i>
03/31/2021	 Motion to Reconsider Filed By: Plaintiff Ketchum, Javar <i>[7] Motion for Reconsideration, or in the Alternative Motion for Rehearing of Petitioner's NRS Chapter 34 Petition</i>
03/31/2021	 Clerk's Notice of Hearing <i>[8] Notice of Hearing</i>
03/31/2021	 Findings of Fact, Conclusions of Law and Order Filed By: Defendant Nevada State of <i>[9]</i>
04/05/2021	 Notice of Entry of Findings of Fact, Conclusions of Law Filed By: Defendant Nevada State of <i>[10] Notice of Entry of Findings of Fact, Conclusions of Law and Order</i>
04/23/2021	 Notice of Motion Filed By: Plaintiff Ketchum, Javar <i>[11] Counsel's Notice of Motion and Motion to Withdraw as Attorney of Record</i>
04/23/2021	 Clerk's Notice of Hearing <i>[12] Notice of Hearing</i>
04/27/2021	 Opposition to Motion Filed By: Defendant Nevada State of <i>[13] State's Opposition to Petitioner's Motion for Reconsideration or in the Alternative Motion for Rehearing of Petitioner's NRS Chapter 34 Petition</i>
04/29/2021	 Notice of Appeal <i>[14]</i>
04/30/2021	 Case Appeal Statement Filed By: Plaintiff Ketchum, Javar <i>[15]</i>
05/10/2021	 Application to Proceed in Forma Pauperis Filed By: Plaintiff Ketchum, Javar <i>[16] Application to Proceed Informa Pauperis (Confidential)</i>
05/10/2021	 Notice Filed By: Plaintiff Ketchum, Javar <i>[17] Judicial Notice</i>
05/10/2021	 Motion to Dismiss Counsel Party: Plaintiff Ketchum, Javar <i>[18] Motion to Withdraw Counsel</i>
05/10/2021	 Notice of Motion

CASE SUMMARY
CASE NO. A-20-821316-W

	<p>Filed By: Plaintiff Ketchum, Javar [19]</p>
05/10/2021	<p> Motion for Appointment of Attorney Filed By: Plaintiff Ketchum, Javar [20] <i>Motion for Appointment of Counsel</i></p>
05/10/2021	<p> Motion Filed By: Plaintiff Ketchum, Javar [21] <i>Motion for Evidentiary Hearing</i></p>
05/10/2021	<p> Memorandum Filed By: Plaintiff Ketchum, Javar [22] <i>Memorandum of Affidavits</i></p>
05/10/2021	<p> Motion to Continue Filed By: Plaintiff Ketchum, Javar [23] <i>Motion for Continuance of: May 04, 2021 Hearing Date of: Motion for Reconsideration, or in the Alternative, Motion for Rehearing of Petitioner's NRS Chapter 34 Petition</i></p>
05/11/2021	<p> Clerk's Notice of Hearing [24] <i>Notice of Hearing</i></p>
05/11/2021	<p> Ex Parte Motion Filed By: Plaintiff Ketchum, Javar [25] <i>Ex Parte Motion to Transport:</i></p>
05/12/2021	<p> Order Denying [26] <i>Order Denying Petitioner's Motion for Reconsideration, or in the Alternative Motion for Rehearing of Petitioner's NRS Chapter 34 Petition</i></p>
09/07/2021	<p>Case Reassigned to Department 6 <i>From Judge Michael Villani to Judge Jacqueline Bluth</i></p>
09/24/2021	<p> Ex Parte Order Filed By: Plaintiff Ketchum, Javar [27] <i>Petitioner Javar Ketchum's Ex Parte Order For Motion for Employment and Payment of Investigator</i></p>
12/16/2021	<p> Order for Production of Inmate [28] <i>Order for Production of Inmate Javar Eris Ketchum, BAC #1192727</i></p>
02/04/2022	<p> Stipulation and Order [29] <i>Stipulation and Order to Extend Time for Briefing</i></p>
02/07/2022	<p> Notice of Entry of Stipulation and Order Filed By: Plaintiff Ketchum, Javar [30] <i>Notice of Entry of Stipulation and Order</i></p>
03/01/2022	<p> NV Supreme Court Clerks Certificate/Judgment - Affirmed [31] <i>Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed</i></p>
05/25/2022	<p> Stipulation and Order Filed by: Plaintiff Ketchum, Javar</p>


CASE SUMMARY
CASE NO. A-20-821316-W


	<i>[32] Stipulation and Order to Extend Time for Briefing</i>
05/25/2022	 Notice of Entry Filed By: Plaintiff Ketchum, Javar <i>[33] Notice of Entry of Stipulation and Order to Extend Time For Briefing</i>
08/11/2022	 Stipulation and Order Filed by: Plaintiff Ketchum, Javar <i>[34] Stipulation and Order to Extend Time for Briefing (Third Request)</i>
08/15/2022	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Ketchum, Javar <i>[35] Notice of Entry of Stipulation and Order to Extend Time for Briefing</i>
11/10/2022	 Motion to Extend <i>[36] Petitioner, Javar Ketchum's Motion for Extension of Briefing (Fourth Request)</i>
11/16/2022	 Clerk's Notice of Hearing <i>[37] Notice of Hearing</i>
12/15/2022	 Motion to Extend <i>[38] Petitioner, Javar Ketchum's Motion to Extend Time for Briefing</i>
12/22/2022	 Clerk's Notice of Hearing <i>[39] Notice of Hearing</i>
02/14/2023	 Motion to Extend <i>[40] Motion to Extend Time (Sixth and Final Request)</i>
02/19/2023	 Clerk's Notice of Hearing <i>[41] Notice of Hearing</i>
03/03/2023	 Order for Production of Inmate <i>[42] Order for Production of Inmate Javar Ketchum, BAC #1192727</i>
03/24/2023	 Amended Petition Filed By: Plaintiff Ketchum, Javar <i>[43] Amended Petition For Writ of Habeas Corpus</i>
03/25/2023	 Appendix Filed By: Plaintiff Ketchum, Javar <i>[44] Amended Appendix V. II</i>
03/25/2023	 Appendix Filed By: Plaintiff Ketchum, Javar <i>[45] Amended Appendix V. III</i>
03/25/2023	 Appendix Filed By: Plaintiff Ketchum, Javar <i>[46] Amended Appendix V. IV (Part 2)</i>
03/25/2023	 Appendix Filed By: Plaintiff Ketchum, Javar


CASE SUMMARY
CASE NO. A-20-821316-W


	<i>[47] Amended Appendix V. IV (Part 1(a))</i>
03/25/2023	 Appendix Filed By: Plaintiff Ketchum, Javar <i>[48] Amended Appendix V. IV (Part 1(b))</i>
03/25/2023	 Appendix Filed By: Plaintiff Ketchum, Javar <i>[49] Amended Appendix V. V (Part 1)</i>
03/25/2023	 Appendix Filed By: Plaintiff Ketchum, Javar <i>[50] Amended Appendix V. V (Part 3)</i>
03/25/2023	 Appendix Filed By: Plaintiff Ketchum, Javar <i>[51] Amended Appendix V. V (Part 2)</i>
03/25/2023	 Appendix Filed By: Plaintiff Ketchum, Javar <i>[52] Amended Appendix V. VI (Part 1)</i>
03/25/2023	 Appendix Filed By: Plaintiff Ketchum, Javar <i>[53] Amended Appendix V. VI (Part 3)</i>
03/25/2023	 Appendix Filed By: Plaintiff Ketchum, Javar <i>[54] Amended Appendix V. VI (Part 4)</i>
03/25/2023	 Appendix Filed By: Plaintiff Ketchum, Javar <i>[55] Amended Appendix V. VI (Part 5)</i>
03/25/2023	 Appendix Filed By: Plaintiff Ketchum, Javar <i>[56] Amended Appendix V. VI (Part 6)</i>
03/25/2023	 Appendix Filed By: Plaintiff Ketchum, Javar <i>[57] Amended Appendix V. VI (Part 7)</i>
03/25/2023	 Appendix Filed By: Plaintiff Ketchum, Javar <i>[58] Amended Appendix V. I</i>
03/25/2023	 Appendix Filed By: Plaintiff Ketchum, Javar <i>[59] Amended Appendix V. VI (Part 2)</i>
04/27/2023	 Response Filed by: Defendant Nevada State of <i>[60] State's Response to Petitioner's Amended Petition for Writ of Habeas Corpus (Post Conviction)</i>


CASE SUMMARY
CASE NO. A-20-821316-W

06/15/2023  Findings of Fact, Conclusions of Law and Order
[61] Findings of Fact, Conclusions of Law, and Order

06/20/2023  Notice of Entry of Findings of Fact, Conclusions of Law
[62] Notice of Entry of Findings of Fact, Conclusions of Law and Order

06/20/2023  Notice of Entry of Findings of Fact, Conclusions of Law
[63] Amended Notice of Entry of Findings of Fact, Conclusions of Law and Order


07/19/2023  Notice of Appeal (Criminal)
Party: Plaintiff Ketchum, Javar
[64] Notice of Appeal

07/19/2023  Case Appeal Statement
Filed By: Plaintiff Ketchum, Javar
[65] Case Appeal Statement

DISPOSITIONS

03/01/2022 **Clerk's Certificate** (Judicial Officer: Bluth, Jacqueline M.)
Debtors: Javar Ketchum (Plaintiff)
Creditors: Nevada State of (Defendant)
Judgment: 03/01/2022, Docketed: 03/01/2022
Comment: Supreme Court No. 82863 Appeal Affirmed

HEARINGS




11/06/2020  **Petition for Writ of Habeas Corpus (10:15 AM)** (Judicial Officer: Villani, Michael)
11/06/2020, 03/12/2021
Matter Heard;
Denied;
Journal Entry Details:

Defendant not present. Court noted it had reviewed all of the pleadings filed. Mr. Pallares stated he was requesting an Evidentiary Hearing on the issue that trial counsel should have called a psychologist to testify as to his state of my mind as a robbery victim, as the Defendant claimed to be a robbery victim by the victim of the shooting. Court noted it can only address the Petition in front of it and further noted the Petition brought up the issues of trial counsel failing to view the video, failing to object to the admission of the video, and ineffective cross-examination of Mr. Bernard. Upon Court's inquiry, Mr. Pallares stated trial counsel had no access to the video and the inculpatory parts were not presented during trial. Upon Court's inquiry, Mr. Pallares indicated there was a lack of foundation and a violation of Brady that trial counsel was not shown the video, however trial counsel failed to view the video once it was given to him in its entirety. Mr. Pallares stated the ineffective cross-examination claim occurred when trial counsel failed to bring up the differences in Mr. Bernard's statements to police and his testimony at trial. Mr. Giordani stated the Strickland standard is very clear and noted Mr. Woolridge was very effective and worked with what he had. Mr. Giordani further stated bringing up a Brady claim was inappropriate and advised Mr. Woolridge had full access to the video prior to trial, therefore there would have been no legal basis to object to the video. Mr. Giordani noted Mr. Ketchum testified and gave a claim of self defense. Court noted it had reviewed the Appellant's Opening Brief and it was asserted trial counsel watched the entire video. Court FINDS no legal basis establishing a valid objection to the admission of the video, proper foundation was established, there was no argument during trial or in the Petition stating the video was inadmissible evidence, the cross-examination of Mr. Bernard brought up his statements to the police were incomplete or had omissions and he was confronted with the differences in his trial testimony and his statements to the police, therefore neither prong of Strickland has been established. COURT ADOPTED the Procedural History as set forth by the State. Court noted it was difficult to confirm the allegations as there were no citations in the Petition or Reply Brief. COURT ORDERED, Petition DENIED and DIRECTED the State to prepare the Findings of Facts and Conclusions of Law; Status Check SET. Court stated the Status Check date would be vacated once that document was filed. NDC 4/1/2021 10:00 AM





EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-20-821316-W

	<p><i>STATUS CHECK: FINDINGS OF FACTS AND CONCLUSIONS OF LAW;</i> Matter Heard; Denied; Journal Entry Details: <i>Court noted it had received the Petition and stated a briefing schedule needed to be set. COURT ORDERED, Briefing Schedule SET as follows: State's Return due by December 18, 2020; Petitioner's Reply due by January 15, 2021; and hearing SET. NDC 2/3/2021 9:00 AM PETITION FOR WRIT OF HABEAS CORPUS;</i></p>
01/26/2021	<p> Motion (8:30 AM) (Judicial Officer: Villani, Michael) <i>Defendant's Motion to Continue Reply Brief Deadline and Hearing Date</i> Granted; Journal Entry Details: <i>Defendant not present. Mr. Mueller stated a previous appointment to meet with the Defendant was canceled and a new appointment has been scheduled for February 8th, therefore he requested the reply brief be due on that date and the hearing be continued. COURT ORDERED, Motion GRANTED, Reply Brief due 2/8/2021 and Hearing on Petition VACATED and RESET. NDC 3/12/21 8:30 AM PETITION FOR WRIT OF HABEAS CORPUS;</i></p>
04/01/2021	<p> Status Check: Status of Case (10:00 AM) (Judicial Officer: Villani, Michael) <i>Status Check: Findings of Facts, Conclusions of Law and Order</i> Off Calendar; Journal Entry Details: <i>Court noted the Findings of Facts and Conclusions of Law were filed on March 31, 2021. COURT ORDERED status check OFF CALENDAR.;</i></p>
05/04/2021	<p>Motion (8:30 AM) (Judicial Officer: Villani, Michael) <i>Plaintiff's - Motion for Reconsideration, or in the Alternative Motion for Rehearing of Petitioner's NRS Chapter 34 Petition</i> Denied;</p>
05/04/2021	<p>Motion to Withdraw as Counsel (8:30 AM) (Judicial Officer: Villani, Michael) <i>Counsel's Notice of Motion and Motion to Withdraw as Attorney of Record</i> Granted;</p>
05/04/2021	<p> All Pending Motions (8:30 AM) (Judicial Officer: Villani, Michael) Matter Heard; Journal Entry Details: <i>PLAINTIFF'S - MOTION FOR RECONSIDERATION, OR IN THE ALTERNATIVE MOTION FOR REHEARING OF PETITIONER'S NRS CHAPTER 34 PETITION...COUNSEL'S NOTICE OF MOTION AND MOTION TO WITHDRAW AS ATTORNEY OF RECORD Defendant not present. Mr. Mueller requested the Motion to Withdraw be granted, COURT SO ORDERED. Court advised it was basing its decision on the pleadings on file herein and not accepting oral argument. COURT FINDS no legal or factual basis to grant the Motion, therefore COURT ORDERED, Motion for Reconsideration DENIED; State to prepare the Order. COURT FURTHER ORDERED, Status Check SET; date to be vacated once the Order is filed. NDC 5/25/2021 10:00 AM STATUS CHECK: ORDER CLERK'S NOTE: A copy of this Minute Order was mailed to: Javar Ketchum #1192727 PO Box 650 Indian Springs, NV 89070 (5/7/2021 sa);</i></p>
05/25/2021	<p>CANCELED Status Check: Status of Case (10:00 AM) (Judicial Officer: Cherry, Michael A.) <i>Vacated - per Law Clerk</i> <i>Status Check: Order</i></p>
06/15/2021	<p>Motion to Withdraw as Counsel (8:30 AM) (Judicial Officer: Villani, Michael) <i>Plaintiff's Motion to Withdraw Counsel</i> Moot;</p>
06/15/2021	<p>Motion for Appointment of Attorney (8:30 AM) (Judicial Officer: Villani, Michael) <i>Plaintiff's Motion for Appointment of Counsel</i> Granted;</p>

CASE SUMMARY
CASE NO. A-20-821316-W

06/15/2021	<p>Motion (8:30 AM) (Judicial Officer: Villani, Michael) <i>Plaintiff's Motion for Evidentiary Hearing</i> Moot;</p>
06/15/2021	<p>Motion to Continue (8:30 AM) (Judicial Officer: Villani, Michael) <i>Plaintiff's Motion for Continuance of May 04, 2021 Hearing Date; Motion for Reconsideration or in the Alternative Motion for Rehearing of Petitioners NRS Chapter 34 Petition</i> Moot;</p>
06/15/2021	<p> All Pending Motions (8:30 AM) (Judicial Officer: Villani, Michael) Matter Heard; Journal Entry Details: <i>PLAINTIFF'S MOTION FOR APPOINTMENT OF COUNSEL...PLAINTIFF'S MOTION FOR CONTINUANCE OF MAY 04, 2021 HEARING DATE; MOTION FOR RECONSIDERATION OR IN THE ALTERNATIVE MOTION FOR REHEARING OF PETITIONERS NRS CHAPTER 34 PETITION...PLAINTIFF'S MOTION FOR EVIDENTIARY HEARING...PLAINTIFF'S MOTION TO WITHDRAW COUNSEL Defendant not transported. COURT ORDERED, Plaintiff's Motion for Continuance and Plaintiff's Motion for Evidentiary Hearing DENIED AS MOOT as the Court made a ruling on May 4th. COURT FURTHER ORDERED, Plaintiff's Motion to Withdraw Counsel MOOT as Court granted Motion back on 5/4/2021 and Plaintiff's Motion for Appointment of Counsel GRANTED. COURT FURTHER ORDERED, matter SET for Status Check regarding confirmation of counsel. NDC 6/29/2021 8:30 AM STATUS CHECK: CONFIRMATION OF COUNSEL (OAC) CLERK'S NOTE: A copy of this Minute Order was mailed to: Javar Ketchum #1192727 PO Box 650 Indian Springs, NV 89070 (6/21/2021 sa);</i></p>
06/29/2021	<p> Status Check: Status of Case (8:30 AM) (Judicial Officer: Villani, Michael) <i>Status Check: Confirmation of Counsel (OAC)</i> Counsel Confirmed; Journal Entry Details: <i>Defendant not transported. C. Ben Scroggins CONFIRMED as counsel for the Defendant and requested a Status Check to allow him to receive the file. COURT ORDERED, Status Check SET regarding briefing schedule. NDC 8/10/2021 8:30 AM STATUS CHECK: SET BRIEFING SCHEDULE;</i></p>
08/10/2021	<p> Status Check: Status of Case (8:30 AM) (Judicial Officer: Villani, Michael) <i>Status Check: Set Briefing Schedule</i> Briefing Schedule Set; Journal Entry Details: <i>Defendant not present. Mr. Scroggins noted he was having difficulty getting a meeting with the Defendant, therefore he requested 6 months to file his Amended Petition. No objection by the State. Due to COVID restrictions, COURT ORDERED, Briefing Schedule SET as follows: Supplemental Brief due by 2/10/2022, State's Supplemental Response due by 4/11/2022 and hearing SET. NDC 5/13/2022 8:30 AM PETITION FOR WRIT OF HABEAS CORPUS;</i></p>
08/02/2022	<p>CANCELED Petition for Writ of Habeas Corpus (9:30 AM) (Judicial Officer: Villani, Michael) <i>Vacated - per Stipulation and Order</i></p>
11/09/2022	<p>CANCELED Petition for Writ of Habeas Corpus (9:30 AM) (Judicial Officer: Bluth, Jacqueline M.) <i>Vacated - per Stipulation and Order</i></p>
11/29/2022	<p> Motion (9:30 AM) (Judicial Officer: Bonaventure, Joseph T.) <i>Petitioner, Javar Ketchum's Motion for Extension of Briefing (Fourth Request)</i> Granted; Journal Entry Details: <i>Mr. Scroggins requested another extension as he will have to file an Amended Petition. COURT ORDERED, Motion GRANTED. Court directed Mr. Scroggins to file the Amended Petition by December 13, 2022; State is to file its response by January 31, 2023 and Mr.</i></p>

CASE SUMMARY
CASE NO. A-20-821316-W

Scroggins to file a reply by February 15, 2023. 2/23/23 9:30 AM PETITION FOR WRIT OF HABEAS CORPUS;

01/17/2023



Motion (9:30 AM) (Judicial Officer: Bluth, Jacqueline M.)

Events: 12/15/2022 Motion to Extend

Petitioner, Javar Ketchum's Motion to Extend Time for Briefing

Granted;

Journal Entry Details:

COURT ORDERED, Motion GRANTED. Court directed Mr. Scroggins to file the supplemental petition by February 14, 2023 and the State is to file its opposition by March 14, 2023. 3/28/23 9:30 AM PETITION FOR WRIT OF HABEAS CORPUS;

03/13/2023



Motion (3:00 AM) (Judicial Officer: Bluth, Jacqueline M.)

Granted;

Journal Entry Details:

COURT ORDERED, Petitioner s Motion to Extend Time for Briefing (Sixth and Final Request) is GRANTED. Petitioner recognizes this is the sixth request for extension in this matter and it is now the last one that will be provided. However, the Court notes numerous extensions have been necessary in this matter due to issues with counsel and his investigator having access to Petitioner. The Petition requests only a two day extension, but to ensure this is the final extension, and as a courtesy, the Court will provide Petitioner two weeks from the date of this Minute Order to file his Amended Petition and Appendix. No further extensions shall be provided in this matter. Therefore, COURT ORDERED, Petitioner s Motion is GRANTED, he shall have until March 24, 2023 to file his Amended Petition and Appendix, the State of Nevada shall have until May 8, 2023 to file its Opposition, Petitioner shall have until May 15, 2023 to file his Reply, and a hearing on the Petition shall be set for May 23, 2023 at 9:30 am. COURT FURTHER ORDERED, as the Motion is granted, its setting on March 23, 2023 shall be VACATED. Petitioner is to prepare an Order consistent with the Court s ruling.; COURT ORDERED, Petitioner's Motion to Extend Time for Briefing (Sixth and Final Request) is GRANTED. Petitioner recognizes this is the sixth request for extension in this matter and it is now the last one that will be provided. However, the Court notes numerous extensions have been necessary in this matter due to issues with counsel and his investigator having access to Petitioner. The Petition requests only a two day extension, but to ensure this is the final extension, and as a courtesy, the Court will provide Petitioner two weeks from the date of this Minute Order to file his Amended Petition and Appendix. No further extensions shall be provided in this matter. Therefore, COURT ORDERED, Petitioner's Motion is GRANTED, he shall have until March 24, 2023 to file his Amended Petition and Appendix, the State of Nevada shall have until May 8, 2023 to file its Opposition, Petitioner shall have until May 15, 2023 to file his Reply, and a hearing on the Petition shall be set for May 23, 2023 at 9:30 am. COURT FURTHER ORDERED, as the Motion is granted, its setting on March 23, 2023 shall be VACATED. Petitioner is to prepare an Order consistent with the Court's ruling. This Minute Order has been electronically served to all registered parties for Odyssey File & Serve. /smr.;

05/23/2023



Petition for Writ of Habeas Corpus (9:30 AM) (Judicial Officer: Bluth, Jacqueline M.)

Denied;

Journal Entry Details:

COURT ORDERED, Petitioner's Amended Petition for Writ of Habeas Corpus (Post-Conviction) is DENIED for the following reasons. The Amended Petition is Time-Barred "Unless there is good cause shown for delay, a petition that challenges the validity of a judgement or sentence must be filed within 1 year after entry of the judgment of conviction or, if an appeal has been taken from the judgment, within 1 year after the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution issues its remittitur." NRS 34.726(1). "For the purposes of this subsection, good cause for delay exists if the petitioner demonstrates to the satisfaction of the court: (a) That the delay is not the fault of the petitioner; and (b) That dismissal of the petition as untimely will unduly prejudice the petitioner." NRS 34.726(1)(a)-(b). Here, Petitioner failed to timely file the instant Amended Petition. A review of the record indicates this is a second petition for writ of habeas corpus (post-conviction) as there was no petition for the instant Amended Petition to amend. Following a jury trial that commenced on May 22, 2017, Petitioner was found guilty of one count of Murder with a Deadly Weapon and one count of Robbery with a Deadly Weapon. On February 1, 2018, Petitioner was sentenced on both counts. Petitioner's resulting Judgment of Conviction was appealed, but the Nevada Supreme

CASE SUMMARY

CASE NO. A-20-821316-W

Court affirmed Petitioner's conviction and remittitur issued on October 11, 2019. On September 11, 2020, Petitioner filed his first petition for writ of habeas corpus (post-conviction) (the "First Petition"). Ultimately, the First Petition was denied on March 12, 2021. Petitioner moved for reconsideration or alternatively for rehearing on the First Petition, but this motion was denied on May 4, 2021. From there, Petitioner appealed the denial of the First Petition; this denial was affirmed by the Nevada Court of Appeals and remittitur issued on February 3, 2022. Subsequent to the denial of the First Petition and Petitioner's motion for reconsideration or alternatively for rehearing, a motion for appointment of counsel was granted on June 15, 2021. On March 24, 2023, the instant Amended Petition was filed. Petitioner's Amended Petition is procedurally barred by NRS 34.726(1) as it was filed nearly three and a half years after the Nevada Supreme Court issued its remittitur following Petitioner's appeal of his Judgment of Conviction. Even momentarily ignoring the plain language of NRS 34.726(1), Petitioner's Amended Petition was still filed over one year after the most recent remittitur was issued by the Nevada Court of Appeals. Petitioner does not address in his Amended Petition how this delay was not his fault or that dismissal of the petition as untimely would unduly prejudice him. Further, Petitioner recognizes in his Amended Petition that this is his second petition for writ of habeas corpus (post-conviction) after the first one was denied, appealed, and affirmed. See Amended Petition, at pages 4-6. The Court recognizes that Petitioner indicated in his acknowledgment that this Amended Petition was being filed past the one year deadline because, "the Court ordered that this Amended Petition be filed after the affirmance of the Court's denial of the Petition by the Nevada Court of Appeals." Amended Petition, at page 7. However, the Court cannot find when or where this order was made, especially in relation to the timing indicated by Petitioner. Regardless, the Court finds that the Amended Petition is time-barred pursuant to NRS 34.726(1). The Amended Petition is Successive "A second or successive petition must be dismissed if the judge or justice determines that it fails to allege new or different grounds for relief and that the prior determination was on the merits or, if new and different grounds are alleged, the judge or justice finds that the failure of the petition to assert those grounds in a prior petition constituted an abuse of the writ." NRS 34.810(2). Here, as addressed above, this is the second petition for writ of habeas corpus that Petitioner has filed. Further, Petitioner recognizes that each of the four grounds he has brought in the instant Amended Petition have already been raised in the First Petition and Petitioner's direct appeal from his Judgment of Conviction. Amended Petition, at page 6. Petitioner alleged that he was raising these grounds again because he "was never granted an evidentiary hearing to present evidence supporting his grounds for relief." Amended Petition, at pages 6-7. Upon review of the Nevada Supreme Court's affirmance (*Ketchum v. State*, 135 Nev. 671, 488 P.3d 574 (2019)(unpublished)), the Nevada Court of Appeals' affirmance (*Ketchum v. State*, 502 P.3d 1092, 2022 WL 336288 (2022)(unpublished)), and the Findings of Fact, Conclusions of Law and Order filed on March 31, 2021, the Court finds that all four grounds have already been determined on their merits. Therefore, the instant Amended Petition is barred as successive. The Amended Petition is Subject to the Doctrine of Res Judicata and the Doctrine of the Law of the Case "Generally, the doctrine of res judicata precludes parties ... from relitigating a cause of action or an issue which has been finally determined by a court" *Exec. Mgmt. v. Tigor Titles Ins. Co.*, 114 Nev. 823, 834, 963 P.2d 465, 473 (1998) (internal quotation & citation omitted). "The law of the first appeal is law of the case on all subsequent appeals in which the facts are substantially the same." *Hall v. State*, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975) (internal quotation omitted). "The doctrine of the law of the case cannot be avoided by a more detailed and precisely focused argument subsequently made after reflection upon the previous proceedings." *Id.* at 316. "Under the law of the case doctrine, issues previously determined by this court on appeal may not be reargued as a basis for habeas relief." *Pellegrini v. State*, 117 Nev. 860, 888, 34 P.3d 519, 538 (2001) abrogated by *Rippo v. State*, 134 Nev. 411, 423 P.3d 1084 (2018). Again, as addressed above, all four of Petitioner's grounds for relief have either been raised already or their dispositions affirmed by the Nevada Supreme Court and the Nevada Court of Appeals. Therefore, the instant Amended Petition is barred under the doctrines of res judicata and the law of the case. An Evidentiary Hearing is Not Necessary Here "The judge or justice, upon review of the return, answer and all supporting documents which are filed, shall determine whether an evidentiary hearing is required." NRS 34.770(1). "A petitioner must not be discharged or committed to the custody of a person other than the respondent unless an evidentiary hearing is held." *Id.* "If the judge or justice determines that the petitioner is not entitled to relief and an evidentiary hearing is not required, he [or she] shall dismiss the petition without a hearing." NRS 34.770(2). "If the judge or justice determines that an evidentiary hearing is required, he [or she] shall grant the writ and shall set a date for the hearing." *Id.* Here, Petitioner is not entitled to relief as all of his claims are barred for the various reasons provided above. As such, the Court finds there is no need for an evidentiary hearing. Therefore, for the aforementioned reasons, Petitioner's Amended Petition is DENIED. COURT FURTHER ORDERED, as Petitioner's Amended Petition is denied, its setting on May 23, 2023 shall be VACATED. The State of Nevada is to prepare an Order consistent with the

CASE SUMMARY

CASE NO. A-20-821316-W

Court's ruling. CLERK'S NOTE: A copy of this minute order was electronically mailed to John Afshar, Deputy District Attorney.;

A-20-821316-W
Dept. XVII

DISTRICT COURT CIVIL COVER SHEET

County, Nevada

Case No.

(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone):

Javar Ketchum #1836597

Defendant(s) (name/address/phone):

Nevada State of

Attorney (name/address/phone):

Craig A. Mueller Esq.

Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)

Civil Case Filing Types

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

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

9-11-20

Date

Prepared by Clerk

Signature of initiating party or representative

See other side for family-related case filings.

Heaven S. Linn

CLERK OF THE COURT

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

DISTRICT COURT
CLARK COUNTY, NEVADA

JAVAR KETCHUM,
#1836597,
Petitioner,

-vs-

THE STATE OF NEVADA,
Respondent.

CASE NO: **A-20-821316-W**

C-16-319714-1

DEPT NO: VI

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

DATE OF HEARING: MAY 23, 2023
TIME OF HEARING: 9:30 A.M.

THIS CAUSE having come on for hearing before the Honorable JACQUELINE M. BLUTH, District Judge, on May 23, 2023, the Petitioner not being present, represented by C. Benjamin Scroggins, esq, Respondent represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through JOHN AFSHAR, Chief Deputy District Attorney, and this Court having considered the matter, including briefs, transcripts, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law.

FINDINGS OF FACT, CONCLUSIONS OF LAW

PROCEDURAL HISTORY

On November 30, 2016, the State charged Javar Ketchum (hereinafter "Petitioner") by way of Indictment with one count each of Murder with a Deadly Weapon, and Robbery with a Deadly Weapon. On December 30, 2016, Petitioner filed a pre-trial Petition for Writ of

1 Habeas Corpus and Motion to Dismiss. The State filed its Return on January 4, 2017. Petitioner
2 filed a Reply on January 9, 2017. The district court denied the Petition on February 17, 2017.

3 On March 8, 2017, Petitioner filed a Motion in Limine, seeking to admit character
4 evidence of the victim, Ezekiel Davis (hereinafter “Davis” or “victim”). On May 9, 2017, the
5 State filed a Motion in Limine, asking that the District Court preclude prior specific acts of
6 violence by the murder victim. On May 18, 2017, the State filed a Supplement to its Motion
7 in Limine. The District Court held a Petrocelli hearing on May 19, 2017, determining that
8 Petitioner could only bring in opinion testimony regarding the victim’s character and that
9 witnesses were not to elaborate on that opinion.

10 On May 22, 2017, Petitioner’s five-day jury trial commenced. At the end of the fifth
11 day of trial, the jury found Petitioner guilty of both charges. Following the verdict, the Court
12 approved and filed a Stipulation and Order Waiving Separate Penalty Hearing, with an
13 agreement a life sentence in prison with parole eligibility after twenty years, with the sentences
14 for the deadly weapon enhancement and the count of Robbery with Use of a Deadly Weapon
15 to be argued by both parties.

16 On June 2, 2017, Petitioner filed a Motion for New Trial pursuant to NRS 176.515(4).
17 The State filed its Opposition on September 9, 2017. Petitioner filed a Reply on September 27,
18 2017, and a Supplement thereto on September 28, 2017. The District Court, finding that
19 Petitioner’s disagreement with the Court’s evidentiary rulings was not a basis for a new trial,
20 denied the motion on October 17, 2017. Petitioner was adjudicated that same day. However,
21 the defense requested additional time to handle sentencing matters. Pursuant to the stipulation,
22 on February 1, 2018, the District Court sentenced Petitioner to Nevada Department of
23 Corrections as follows: Count 1- 20 years to life, plus a consecutive term of 96 to 240 months
24 for the Use of a Deadly Weapon; Count 2- 48 months to 180 months, plus a consecutive term
25 of 48 months to 120 months for the Use of a Deadly Weapon, concurrent with Count 1. The
26 Judgment of Conviction was filed on February 5, 2018. Petitioner filed a Notice of Appeal on
27 February 6, 2018. On September 12, 2019, the Nevada Supreme Court affirmed Petitioner’s
28 conviction. Remittitur issued on October 11, 2019.

1 On September 11, 2020, Petitioner filed a Petition for Writ of Habeas Corpus (Post-
2 Conviction) (hereinafter “First Petition”). The State filed its Response to the First Petition on
3 December 16, 2020. On January 11, 2021, Petitioner filed a Notice of Motion to Continue
4 Reply Brief Deadline and Hearing Date. On January 26, 2021, the Court granted Petitioner’s
5 motion to continue. On February 9, 2021, Petitioner filed a Reply to State’s Response to the
6 First Petition. On March 12, 2021, the Court heard and denied the First Petition.

7 On March 31, 2021, Petitioner filed a Motion for Reconsideration Or In the Alternative
8 Motion for Rehearing of Petitioner’s NRS 34 Petition (hereinafter “Motion for
9 Reconsideration”). On April 27, 2021, the State filed an Opposition to Petitioner’s Motion for
10 Reconsideration. On April 29, 2021, Petitioner filed a Notice of Appeal, appealing the Court’s
11 denial of the First Petition. On May 4, 2021, the District Court denied Petitioner’s Motion for
12 Reconsideration. On May 10, 2021, Petitioner filed a Motion for Appointment of Counsel for
13 his Motion for Reconsideration. On June 15, 2021, the Court granted Petitioner’s Motion for
14 Appointment of Counsel.

15 On June 29, 2021, counsel for Petitioner confirmed and requested a later date for status
16 check and briefing schedule. Since then, this case has continued numerous times. First, on
17 August 10, 2021, the Court granted Petitioner’s motion for a six-month continuance to file a
18 Supplemental Brief. Second, the Court filed a Stipulation and Order to Extend Time for
19 Briefing on February 4, 2022, to give Petitioner’s investigator time to interview witnesses and
20 view evidence. Third, the Court filed a Stipulation and Order to Extend Time for Briefing on
21 May 25, 2022, to give Petitioner’s investigator time to interview witnesses and view evidence.
22 Fourth, the Court filed a Stipulation and Order to Extend Time for Briefing on August 11,
23 2022, to give Petitioner additional time to investigate his case. Fifth, Petitioner filed a Motion
24 to Extend Time for Briefing on November 10, 2022. The Court granted Petitioner’s motion on
25 November 29, 2022. Sixth, Petitioner filed a Motion to Extend Time for Briefing on December
26 15, 2022. The Court granted Petitioner’s motion on January 17, 2023. Seventh, Petitioner filed
27 a Motion to Extend Time for Briefing on February 14, 2023. The Court granted Petitioner’s
28 motion on March 13, 2023.

1 Between continuances, the Nevada Court of Appeals issued an order on February 3,
2 2022, affirming the District Court’s denial of the First Petition. Remittitur issued February 28,
3 2022. On March 24, 2023, Petitioner filed an Amended Petition for Writ of Habeas Corpus.
4 The State filed a response to the Amended Petition on April 27, 2023. On May 23, 2023 this
5 Court denied the Amended Petition for the following reasons.

6 **FACTUAL BACKGROUND**

7 At 6:22 a.m. on September 25, 2016, LVMPD Officers Brennan Childers and Jacquelyn
8 Torres were dispatched to a shooting at 4230 South Decatur Boulevard, a strip mall with
9 several businesses including Top Knotch. Jury Trial Transcript (hereinafter “JTT”) Day 2, at
10 20-23, 29-32. When police arrived, they found Davis upon whom another man was performing
11 chest compressions. Id. at 22-23, 32. Davis was not wearing pants. Id. at 32. Several other
12 people were in the parking lot, and none of the businesses appeared opened. Id. at 22-23. Davis
13 was transported to the hospital but did not survive a single gunshot wound to the abdomen. Id.
14 at 66. Trial testimony from Davis’s fiancée, Bianca Hicks, and from Detective Christopher
15 Bunn (hereinafter “Detective Bunn”) revealed that Davis’s person was missing a belt which
16 had a gold “M” buckle and a gold watch. JTT Day 3, at 17, 122; JTT Day 4, at 86, 90-92.
17 Top Knotch, the clothing store in front of which Davis was shot, doubles as an after-hours
18 club. JTT Day 2, at 9. Davis’s friend Deshawn Byrd (hereinafter “Byrd”)—the one who had
19 given him CPR in an attempt to save his life—testified at trial that sometime after 3:00 a.m.,
20 Davis arrived at the club. Id. at 10-11. Byrd testified there was no indication that anything had
21 happened in the club which led to any sort of confrontation. Id. at 10-14.

22 Detective Bunn testified at trial that the day of the murder, as detectives and crime scene
23 analysts were documenting the scene, three individuals—later identified as Marlo Chiles
24 (hereinafter “Chiles”), Roderick Vincent (hereinafter “Vincent”), and Samantha Cordero—
25 exited Top Knotch. JTT Day 3, at 42-67. Chiles owned Top Knotch, and Vincent owned a
26 recording studio located inside Top Knotch. Id. at 68. Vincent denied that there were any
27 DVRs of the surveillance video from Top Knotch or the studio; however, Detective Bunn had
28

1 noted a camera. Id. at 69,73. A subsequent search of Vincent’s car in the parking lot located
2 two DVRs of the surveillance footage from Top Knotch and the studio. Id. at 58-59, 63-64.
3 A review of the video footage, extensive portions of which were played at trial, showed that
4 Petitioner entered the club at about 2:00 a.m. Id. at 91-92. At 3:25 a.m., Chiles, Vincent,
5 Antoine Bernard (hereinafter “Bernard”), and several other people were in the back area of the
6 business when a person in a number 3 jersey, later identified as Petitioner, produced a semi-
7 automatic handgun from his pants and showed it to the group. Id. at 93-94.

8 The video also showed that at about 6:14 a.m., Petitioner and Davis exited arm-in-arm
9 out the front of Top Knotch. Id. at 97. At that point, there was still a watch on Davis’s wrist.
10 Id. at 98. The two walked to the front of Bernard’s black vehicle and appeared to converse for
11 a short time, then walked by the driver’s side of Bernard’s vehicle, where they left the camera’s
12 view. Id. at 99-102. At about 6:16 a.m., the people on video all appeared to have their attention
13 drawn to the area where Petitioner and Davis were. Id. at 99. Petitioner then entered the view
14 of the camera, removing Davis’s belt from his body while holding the gun in his other hand.
15 Id. at 101-102. Bernard also testified at trial that he saw Petitioner take Davis’s belt. Id. at 20.
16 The video showed that Petitioner approached Bernard’s car, opened the passenger door, placed
17 the belt on the front seat, and returned to the area of Davis’s body. Id. at 102. Petitioner
18 returned to Bernard’s vehicle, entered the passenger seat of the vehicle and the vehicle fled the
19 area. Id. at 102.

20 Despite contact with several witnesses in the parking lot including Chiles and Vincent,
21 the police had no information regarding the identity of the shooter. Id. at 107. After further
22 investigation, the shooter was identified as Petitioner and a warrant for his arrest was issued.
23 Id. at 107. Petitioner was apprehended at a border control station in Sierra Blanca, Texas,
24 whereupon he was brought back to Nevada to face charges. Id. at 108.

25 //

26 //

27 //

28 //

1 **ANALYSIS**

2 **I. THE AMENDED PETITION IS PROCEDURALLY BARRED**

3 The Amended Petition is time-barred pursuant to NRS 34.726(1):

4 Unless there is good cause shown for delay, a petition that challenges the validity
5 of a judgment or sentence must be filed within 1 year of the entry of the judgment
6 of conviction or, if an appeal has been taken from the judgment, within 1 year
7 after the Supreme Court issues its remittitur. For the purposes of this subsection,
8 good cause for delay exists if the petitioner demonstrates to the satisfaction of
9 the court:

10 (a) That the delay is not the fault of the petitioner; and

11 (b) That dismissal of the petition as untimely will unduly prejudice the petitioner.

12 The Nevada Supreme Court has held that NRS 34.726 should be construed by its plain
13 meaning. Pellegrini v. State, 117 Nev. 860, 873–74, 34 P.3d 519, 528 (2001). As per the
14 language of the statute, the one-year time bar proscribed by NRS 34.726 begins to run from
15 the date the judgment of conviction is filed or a remittitur from a timely direct appeal is filed.
16 Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133–34 (1998).

17 Petitioner failed to file this Amended Petition prior to the one-year deadline. Remittitur
18 issued from Petitioner's appeal on October 11, 2019; therefore, Petitioner had until October
19 11, 2020, to file a timely habeas petition. Petitioner filed the Second Petition on March 24,
20 2023. This is over two years and five months after Petitioner's one-year deadline.

21 Petitioner's Amended Petition is procedurally barred by NRS 34.726(1) as it was filed
22 nearly three and a half years after the Nevada Supreme Court issued its remittitur following
23 Petitioner's appeal of his Judgment of Conviction. Even momentarily ignoring the plain
24 language of NRS 34.726(1), Petitioner's Amended Petition was still filed over one year after
25 the most recent remittitur was issued by the Nevada Court of Appeals. Petitioner does not
26 address in his Amended Petition how this delay was not his fault or that dismissal of the
27 petition as untimely would unduly prejudice him. Further, Petitioner recognizes in his
28 Amended Petition that this is his second petition for writ of habeas corpus (post-conviction)
after the first one was denied, appealed, and affirmed. See Amended Petition, at pages 4-6.
The Court recognizes that Petitioner indicated in his acknowledgment that this Amended
Petition was being filed past the one-year deadline because, "the Court ordered that this

1 Amended Petition be filed after the affirmance of the Court's denial of the Petition by the
2 Nevada Court of Appeals." Amended Petition, at page 7. However, the Court cannot find when
3 or where this order was made, especially in relation to the timing indicated by Petitioner.
4 Regardless, the Court finds that the Amended Petition is time-barred pursuant to NRS
5 34.726(1).

6 **II. THE AMENDED PETITION IS BARRED AS SUCCESSIVE**

7 NRS 34.810(2) reads:

8 A second or successive petition must be dismissed if the judge or justice
9 determines that it fails to allege new or different grounds for relief and that the
10 prior determination was on the merits or, if new and different grounds are
11 alleged, the judge or justice finds that the failure of the petitioner to assert those
12 grounds in a prior petition constituted an abuse of the writ.

12 Second or successive petitions are petitions that either fail to allege new or different
13 grounds for relief and the grounds have already been decided on the merits or that allege new
14 or different grounds, but a judge or justice finds that the petitioner's failure to assert those
15 grounds in a prior petition would constitute an abuse of the writ. Second or successive petitions
16 will only be decided on the merits if the petitioner can show good cause and prejudice. NRS
17 34.810(3); Lozada v. State, 110 Nev. 349, 358, 871 P.2d 944, 950 (1994); see also Hart v.
18 State, 116 Nev. 558, 563–64, 1 P.3d 969, 972 (2000) (holding that "where a defendant
19 previously has sought relief from the judgment, the defendant's failure to identify all grounds
20 for relief in the first instance should weigh against consideration of the successive motion.")

21 The Nevada Supreme Court has stated: "Without such limitations on the availability of
22 post-conviction remedies, prisoners could petition for relief in perpetuity and thus abuse post-
23 conviction remedies. In addition, meritless, successive and untimely petitions clog the court
24 system and undermine the finality of convictions." Lozada, 110 Nev. at 358, 871 P.2d at 950.
25 The Nevada Supreme Court recognizes that "[u]nlike initial petitions which certainly require
26 a careful review of the record, successive petitions may be dismissed based solely on the face
27 of the petition." Ford v. Warden, 111 Nev. 872, 882, 901 P.2d 123, 129 (1995). In other words,
28 if the claim or allegation was previously available with reasonable diligence, it is an abuse of

1 the writ to wait to assert it in a later petition. McClesky v. Zant, 499 U.S. 467, 497–98 (1991).
2 Application of NRS 34.810(2) is mandatory. See Riker, 121 Nev. at 231, 112 P.3d at 1074.

3 Here, Petitioner has already filed a prior postconviction habeas petition. The First
4 Petition was filed on September 11, 2020. The District Court heard and denied the First
5 Petition on March 31, 2021. On February 3, 2022, the Nevada Court of Appeals affirmed the
6 District Court’s denial of the First Petition.

7 Furthermore, Petitioner recognizes that each of the four grounds he has brought in the
8 Amended Petition have been raised in the First Petition and Petitioner’s direct appeal from his
9 Judgement of Conviction. Amended Petition, at page 6. Petitioner fails to allege new or
10 different grounds for relief and these grounds have already been denied on the merits. Upon
11 review of the Nevada Supreme Court’s affirmance (Ketchum v. State, 135 Nev. 671, 488 P.3d
12 574 (2019)(unpublished)), the Nevada Court of Appeals' affirmance (Ketchum v. State, 502
13 P.3d 1092, 2022 WL 336288 (2022)(unpublished)), and the Findings of Fact, Conclusions of
14 Law and Order filed on March 31, 2021, the Court finds the Amended Petition is barred as
15 successive because all four grounds have already been determined on their merits.

16 **III. THE AMENDED PETITION IS SUBJECT TO THE DOCTRINE OF RES** 17 **JUDICATA & THE DOCTRINE OF THE LAW OF THE CASE**

18
19 "Generally, the doctrine of res judicata precludes parties ... from relitigating a cause of
20 action or an issue which has been finally determined by a court" Exec. Mgmt. v. Ticor
21 Titles Ins. Co., 114 Nev. 823, 834, 963 P.2d 465, 473 (1998) (internal quotation & citation
22 omitted). "The law of a first appeal is law of the case on all subsequent appeals in which the
23 facts are substantially the same." Hall v. State, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975)
24 (quoting Walker v. State, 85 Nev. 337, 343, 455 P.2d 34, 38 (1969)). "The doctrine of the law
25 of the case cannot be avoided by a more detailed and precisely focused argument subsequently
26 made after reflection upon the previous proceedings." Id. at 316, 535 P.2d at 799. Under the
27 law of the case doctrine, issues previously decided on direct appeal may not be reargued in a
28 habeas petition. Pellegrini v. State, 117 Nev. 860, 879, 34 P.3d 519, 532 (2001) abrogated by

1 Rippo v. State, 134 Nev. 411, 423 P.3d 1084 (2018). Furthermore, this Court cannot overrule
2 the Nevada Supreme Court. Nev. Const. Art. VI § 6. See Mason v. State, 206 S.W.3d 869,
3 875 (Ark. 2005) (recognizing the doctrine's applicability in the criminal context); see also
4 York v. State, 342 S.W. 528, 553 (Tex. Crim. Appl. 2011).

5 Here, Petitioner's claims are barred by the law of the case because the Nevada Court of
6 Appeals affirmed the District Court's denial of these claims:

7 First, Ketchum claimed that his trial counsel was ineffective for failing to file a
8 motion requesting discovery. However, counsel filed a motion to compel
9 discovery prior to trial. Accordingly, Ketchum failed to demonstrate that his trial
10 counsel's performance fell below an objective standard of reasonableness or a
11 reasonable probability of a different outcome had counsel performed different
12 actions concerning a request for pretrial discovery. Therefore, we conclude the
district court did not err by denying this claim without conducting an evidentiary
hearing.

13 Second, Ketchum claimed that his trial counsel was ineffective for failing to
14 review all of the surveillance footage in the possession of the State prior to trial.
15 Ketchum asserted that counsel failed to review portions of the surveillance video
16 that depicted him interacting with the victim prior to the shooting. Ketchum
contended that counsel's failure to review all of the surveillance footage led
counsel to improperly assess the factual circumstances of the case.

17 However, the record in this matter demonstrated that significant evidence of
18 Ketchum's guilt was presented at trial. During trial, a witness testified that
19 Ketchum indicated that he intended to rob the victim prior to the shooting. The
20 record demonstrates that surveillance video depicted Ketchum and the victim
together shortly before the shooting but did not depict the actual shooting. The
21 surveillance video also depicted the aftermath of the shooting and showed
Ketchum taking items from the victim. Ketchum subsequently fled the scene
22 with the victim's belongings. In light of the significant evidence of Ketchum's
guilt presented at trial, he failed to demonstrate a reasonable probability of a
23 different outcome at trial had counsel viewed all of the surveillance footage prior
to the trial. Therefore, we conclude the district court did not err by denying this
24 claim without conducting an evidentiary hearing.

25 Third, Ketchum claimed that his trial counsel was ineffective for failing to object
26 to admission of the surveillance video recordings. Ketchum contended that
counsel should have attempted to stop the admission of the recordings because
27 they were the State's most critical pieces of evidence. The record demonstrates
that the surveillance video recordings were relevant evidence, and relevant
28 evidence is generally admissible at trial. *See* NRS 48.015; NRS 48.025(1). In

1 addition, Ketchum did not demonstrate that the probative value of the
2 surveillance recording was substantially outweighed by the danger of unfair
3 prejudice, confusion of the issues, or misleading the jury, *see* NRS 48.035(1),
4 and therefore, Ketchum did not demonstrate the recordings were inadmissible.
5 Accordingly, Ketchum failed to demonstrate that his counsel's performance fell
6 below an objective standard of reasonableness. Ketchum also failed to
7 demonstrate a reasonable probability of a different outcome had counsel
8 objected to admission of the surveillance video recordings. Therefore, we
9 conclude the district court did not err by denying this claim without conducting
10 an evidentiary hearing.

11 Fourth, Ketchum claimed that his trial counsel was ineffective for failing to
12 object during the State's rebuttal argument when it displayed portions of the
13 surveillance video recording that were not previously utilized during the trial.
14 The record demonstrates that the surveillance video recordings that the State
15 used during its rebuttal argument were admitted into evidence during trial.
16 Thus, the State did not improperly base its argument upon facts not in evidence.
17 *See Morgan v. State*, 134 Nev. 200, 215, 416 P.3d 212, 227 (2018) ("A
18 fundamental legal and ethical rule is that neither the prosecution nor the defense
19 may argue facts not in evidence."). Accordingly, Ketchum failed to demonstrate
20 his counsel's performance fell below an objective standard of reasonableness. In
21 addition, the Nevada Supreme Court reviewed the underlying claim on direct
22 appeal and concluded that the State properly utilized the surveillance videos
23 during its rebuttal argument. *Ketchum v. State*, No. 75097, 2019 WL
24 4392486448 (Nev. Sept. 12, 2019) (Order of Affirmance). Ketchum thus failed
25 to demonstrate a reasonable probability of a different outcome had counsel
26 objected to the State's rebuttal argument. Therefore, we conclude the district
27 court did not err by denying this claim without conducting an evidentiary
28 hearing.

29 Ketchum v. State, 502 P.3d 1093, 1-4, 2022 WL 336288, (2022) (unpublished). All
30 four of Petitioner's grounds for relief have either been raised already or their dispositions
31 affirmed by the Nevada Supreme Court and the Nevada Court of Appeals. Therefore, the
32 Amended Petition is barred under the doctrine of res judicata and the law of the case.

33 **IV. AN EVIDENTIARY HEARING IS NOT NECESSARY HERE**

34 NRS 34.770 determines when a defendant is entitled to an evidentiary hearing. It
35 reads:

1 1. The judge or justice, upon review of the return, answer and all supporting
2 documents which are filed, shall determine whether an evidentiary hearing is
3 required. A petitioner must not be discharged or committed to the custody of a
4 person other than the respondent *unless an evidentiary hearing is held*.

5 2. If the judge or justice determines that the petitioner is not entitled to relief
6 and an evidentiary hearing is not required, he shall dismiss the petition without
7 a hearing.

8 3. If the judge or justice determines that an evidentiary hearing is required, he
9 shall grant the writ and shall set a date for the hearing.

10 A district court's denial of a request for an evidentiary hearing is reviewed for an abuse
11 of discretion. Berry v. State, 131 Nev. 957, 969, 363 P.3d 1148, 1156 (2015). The Nevada
12 Supreme Court has held that if a petition can be resolved without expanding the record, then
13 no evidentiary hearing is necessary. Marshall v. State, 110 Nev. 1328, 885 P.2d 603 (1994);
14 Mann v. State, 118 Nev. 351, 356, 46 P.3d 1228, 1231 (2002). A defendant is entitled to an
15 evidentiary hearing if his petition is supported by specific factual allegations, which, if true,
16 would entitle him to relief unless the factual allegations are repelled by the record. Marshall,
17 110 Nev. at 1331, 885 P.2d at 605; see also Hargrove v. State, 100 Nev. 498, 503, 686 P.2d
18 222, 225 (1984) (holding that "[a] defendant seeking post-conviction relief is not entitled to
19 an evidentiary hearing on factual allegations belied or repelled by the record"). "A claim is
20 'belied' when it is contradicted or proven to be false by the record as it existed at the time the
21 claim was made." Mann, 118 Nev. at 354, 46 P.3d at 1230 (2002). It is improper to hold an
22 evidentiary hearing simply to make a complete record. See State v. Eighth Judicial Dist. Court,
23 121 Nev. 225, 234, 112 P.3d 1070, 1076 (2005) ("The district court considered itself the
24 'equivalent of . . . the trial judge' and consequently wanted 'to make as complete a record as
25 possible.' This is an incorrect basis for an evidentiary hearing.").

26 Here, Petitioner is not entitled to relief as all his claims are meritless and procedurally
27 barred. There is no need to expand the record because all the facts and law necessary to resolve
28 Petitioner's complaints are available. The Court finds there is no need for an evidentiary
hearing.

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ORDER

THEREFORE, IT IS HEREBY ORDERED that this Petitioner's Amended Petition for Writ of Habeas Corpus (Post-Conviction), shall be, and is, hereby DENIED.

Dated this 15th day of June, 2023



STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #01565

JL
0ED A4C 6CCE 9A49
Jacqueline M. Bluth
District Court Judge

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

CERTIFICATE OF MAILING

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

JAVAR KETCHUM, #1192727
HIGH DESERT STATE PRISON
PO BOX 650
INDIAN SPRINGS, NV 89070

BY /s/ E. Del Padre
E. DEL PADRE
Secretary for the District Attorney's Office

JA/mf/ed/L3

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Javar Ketchum, Plaintiff(s)

CASE NO: A-20-821316-W

7 vs.

DEPT. NO. Department 6

8 Nevada State of, Defendant(s)
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 6/15/2023

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NEFF

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JAVAR KETCHUM,

Petitioner,

vs.

STATE OF NEVADA,

Respondent,

Case No: A-20-821316-W

Dept No: VI

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

PLEASE TAKE NOTICE that on June 15, 2023, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on June 20, 2023.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Cierra Borum

Cierra Borum, Deputy Clerk

CERTIFICATE OF E-SERVICE / MAILING

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

☒ By e-mail:

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

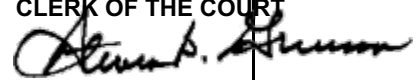
☒ The United States mail addressed as follows:

Javar Ketchum # 1192727
P.O. Box 7000
Carson City, NV 89702

C. Benjamin Scroggins, Esq.
629 S. Casino Center Blvd.
Las Vegas, NV 89101

/s/ Cierra Borum

Cierra Borum, Deputy Clerk



NEFF

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JAVAR KETCHUM,

Petitioner,

vs.

STATE OF NEVADA,

Respondent,

Case No: A-20-821316-W

Dept No: VI

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

PLEASE TAKE NOTICE that on June 15, 2023, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

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STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Cierra Borum

Cierra Borum, Deputy Clerk

CERTIFICATE OF E-SERVICE / MAILING

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

☒ By e-mail:

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

☒ The United States mail addressed as follows:

Javar Ketchum # 1192727
P.O. Box 7000
Carson City, NV 89702

C. Benjamin Scroggins, Esq.
629 S. Casino Center Blvd.
Las Vegas, NV 89101

/s/ Cierra Borum

Cierra Borum, Deputy Clerk

Heather S. Smith

CLERK OF THE COURT

FOF
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JOHN AFSHAR
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Nevada Bar #14408
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Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

JAVAR KETCHUM,
#1836597,
Petitioner,

-vs-

THE STATE OF NEVADA,
Respondent.

CASE NO: **A-20-821316-W**

C-16-319714-1

DEPT NO: VI

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

DATE OF HEARING: MAY 23, 2023
TIME OF HEARING: 9:30 A.M.

THIS CAUSE having come on for hearing before the Honorable JACQUELINE M. BLUTH, District Judge, on May 23, 2023, the Petitioner not being present, represented by C. Benjamin Scroggins, esq, Respondent represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through JOHN AFSHAR, Chief Deputy District Attorney, and this Court having considered the matter, including briefs, transcripts, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law.

FINDINGS OF FACT, CONCLUSIONS OF LAW

PROCEDURAL HISTORY

On November 30, 2016, the State charged Javar Ketchum (hereinafter "Petitioner") by way of Indictment with one count each of Murder with a Deadly Weapon, and Robbery with a Deadly Weapon. On December 30, 2016, Petitioner filed a pre-trial Petition for Writ of

1 Habeas Corpus and Motion to Dismiss. The State filed its Return on January 4, 2017. Petitioner
2 filed a Reply on January 9, 2017. The district court denied the Petition on February 17, 2017.

3 On March 8, 2017, Petitioner filed a Motion in Limine, seeking to admit character
4 evidence of the victim, Ezekiel Davis (hereinafter “Davis” or “victim”). On May 9, 2017, the
5 State filed a Motion in Limine, asking that the District Court preclude prior specific acts of
6 violence by the murder victim. On May 18, 2017, the State filed a Supplement to its Motion
7 in Limine. The District Court held a Petrocelli hearing on May 19, 2017, determining that
8 Petitioner could only bring in opinion testimony regarding the victim’s character and that
9 witnesses were not to elaborate on that opinion.

10 On May 22, 2017, Petitioner’s five-day jury trial commenced. At the end of the fifth
11 day of trial, the jury found Petitioner guilty of both charges. Following the verdict, the Court
12 approved and filed a Stipulation and Order Waiving Separate Penalty Hearing, with an
13 agreement a life sentence in prison with parole eligibility after twenty years, with the sentences
14 for the deadly weapon enhancement and the count of Robbery with Use of a Deadly Weapon
15 to be argued by both parties.

16 On June 2, 2017, Petitioner filed a Motion for New Trial pursuant to NRS 176.515(4).
17 The State filed its Opposition on September 9, 2017. Petitioner filed a Reply on September 27,
18 2017, and a Supplement thereto on September 28, 2017. The District Court, finding that
19 Petitioner’s disagreement with the Court’s evidentiary rulings was not a basis for a new trial,
20 denied the motion on October 17, 2017. Petitioner was adjudicated that same day. However,
21 the defense requested additional time to handle sentencing matters. Pursuant to the stipulation,
22 on February 1, 2018, the District Court sentenced Petitioner to Nevada Department of
23 Corrections as follows: Count 1- 20 years to life, plus a consecutive term of 96 to 240 months
24 for the Use of a Deadly Weapon; Count 2- 48 months to 180 months, plus a consecutive term
25 of 48 months to 120 months for the Use of a Deadly Weapon, concurrent with Count 1. The
26 Judgment of Conviction was filed on February 5, 2018. Petitioner filed a Notice of Appeal on
27 February 6, 2018. On September 12, 2019, the Nevada Supreme Court affirmed Petitioner’s
28 conviction. Remittitur issued on October 11, 2019.

1 On September 11, 2020, Petitioner filed a Petition for Writ of Habeas Corpus (Post-
2 Conviction) (hereinafter “First Petition”). The State filed its Response to the First Petition on
3 December 16, 2020. On January 11, 2021, Petitioner filed a Notice of Motion to Continue
4 Reply Brief Deadline and Hearing Date. On January 26, 2021, the Court granted Petitioner’s
5 motion to continue. On February 9, 2021, Petitioner filed a Reply to State’s Response to the
6 First Petition. On March 12, 2021, the Court heard and denied the First Petition.

7 On March 31, 2021, Petitioner filed a Motion for Reconsideration Or In the Alternative
8 Motion for Rehearing of Petitioner’s NRS 34 Petition (hereinafter “Motion for
9 Reconsideration”). On April 27, 2021, the State filed an Opposition to Petitioner’s Motion for
10 Reconsideration. On April 29, 2021, Petition filed a Notice of Appeal, appealing the Court’s
11 denial of the First Petition. On May 4, 2021, the District Court denied Petitioner’s Motion for
12 Reconsideration. On May 10, 2021, Petitioner filed a Motion for Appointment of Counsel for
13 his Motion for Reconsideration. On June 15, 2021, the Court granted Petitioner’s Motion for
14 Appointment of Counsel.

15 On June 29, 2021, counsel for Petitioner confirmed and requested a later date for status
16 check and briefing schedule. Since then, this case has continued numerous times. First, on
17 August 10, 2021, the Court granted Petitioner’s motion for a six-month continuance to file a
18 Supplemental Brief. Second, the Court filed a Stipulation and Order to Extend Time for
19 Briefing on February 4, 2022, to give Petitioner’s investigator time to interview witnesses and
20 view evidence. Third, the Court filed a Stipulation and Order to Extend Time for Briefing on
21 May 25, 2022, to give Petitioner’s investigator time to interview witnesses and view evidence.
22 Fourth, the Court filed a Stipulation and Order to Extend Time for Briefing on August 11,
23 2022, to give Petitioner additional time to investigate his case. Fifth, Petitioner filed a Motion
24 to Extend Time for Briefing on November 10, 2022. The Court granted Petitioner’s motion on
25 November 29, 2022. Sixth, Petitioner filed a Motion to Extend Time for Briefing on December
26 15, 2022. The Court granted Petitioner’s motion on January 17, 2023. Seventh, Petitioner filed
27 a Motion to Extend Time for Briefing on February 14, 2023. The Court granted Petitioner’s
28 motion on March 13, 2023.

1 Between continuances, the Nevada Court of Appeals issued an order on February 3,
2 2022, affirming the District Court’s denial of the First Petition. Remittitur issued February 28,
3 2022. On March 24, 2023, Petitioner filed an Amended Petition for Writ of Habeas Corpus.
4 The State filed a response to the Amended Petition on April 27, 2023. On May 23, 2023 this
5 Court denied the Amended Petition for the following reasons.

6 **FACTUAL BACKGROUND**

7 At 6:22 a.m. on September 25, 2016, LVMPD Officers Brennan Childers and Jacquelyn
8 Torres were dispatched to a shooting at 4230 South Decatur Boulevard, a strip mall with
9 several businesses including Top Knotch. Jury Trial Transcript (hereinafter “JTT”) Day 2, at
10 20-23, 29-32. When police arrived, they found Davis upon whom another man was performing
11 chest compressions. Id. at 22-23, 32. Davis was not wearing pants. Id. at 32. Several other
12 people were in the parking lot, and none of the businesses appeared opened. Id. at 22-23. Davis
13 was transported to the hospital but did not survive a single gunshot wound to the abdomen. Id.
14 at 66. Trial testimony from Davis’s fiancée, Bianca Hicks, and from Detective Christopher
15 Bunn (hereinafter “Detective Bunn”) revealed that Davis’s person was missing a belt which
16 had a gold “M” buckle and a gold watch. JTT Day 3, at 17, 122; JTT Day 4, at 86, 90-92.
17 Top Knotch, the clothing store in front of which Davis was shot, doubles as an after-hours
18 club. JTT Day 2, at 9. Davis’s friend Deshawn Byrd (hereinafter “Byrd”)—the one who had
19 given him CPR in an attempt to save his life—testified at trial that sometime after 3:00 a.m.,
20 Davis arrived at the club. Id. at 10-11. Byrd testified there was no indication that anything had
21 happened in the club which led to any sort of confrontation. Id. at 10-14.

22 Detective Bunn testified at trial that the day of the murder, as detectives and crime scene
23 analysts were documenting the scene, three individuals—later identified as Marlo Chiles
24 (hereinafter “Chiles”), Roderick Vincent (hereinafter “Vincent”), and Samantha Cordero—
25 exited Top Knotch. JTT Day 3, at 42-67. Chiles owned Top Knotch, and Vincent owned a
26 recording studio located inside Top Knotch. Id. at 68. Vincent denied that there were any
27 DVRs of the surveillance video from Top Knotch or the studio; however, Detective Bunn had
28

1 noted a camera. Id. at 69,73. A subsequent search of Vincent’s car in the parking lot located
2 two DVRs of the surveillance footage from Top Knotch and the studio. Id. at 58-59, 63-64.
3 A review of the video footage, extensive portions of which were played at trial, showed that
4 Petitioner entered the club at about 2:00 a.m. Id. at 91-92. At 3:25 a.m., Chiles, Vincent,
5 Antoine Bernard (hereinafter “Bernard”), and several other people were in the back area of the
6 business when a person in a number 3 jersey, later identified as Petitioner, produced a semi-
7 automatic handgun from his pants and showed it to the group. Id. at 93-94.

8 The video also showed that at about 6:14 a.m., Petitioner and Davis exited arm-in-arm
9 out the front of Top Knotch. Id. at 97. At that point, there was still a watch on Davis’s wrist.
10 Id. at 98. The two walked to the front of Bernard’s black vehicle and appeared to converse for
11 a short time, then walked by the driver’s side of Bernard’s vehicle, where they left the camera’s
12 view. Id. at 99-102. At about 6:16 a.m., the people on video all appeared to have their attention
13 drawn to the area where Petitioner and Davis were. Id. at 99. Petitioner then entered the view
14 of the camera, removing Davis’s belt from his body while holding the gun in his other hand.
15 Id. at 101-102. Bernard also testified at trial that he saw Petitioner take Davis’s belt. Id. at 20.
16 The video showed that Petitioner approached Bernard’s car, opened the passenger door, placed
17 the belt on the front seat, and returned to the area of Davis’s body. Id. at 102. Petitioner
18 returned to Bernard’s vehicle, entered the passenger seat of the vehicle and the vehicle fled the
19 area. Id. at 102.

20 Despite contact with several witnesses in the parking lot including Chiles and Vincent,
21 the police had no information regarding the identity of the shooter. Id. at 107. After further
22 investigation, the shooter was identified as Petitioner and a warrant for his arrest was issued.
23 Id. at 107. Petitioner was apprehended at a border control station in Sierra Blanca, Texas,
24 whereupon he was brought back to Nevada to face charges. Id. at 108.

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28 //

1 **ANALYSIS**

2 **I. THE AMENDED PETITION IS PROCEDURALLY BARRED**

3 The Amended Petition is time-barred pursuant to NRS 34.726(1):

4 Unless there is good cause shown for delay, a petition that challenges the validity
5 of a judgment or sentence must be filed within 1 year of the entry of the judgment
6 of conviction or, if an appeal has been taken from the judgment, within 1 year
7 after the Supreme Court issues its remittitur. For the purposes of this subsection,
8 good cause for delay exists if the petitioner demonstrates to the satisfaction of
9 the court:

10 (a) That the delay is not the fault of the petitioner; and

11 (b) That dismissal of the petition as untimely will unduly prejudice the petitioner.

12 The Nevada Supreme Court has held that NRS 34.726 should be construed by its plain
13 meaning. Pellegrini v. State, 117 Nev. 860, 873–74, 34 P.3d 519, 528 (2001). As per the
14 language of the statute, the one-year time bar proscribed by NRS 34.726 begins to run from
15 the date the judgment of conviction is filed or a remittitur from a timely direct appeal is filed.
16 Dickerson v. State, 114 Nev. 1084, 1087, 967 P.2d 1132, 1133–34 (1998).

17 Petitioner failed to file this Amended Petition prior to the one-year deadline. Remittitur
18 issued from Petitioner's appeal on October 11, 2019; therefore, Petitioner had until October
19 11, 2020, to file a timely habeas petition. Petitioner filed the Second Petition on March 24,
20 2023. This is over two years and five months after Petitioner's one-year deadline.

21 Petitioner's Amended Petition is procedurally barred by NRS 34.726(1) as it was filed
22 nearly three and a half years after the Nevada Supreme Court issued its remittitur following
23 Petitioner's appeal of his Judgment of Conviction. Even momentarily ignoring the plain
24 language of NRS 34.726(1), Petitioner's Amended Petition was still filed over one year after
25 the most recent remittitur was issued by the Nevada Court of Appeals. Petitioner does not
26 address in his Amended Petition how this delay was not his fault or that dismissal of the
27 petition as untimely would unduly prejudice him. Further, Petitioner recognizes in his
28 Amended Petition that this is his second petition for writ of habeas corpus (post-conviction)
after the first one was denied, appealed, and affirmed. See Amended Petition, at pages 4-6.
The Court recognizes that Petitioner indicated in his acknowledgment that this Amended
Petition was being filed past the one-year deadline because, "the Court ordered that this

1 Amended Petition be filed after the affirmance of the Court's denial of the Petition by the
2 Nevada Court of Appeals." Amended Petition, at page 7. However, the Court cannot find when
3 or where this order was made, especially in relation to the timing indicated by Petitioner.
4 Regardless, the Court finds that the Amended Petition is time-barred pursuant to NRS
5 34.726(1).

6 **II. THE AMENDED PETITION IS BARRED AS SUCCESSIVE**

7 NRS 34.810(2) reads:

8 A second or successive petition must be dismissed if the judge or justice
9 determines that it fails to allege new or different grounds for relief and that the
10 prior determination was on the merits or, if new and different grounds are
11 alleged, the judge or justice finds that the failure of the petitioner to assert those
12 grounds in a prior petition constituted an abuse of the writ.

12 Second or successive petitions are petitions that either fail to allege new or different
13 grounds for relief and the grounds have already been decided on the merits or that allege new
14 or different grounds, but a judge or justice finds that the petitioner's failure to assert those
15 grounds in a prior petition would constitute an abuse of the writ. Second or successive petitions
16 will only be decided on the merits if the petitioner can show good cause and prejudice. NRS
17 34.810(3); Lozada v. State, 110 Nev. 349, 358, 871 P.2d 944, 950 (1994); see also Hart v.
18 State, 116 Nev. 558, 563–64, 1 P.3d 969, 972 (2000) (holding that "where a defendant
19 previously has sought relief from the judgment, the defendant's failure to identify all grounds
20 for relief in the first instance should weigh against consideration of the successive motion.")

21 The Nevada Supreme Court has stated: "Without such limitations on the availability of
22 post-conviction remedies, prisoners could petition for relief in perpetuity and thus abuse post-
23 conviction remedies. In addition, meritless, successive and untimely petitions clog the court
24 system and undermine the finality of convictions." Lozada, 110 Nev. at 358, 871 P.2d at 950.
25 The Nevada Supreme Court recognizes that "[u]nlike initial petitions which certainly require
26 a careful review of the record, successive petitions may be dismissed based solely on the face
27 of the petition." Ford v. Warden, 111 Nev. 872, 882, 901 P.2d 123, 129 (1995). In other words,
28 if the claim or allegation was previously available with reasonable diligence, it is an abuse of

1 the writ to wait to assert it in a later petition. McClesky v. Zant, 499 U.S. 467, 497–98 (1991).
2 Application of NRS 34.810(2) is mandatory. See Riker, 121 Nev. at 231, 112 P.3d at 1074.

3 Here, Petitioner has already filed a prior postconviction habeas petition. The First
4 Petition was filed on September 11, 2020. The District Court heard and denied the First
5 Petition on March 31, 2021. On February 3, 2022, the Nevada Court of Appeals affirmed the
6 District Court’s denial of the First Petition.

7 Furthermore, Petitioner recognizes that each of the four grounds he has brought in the
8 Amended Petition have been raised in the First Petition and Petitioner’s direct appeal from his
9 Judgement of Conviction. Amended Petition, at page 6. Petitioner fails to allege new or
10 different grounds for relief and these grounds have already been denied on the merits. Upon
11 review of the Nevada Supreme Court’s affirmance (Ketchum v. State, 135 Nev. 671, 488 P.3d
12 574 (2019)(unpublished)), the Nevada Court of Appeals' affirmance (Ketchum v. State, 502
13 P.3d 1092, 2022 WL 336288 (2022)(unpublished)), and the Findings of Fact, Conclusions of
14 Law and Order filed on March 31, 2021, the Court finds the Amended Petition is barred as
15 successive because all four grounds have already been determined on their merits.

16 **III. THE AMENDED PETITION IS SUBJECT TO THE DOCTRINE OF RES** 17 **JUDICATA & THE DOCTRINE OF THE LAW OF THE CASE**

18
19 "Generally, the doctrine of res judicata precludes parties ... from relitigating a cause of
20 action or an issue which has been finally determined by a court" Exec. Mgmt. v. Ticor
21 Titles Ins. Co., 114 Nev. 823, 834, 963 P.2d 465, 473 (1998) (internal quotation & citation
22 omitted). "The law of a first appeal is law of the case on all subsequent appeals in which the
23 facts are substantially the same." Hall v. State, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975)
24 (quoting Walker v. State, 85 Nev. 337, 343, 455 P.2d 34, 38 (1969)). "The doctrine of the law
25 of the case cannot be avoided by a more detailed and precisely focused argument subsequently
26 made after reflection upon the previous proceedings." Id. at 316, 535 P.2d at 799. Under the
27 law of the case doctrine, issues previously decided on direct appeal may not be reargued in a
28 habeas petition. Pellegrini v. State, 117 Nev. 860, 879, 34 P.3d 519, 532 (2001) abrogated by

1 Rippo v. State, 134 Nev. 411, 423 P.3d 1084 (2018). Furthermore, this Court cannot overrule
2 the Nevada Supreme Court. Nev. Const. Art. VI § 6. See Mason v. State, 206 S.W.3d 869,
3 875 (Ark. 2005) (recognizing the doctrine's applicability in the criminal context); see also
4 York v. State, 342 S.W. 528, 553 (Tex. Crim. Appl. 2011).

5 Here, Petitioner's claims are barred by the law of the case because the Nevada Court of
6 Appeals affirmed the District Court's denial of these claims:

7 First, Ketchum claimed that his trial counsel was ineffective for failing to file a
8 motion requesting discovery. However, counsel filed a motion to compel
9 discovery prior to trial. Accordingly, Ketchum failed to demonstrate that his trial
10 counsel's performance fell below an objective standard of reasonableness or a
11 reasonable probability of a different outcome had counsel performed different
12 actions concerning a request for pretrial discovery. Therefore, we conclude the
district court did not err by denying this claim without conducting an evidentiary
hearing.

13 Second, Ketchum claimed that his trial counsel was ineffective for failing to
14 review all of the surveillance footage in the possession of the State prior to trial.
15 Ketchum asserted that counsel failed to review portions of the surveillance video
16 that depicted him interacting with the victim prior to the shooting. Ketchum
contended that counsel's failure to review all of the surveillance footage led
counsel to improperly assess the factual circumstances of the case.

17 However, the record in this matter demonstrated that significant evidence of
18 Ketchum's guilt was presented at trial. During trial, a witness testified that
19 Ketchum indicated that he intended to rob the victim prior to the shooting. The
20 record demonstrates that surveillance video depicted Ketchum and the victim
21 together shortly before the shooting but did not depict the actual shooting. The
22 surveillance video also depicted the aftermath of the shooting and showed
Ketchum taking items from the victim. Ketchum subsequently fled the scene
with the victim's belongings. In light of the significant evidence of Ketchum's
guilt presented at trial, he failed to demonstrate a reasonable probability of a
different outcome at trial had counsel viewed all of the surveillance footage prior
to the trial. Therefore, we conclude the district court did not err by denying this
claim without conducting an evidentiary hearing.

25 Third, Ketchum claimed that his trial counsel was ineffective for failing to object
26 to admission of the surveillance video recordings. Ketchum contended that
27 counsel should have attempted to stop the admission of the recordings because
28 they were the State's most critical pieces of evidence. The record demonstrates
that the surveillance video recordings were relevant evidence, and relevant
evidence is generally admissible at trial. *See* NRS 48.015; NRS 48.025(1). In

1 addition, Ketchum did not demonstrate that the probative value of the
2 surveillance recording was substantially outweighed by the danger of unfair
3 prejudice, confusion of the issues, or misleading the jury, *see* NRS 48.035(1),
4 and therefore, Ketchum did not demonstrate the recordings were inadmissible.
5 Accordingly, Ketchum failed to demonstrate that his counsel's performance fell
6 below an objective standard of reasonableness. Ketchum also failed to
7 demonstrate a reasonable probability of a different outcome had counsel
8 objected to admission of the surveillance video recordings. Therefore, we
9 conclude the district court did not err by denying this claim without conducting
10 an evidentiary hearing.

11 Fourth, Ketchum claimed that his trial counsel was ineffective for failing to
12 object during the State's rebuttal argument when it displayed portions of the
13 surveillance video recording that were not previously utilized during the trial.
14 The record demonstrates that the surveillance video recordings that the State
15 used during its rebuttal argument were admitted into evidence during trial.
16 Thus, the State did not improperly base its argument upon facts not in evidence.
17 *See Morgan v. State*, 134 Nev. 200, 215, 416 P.3d 212, 227 (2018) ("A
18 fundamental legal and ethical rule is that neither the prosecution nor the defense
19 may argue facts not in evidence."). Accordingly, Ketchum failed to demonstrate
20 his counsel's performance fell below an objective standard of reasonableness. In
21 addition, the Nevada Supreme Court reviewed the underlying claim on direct
22 appeal and concluded that the State properly utilized the surveillance videos
23 during its rebuttal argument. *Ketchum v. State*, No. 75097, 2019 WL
24 4392486448 (Nev. Sept. 12, 2019) (Order of Affirmance). Ketchum thus failed
25 to demonstrate a reasonable probability of a different outcome had counsel
26 objected to the State's rebuttal argument. Therefore, we conclude the district
27 court did not err by denying this claim without conducting an evidentiary
28 hearing.

29 Ketchum v. State, 502 P.3d 1093, 1-4, 2022 WL 336288, (2022) (unpublished). All
30 four of Petitioner's grounds for relief have either been raised already or their dispositions
31 affirmed by the Nevada Supreme Court and the Nevada Court of Appeals. Therefore, the
32 Amended Petition is barred under the doctrine of res judicata and the law of the case.

33 **IV. AN EVIDENTIARY HEARING IS NOT NECESSARY HERE**

34 NRS 34.770 determines when a defendant is entitled to an evidentiary hearing. It
35 reads:

1 1. The judge or justice, upon review of the return, answer and all supporting
2 documents which are filed, shall determine whether an evidentiary hearing is
3 required. A petitioner must not be discharged or committed to the custody of a
4 person other than the respondent *unless an evidentiary hearing is held*.

5 2. If the judge or justice determines that the petitioner is not entitled to relief
6 and an evidentiary hearing is not required, he shall dismiss the petition without
7 a hearing.

8 3. If the judge or justice determines that an evidentiary hearing is required, he
9 shall grant the writ and shall set a date for the hearing.

10 A district court's denial of a request for an evidentiary hearing is reviewed for an abuse
11 of discretion. Berry v. State, 131 Nev. 957, 969, 363 P.3d 1148, 1156 (2015). The Nevada
12 Supreme Court has held that if a petition can be resolved without expanding the record, then
13 no evidentiary hearing is necessary. Marshall v. State, 110 Nev. 1328, 885 P.2d 603 (1994);
14 Mann v. State, 118 Nev. 351, 356, 46 P.3d 1228, 1231 (2002). A defendant is entitled to an
15 evidentiary hearing if his petition is supported by specific factual allegations, which, if true,
16 would entitle him to relief unless the factual allegations are repelled by the record. Marshall,
17 110 Nev. at 1331, 885 P.2d at 605; see also Hargrove v. State, 100 Nev. 498, 503, 686 P.2d
18 222, 225 (1984) (holding that "[a] defendant seeking post-conviction relief is not entitled to
19 an evidentiary hearing on factual allegations belied or repelled by the record"). "A claim is
20 'belied' when it is contradicted or proven to be false by the record as it existed at the time the
21 claim was made." Mann, 118 Nev. at 354, 46 P.3d at 1230 (2002). It is improper to hold an
22 evidentiary hearing simply to make a complete record. See State v. Eighth Judicial Dist. Court,
23 121 Nev. 225, 234, 112 P.3d 1070, 1076 (2005) ("The district court considered itself the
24 'equivalent of . . . the trial judge' and consequently wanted 'to make as complete a record as
25 possible.' This is an incorrect basis for an evidentiary hearing.").

26 Here, Petitioner is not entitled to relief as all his claims are meritless and procedurally
27 barred. There is no need to expand the record because all the facts and law necessary to resolve
28 Petitioner's complaints are available. The Court finds there is no need for an evidentiary
hearing.

//

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ORDER

THEREFORE, IT IS HEREBY ORDERED that this Petitioner's Amended Petition for Writ of Habeas Corpus (Post-Conviction), shall be, and is, hereby DENIED.

Dated this 15th day of June, 2023



STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #01565

JL
0ED A4C 6CCE 9A49
Jacqueline M. Bluth
District Court Judge

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

CERTIFICATE OF MAILING

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

JAVAR KETCHUM, #1192727
HIGH DESERT STATE PRISON
PO BOX 650
INDIAN SPRINGS, NV 89070

BY /s/ E. Del Padre
E. DEL PADRE
Secretary for the District Attorney's Office

JA/mf/ed/L3

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA
4

5
6 Javar Ketchum, Plaintiff(s)

CASE NO: A-20-821316-W

7 vs.

DEPT. NO. Department 6

8 Nevada State of, Defendant(s)
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 6/15/2023

15 Craig Mueller

craig@craigmuellerlaw.com

16 Craig Mueller

receptionist@craigmuellerlaw.com

17 District Attorney

motions@clarkcountyda.com

18 John Niman

JOHN.NIMAN@CLARKCOUNTYDA.COM

19 Clark County District Attorney

motions@clarkcountyda.com

20 Law Firm of C. Benjamin Scroggins,
21 Chtd.

info@cbscrogginslaw.com

22 John Niman

john.niman@clarkcountyda.com

23 C. Scroggins, Esq.

cbs@cbscrogginslaw.com

24 Kelly Jarvi

kelly@cbscrogginslaw.com
25
26
27
28

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

November 06, 2020

A-20-821316-W Javar Ketchum, Plaintiff(s)
vs.
Nevada State of, Defendant(s)

**November 06, 2020 10:15 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Johnson, Eric

COURTROOM: RJC Courtroom 11A

COURT CLERK: Samantha Albrecht

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT:	Giordani, John	Attorney
	Maynard, Jay	Attorney
	Nevada State of	Defendant

JOURNAL ENTRIES

- Court noted it had received the Petition and stated a briefing schedule needed to be set. COURT ORDERED, Briefing Schedule SET as follows: State's Return due by December 18, 2020; Petitioner's Reply due by January 15, 2021; and hearing SET.

NDC

2/3/2021 9:00 AM PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

January 26, 2021

A-20-821316-W Javar Ketchum, Plaintiff(s)
vs.
Nevada State of, Defendant(s)

January 26, 2021 8:30 AM Motion

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Samantha Albrecht

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT:	Luong, Vivian	Attorney
	Mueller, Craig A	Attorney
	Nevada State of	Defendant

JOURNAL ENTRIES

- Defendant not present. Mr. Mueller stated a previous appointment to meet with the Defendant was canceled and a new appointment has been scheduled for February 8th, therefore he requested the reply brief be due on that date and the hearing be continued. COURT ORDERED, Motion GRANTED, Reply Brief due 2/8/2021 and Hearing on Petition VACATED and RESET.

NDC

3/12/21 8:30 AM PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

March 12, 2021

A-20-821316-W	Javar Ketchum, Plaintiff(s) vs. Nevada State of, Defendant(s)
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March 12, 2021	8:30 AM	Petition for Writ of Habeas Corpus
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HEARD BY: Villani, Michael	COURTROOM: RJC Courtroom 11A
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COURT CLERK: Samantha Albrecht

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT:	Giordani, John	Attorney
	Nevada State of	Defendant
	Pallares, Jose Carlos	Attorney

JOURNAL ENTRIES

- Defendant not present. Court noted it had reviewed all of the pleadings filed. Mr. Pallares stated he was requesting an Evidentiary Hearing on the issue that trial counsel should have called a psychologist to testify as to his state of my mind as a robbery victim, as the Defendant claimed to be a robbery victim by the victim of the shooting. Court noted it can only address the Petition in front of it and further noted the Petition brought up the issues of trial counsel failing to view the video, failing to object to the admission of the video, and ineffective cross-examination of Mr. Bernard. Upon Court's inquiry, Mr. Pallares stated trial counsel had no access to the video and the inculpatory parts were not presented during trial. Upon Court's inquiry, Mr. Pallares indicated there was a lack of foundation and a violation of Brady that trial counsel was not shown the video, however trial counsel failed to view the video once it was given to him in its entirety. Mr. Pallares stated the ineffective cross-examination claim occurred when trial counsel failed to bring up the differences in Mr. Bernard's statements to police and his testimony at trial.

Mr. Giordani stated the Strickland standard is very clear and noted Mr. Woolridge was very effective and worked with what he had. Mr. Giordani further stated bringing up a Brady claim was

inappropriate and advised Mr. Woolridge had full access to the video prior to trial, therefore there would have been no legal basis to object to the video. Mr. Giordani noted Mr. Ketchum testified and gave a claim of self defense.

Court noted it had reviewed the Appellant's Opening Brief and it was asserted trial counsel watched the entire video. Court FINDS no legal basis establishing a valid objection to the admission of the video, proper foundation was established, there was no argument during trial or in the Petition stating the video was inadmissible evidence, the cross-examination of Mr. Bernard brought up his statements to the police were incomplete or had omissions and he was confronted with the differences in his trial testimony and his statements to the police, therefore neither prong of Strickland has been established. COURT ADOPTED the Procedural History as set forth by the State. Court noted it was difficult to confirm the allegations as there were no citations in the Petition or Reply Brief. COURT ORDERED, Petition DENIED and DIRECTED the State to prepare the Findings of Facts and Conclusions of Law; Status Check SET. Court stated the Status Check date would be vacated once that document was filed.

NDC

4/1/2021 10:00 AM STATUS CHECK: FINDINGS OF FACTS AND CONCLUSIONS OF LAW

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

April 01, 2021

A-20-821316-W Javar Ketchum, Plaintiff(s)
vs.
Nevada State of, Defendant(s)

**April 01, 2021 10:00 AM Status Check: Status of
Case**

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Nicole McDevitt

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Court noted the Findings of Facts and Conclusions of Law were filed on March 31, 2021. COURT ORDERED status check OFF CALENDAR.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

May 04, 2021

A-20-821316-W Javar Ketchum, Plaintiff(s)
vs.
Nevada State of, Defendant(s)

May 04, 2021

8:30 AM

All Pending Motions

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Samantha Albrecht

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT: Mueller, Craig A
Nevada State of Defendant
Turner, Robert B. Attorney

JOURNAL ENTRIES

- PLAINTIFF'S - MOTION FOR RECONSIDERATION,OR IN THE ALTERNATIVE MOTION FOR REHEARING OF PETITIONER'S NRS CHAPTER 34 PETITION...COUNSEL'S NOTICE OF MOTION AND MOTION TO WITHDRAW AS ATTORNEY OF RECORD

Defendant not present.

Mr. Mueller requested the Motion to Withdraw be granted, COURT SO ORDERED. Court advised it was basing its decision on the pleadings on file herein and not accepting oral argument. COURT FINDS no legal or factual basis to grant the Motion, therefore COURT ORDERED, Motion for Reconsideration DENIED; State to prepare the Order. COURT FURTHER ORDERED, Status Check SET; date to be vacated once the Order is filed.

NDC

5/25/2021 10:00 AM STATUS CHECK: ORDER

CLERK'S NOTE: A copy of this Minute Order was mailed to:
Javar Ketchum #1192727
PO Box 650
Indian Springs, NV 89070 (5/7/2021 sa)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

June 15, 2021

A-20-821316-W Javar Ketchum, Plaintiff(s)
vs.
Nevada State of, Defendant(s)

June 15, 2021 8:30 AM All Pending Motions

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Samantha Albrecht

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT: Turner, Robert B. Attorney

JOURNAL ENTRIES

- PLAINTIFF'S MOTION FOR APPOINTMENT OF COUNSEL...PLAINTIFF'S MOTION FOR CONTINUANCE OF MAY 04, 2021 HEARING DATE; MOTION FOR RECONSIDERATION OR IN THE ALTERNATIVE MOTION FOR REHEARING OF PETITIONERS NRS CHAPTER 34 PETITION...PLAINTIFF'S MOTION FOR EVIDENTIARY HEARING...PLAINTIFF'S MOTION TO WITHDRAW COUNSEL

Defendant not transported.

COURT ORDERED, Plaintiff's Motion for Continuance and Plaintiff's Motion for Evidentiary Hearing DENIED AS MOOT as the Court made a ruling on May 4th. COURT FURTHER ORDERED, Plaintiff's Motion to Withdraw Counsel MOOT as Court granted Motion back on 5/4/2021 and Plaintiff's Motion for Appointment of Counsel GRANTED. COURT FURTHER ORDERED, matter SET for Status Check regarding confirmation of counsel.

NDC

6/29/2021 8:30 AM STATUS CHECK: CONFIRMATION OF COUNSEL (OAC)

CLERK'S NOTE: A copy of this Minute Order was mailed to:
Javar Ketchum #1192727
PO Box 650
Indian Springs, NV 89070 (6/21/2021 sa)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

June 29, 2021

A-20-821316-W Javar Ketchum, Plaintiff(s)
vs.
Nevada State of, Defendant(s)

**June 29, 2021 8:30 AM Status Check: Status of
Case**

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Samantha Albrecht

RECORDER: Cynthia Georgilas

REPORTER:

PARTIES

PRESENT: Scroggins, C. Benjamin Attorney
Turner, Robert B. Attorney

JOURNAL ENTRIES

- Defendant not transported.

C. Ben Scroggins CONFIRMED as counsel for the Defendant and requested a Status Check to allow him to receive the file. COURT ORDERED, Status Check SET regarding briefing schedule.

NDC

8/10/2021 8:30 AM STATUS CHECK: SET BRIEFING SCHEDULE

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

August 10, 2021

A-20-821316-W	Javar Ketchum, Plaintiff(s) vs. Nevada State of, Defendant(s)
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August 10, 2021	8:30 AM	Status Check: Status of Case
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HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Samantha Albrecht

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT:	Nevada State of Scroggins, C. Benjamin Turner, Robert B.	Defendant Attorney Attorney
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JOURNAL ENTRIES

- Defendant not present.

Mr. Scroggins noted he was having difficulty getting a meeting with the Defendant, therefore he requested 6 months to file his Amended Petition. No objection by the State. Due to COVID restrictions, COURT ORDERED, Briefing Schedule SET as follows: Supplemental Brief due by 2/10/2022, State's Supplemental Response due by 4/11/2022 and hearing SET.

NDC

5/13/2022 8:30 AM PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

November 29, 2022

A-20-821316-W Javar Ketchum, Plaintiff(s)
vs.
Nevada State of, Defendant(s)

November 29, 2022 9:30 AM Motion

HEARD BY: Bonaventure, Joseph T. **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Kristen Brown

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT: Scroggins, C. Benjamin Attorney
 Young, Daniel Thomas Attorney

JOURNAL ENTRIES

- Mr. Scroggins requested another extension as he will have to file an Amended Petition. COURT ORDERED, Motion GRANTED. Court directed Mr. Scroggins to file the Amended Petition by December 13, 2022; State is to file its response by January 31, 2023 and Mr. Scroggins to file a reply by February 15, 2023.

2/23/23 9:30 AM PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

January 17, 2023

A-20-821316-W Javar Ketchum, Plaintiff(s)
vs.
Nevada State of, Defendant(s)

January 17, 2023 9:30 AM Motion

HEARD BY: Bluth, Jacqueline M. **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Kristen Brown

RECORDER: Aimee Curameng

REPORTER:

PARTIES

PRESENT: Scroggins, C. Benjamin Attorney
 Weckerly, Pamela C Attorney

JOURNAL ENTRIES

- COURT ORDERED, Motion GRANTED. Court directed Mr. Scroggins to file the supplemental petition by February 14, 2023 and the State is to file its opposition by March 14, 2023.

3/28/23 9:30 AM PETITION FOR WRIT OF HABEAS CORPUS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

March 13, 2023

A-20-821316-W Javar Ketchum, Plaintiff(s)
vs.
Nevada State of, Defendant(s)

March 13, 2023 3:00 AM Motion

HEARD BY: Bluth, Jacqueline M. **COURTROOM:** Chambers

COURT CLERK: Stephanie Rapel

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT ORDERED, Petitioner's Motion to Extend Time for Briefing (Sixth and Final Request) is GRANTED. Petitioner recognizes this is the sixth request for extension in this matter and it is now the last one that will be provided. However, the Court notes numerous extensions have been necessary in this matter due to issues with counsel and his investigator having access to Petitioner. The Petition requests only a two day extension, but to ensure this is the final extension, and as a courtesy, the Court will provide Petitioner two weeks from the date of this Minute Order to file his Amended Petition and Appendix. No further extensions shall be provided in this matter. Therefore, COURT ORDERED, Petitioner's Motion is GRANTED, he shall have until March 24, 2023 to file his Amended Petition and Appendix, the State of Nevada shall have until May 8, 2023 to file its Opposition, Petitioner shall have until May 15, 2023 to file his Reply, and a hearing on the Petition shall be set for May 23, 2023 at 9:30 am. COURT FURTHER ORDERED, as the Motion is granted, its setting on March 23, 2023 shall be VACATED. Petitioner is to prepare an Order consistent with the Court's ruling.

This Minute Order has been electronically served to all registered parties for Odyssey File & Serve.
/smr.

- COURT ORDERED, Petitioner s Motion to Extend Time for Briefing (Sixth and Final Request) is GRANTED. Petitioner recognizes this is the sixth request for extension in this matter and it is now the last one that will be provided. However, the Court notes numerous extensions have been necessary in this matter due to issues with counsel and his investigator having access to Petitioner. The Petition requests only a two day extension, but to ensure this is the final extension, and as a courtesy, the Court will provide Petitioner two weeks from the date of this Minute Order to file his Amended Petition and Appendix. No further extensions shall be provided in this matter. Therefore, COURT ORDERED, Petitioner s Motion is GRANTED, he shall have until March 24, 2023 to file his Amended Petition and Appendix, the State of Nevada shall have until May 8, 2023 to file its Opposition, Petitioner shall have until May 15, 2023 to file his Reply, and a hearing on the Petition shall be set for May 23, 2023 at 9:30 am. COURT FURTHER ORDERED, as the Motion is granted, its setting on March 23, 2023 shall be VACATED. Petitioner is to prepare an Order consistent with the Court s ruling.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

May 23, 2023

A-20-821316-W Javar Ketchum, Plaintiff(s)
vs.
Nevada State of, Defendant(s)

**May 23, 2023 9:30 AM Petition for Writ of Habeas
Corpus**

HEARD BY: Bluth, Jacqueline M. **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Kristen Brown

RECORDER: De'Awna Takas

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT ORDERED, Petitioner's Amended Petition for Writ of Habeas Corpus (Post-Conviction) is DENIED for the following reasons.

The Amended Petition is Time-Barred

"Unless there is good cause shown for delay, a petition that challenges the validity of a judgement or sentence must be filed within 1 year after entry of the judgment of conviction or, if an appeal has been taken from the judgment, within 1 year after the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution issues its remittitur." NRS 34.726(1). "For the purposes of this subsection, good cause for delay exists if the petitioner demonstrates to the satisfaction of the court: (a) That the delay is not the fault of the petitioner; and (b) That dismissal of the petition as untimely will unduly prejudice the petitioner." NRS 34.726(1)(a)-(b).

Here, Petitioner failed to timely file the instant Amended Petition. A review of the record indicates this is a second petition for writ of habeas corpus (post-conviction) as there was no petition for the instant Amended Petition to amend. Following a jury trial that commenced on May 22, 2017,

Petitioner was found guilty of one count of Murder with a Deadly Weapon and one count of Robbery with a Deadly Weapon. On February 1, 2018, Petitioner was sentenced on both counts. Petitioner's resulting Judgment of Conviction was appealed, but the Nevada Supreme Court affirmed Petitioner's conviction and remittitur issued on October 11, 2019. On September 11, 2020, Petitioner filed his first petition for writ of habeas corpus (post-conviction) (the "First Petition"). Ultimately, the First Petition was denied on March 12, 2021. Petitioner moved for reconsideration or alternatively for rehearing on the First Petition, but this motion was denied on May 4, 2021. From there, Petitioner appealed the denial of the First Petition; this denial was affirmed by the Nevada Court of Appeals and remittitur issued on February 3, 2022. Subsequent to the denial of the First Petition and Petitioner's motion for reconsideration or alternatively for rehearing, a motion for appointment of counsel was granted on June 15, 2021. On March 24, 2023, the instant Amended Petition was filed.

Petitioner's Amended Petition is procedurally barred by NRS 34.726(1) as it was filed nearly three and a half years after the Nevada Supreme Court issued its remittitur following Petitioner's appeal of his Judgment of Conviction. Even momentarily ignoring the plain language of NRS 34.726(1), Petitioner's Amended Petition was still filed over one year after the most recent remittitur was issued by the Nevada Court of Appeals. Petitioner does not address in his Amended Petition how this delay was not his fault or that dismissal of the petition as untimely would unduly prejudice him. Further, Petitioner recognizes in his Amended Petition that this is his second petition for writ of habeas corpus (post-conviction) after the first one was denied, appealed, and affirmed. See Amended Petition, at pages 4-6. The Court recognizes that Petitioner indicated in his acknowledgment that this Amended Petition was being filed past the one year deadline because, "the Court ordered that this Amended Petition be filed after the affirmance of the Court's denial of the Petition by the Nevada Court of Appeals." Amended Petition, at page 7. However, the Court cannot find when or where this order was made, especially in relation to the timing indicated by Petitioner. Regardless, the Court finds that the Amended Petition is time-barred pursuant to NRS 34.726(1).

The Amended Petition is Successive

"A second or successive petition must be dismissed if the judge or justice determines that it fails to allege new or different grounds for relief and that the prior determination was on the merits or, if new and different grounds are alleged, the judge or justice finds that the failure of the petition to assert those grounds in a prior petition constituted an abuse of the writ." NRS 34.810(2).

Here, as addressed above, this is the second petition for writ of habeas corpus that Petitioner has filed. Further, Petitioner recognizes that each of the four grounds he has brought in the instant Amended Petition have already been raised in the First Petition and Petitioner's direct appeal from his Judgment of Conviction. Amended Petition, at page 6. Petitioner alleged that he was raising these grounds again because he "was never granted an evidentiary hearing to present evidence supporting his grounds for relief." Amended Petition, at pages 6-7. Upon review of the Nevada Supreme Court's affirmance (*Ketchum v. State*, 135 Nev. 671, 488 P.3d 574 (2019)(unpublished)), the Nevada Court of Appeals' affirmance (*Ketchum v. State*, 502 P.3d 1092, 2022 WL 336288 (2022)(unpublished)), and the Findings of Fact, Conclusions of Law and Order filed on March 31, 2021, the Court finds that all four

grounds have already been determined on their merits. Therefore, the instant Amended Petition is barred as successive.

The Amended Petition is Subject to the Doctrine of Res Judicata and the Doctrine of the Law of the Case

"Generally, the doctrine of res judicata precludes parties ... from relitigating a cause of action or an issue which has been finally determined by a court" Exec. Mgmt. v. Ticor Titles Ins. Co., 114 Nev. 823, 834, 963 P.2d 465, 473 (1998) (internal quotation & citation omitted). "The law of the first appeal is law of the case on all subsequent appeals in which the facts are substantially the same." Hall v. State, 91 Nev. 314, 315, 535 P.2d 797, 798 (1975) (internal quotation omitted). "The doctrine of the law of the case cannot be avoided by a more detailed and precisely focused argument subsequently made after reflection upon the previous proceedings." Id. at 316. "Under the law of the case doctrine, issues previously determined by this court on appeal may not be reargued as a basis for habeas relief." Pellegrini v. State, 117 Nev. 860, 888, 34 P.3d 519, 538 (2001) abrogated by Rippo v. State, 134 Nev. 411, 423 P.3d 1084 (2018).

Again, as addressed above, all four of Petitioner's grounds for relief have either been raised already or their dispositions affirmed by the Nevada Supreme Court and the Nevada Court of Appeals. Therefore, the instant Amended Petition is barred under the doctrines of res judicata and the law of the case.

An Evidentiary Hearing is Not Necessary Here

"The judge or justice, upon review of the return, answer and all supporting documents which are filed, shall determine whether an evidentiary hearing is required." NRS 34.770(1). "A petitioner must not be discharged or committed to the custody of a person other than the respondent unless an evidentiary hearing is held." Id. "If the judge or justice determines that the petitioner is not entitled to relief and an evidentiary hearing is not required, he [or she] shall dismiss the petition without a hearing." NRS 34.770(2). "If the judge or justice determines that an evidentiary hearing is required, he [or she] shall grant the writ and shall set a date for the hearing." Id.

Here, Petitioner is not entitled to relief as all of his claims are barred for the various reasons provided above. As such, the Court finds there is no need for an evidentiary hearing.

Therefore, for the aforementioned reasons, Petitioner's Amended Petition is DENIED. COURT FURTHER ORDERED, as Petitioner's Amended Petition is denied, its setting on May 23, 2023 shall be VACATED. The State of Nevada is to prepare an Order consistent with the Court's ruling.

CLERK'S NOTE: A copy of this minute order was electronically mailed to John Afshar, Deputy District Attorney.

Certification of Copy

State of Nevada }
County of Clark } SS:

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

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

JAVAR KETCHUM,

Plaintiff(s),

vs.

STATE OF NEVADA,

Defendant(s),

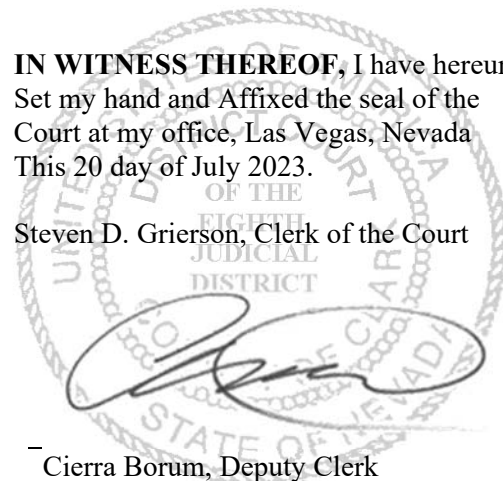
Case No: A-20-821316-W

Dept No: VI

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 20 day of July 2023.

Steven D. Grierson, Clerk of the Court



— Cierra Borum, Deputy Clerk —